

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

— ● —

## ENROLLED

Com. Sub. for  
HOUSE BILL No. 4351

(By  Delegates Lovett Berry )

— ● —

Passed March 10, 1990

In Effect from Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4351**  
(By DELEGATES LOVE AND BERRY)

[Passed March 10, 1990; in effect from passage.]

AN ACT to amend and reenact sections two and seven, article twenty-one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to definitions; including political party executive committees within the definition of "charitable or public service activity or endeavor; and license fees for charitable raffles.

*Be it enacted by the Legislature of West Virginia:*

That sections two and seven, article twenty-one, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 21. CHARITABLE RAFFLES.**

**§47-21-2. Definitions.**

- 1     For purposes of this article, unless specified
- 2     otherwise:
- 3       (a) "Charitable or public service activity or endeavor"
- 4     means any bona fide activity or endeavor which directly
- 5     benefits a number of people by:
- 6       (1) Contributing to educational or religious purposes;

7 or

8 (2) Relieving them from disease, distress, suffering,  
9 constraint or the effects of poverty; or

10 (3) Increasing their comprehension of and devotion to  
11 the principles upon which this nation was founded and  
12 to the principles of good citizenship; or

13 (4) Making them aware of or educating them about  
14 issues of public concern so long as the activity or  
15 endeavor is not aimed at supporting or participating in  
16 the campaign of any candidate for public office; or

17 (5) By lessening the burdens borne by government or  
18 voluntarily supporting, augmenting or supplementing  
19 services which government would normally render to  
20 the people; or

21 (6) Providing or supporting nonprofit community  
22 activities for youth, senior citizens or the disabled; or

23 (7) Providing or supporting nonprofit cultural or  
24 artistic activities; or

25 (8) Providing or supporting any political party  
26 executive committee.

27 (b) "Charitable or public service organization" means  
28 a bona fide, not for profit, tax-exempt, benevolent,  
29 educational, philanthropic, humane, patriotic, civic,  
30 religious, fraternal or eleemosynary incorporated or  
31 unincorporated association or organization; or a volun-  
32 teer fire department, rescue unit or other similar  
33 volunteer community service organization or associa-  
34 tion; but does not include any nonprofit association or  
35 organization, whether incorporated or not, which is  
36 organized primarily for the purposes of influencing  
37 legislation or supporting or promoting the campaign of  
38 any single candidate for public office.

39 (c) "Commissioner" means the state tax commissioner.

40 (d) "Concession" means any stand, booth, cart, counter  
41 or other facility, whether stationary or movable, where  
42 beverages, both alcoholic and nonalcoholic, food, snacks,  
43 cigarettes or other tobacco products, newspapers,

44 souvenirs or any other items are sold to patrons by an  
 45 individual operating the facility. Notwithstanding  
 46 anything contained in subdivision (2), subsection (a),  
 47 section twelve, article seven, chapter sixty of this code  
 48 to the contrary, "concession" includes beverages which  
 49 are regulated by and shall be subject to the provisions  
 50 of chapter sixty of this code.

51 (e) "Conduct" means to direct the actual holding of a  
 52 raffle by activities including, but not limited to, handing  
 53 out tickets, collecting money, drawing the winning  
 54 numbers or names, announcing the winning numbers or  
 55 names, posting the winning numbers or names, verify-  
 56 ing winners and awarding prizes.

57 (f) "Expend net proceeds for charitable or public  
 58 service purposes" means to devote the net proceeds of  
 59 a raffle occasion or occasions to a qualified recipient  
 60 organization or as otherwise provided by this article and  
 61 approved by the commissioner pursuant to section  
 62 fifteen of this article.

63 (g) "Gross proceeds" means all moneys collected or  
 64 received from the conduct of a raffle or raffles at all  
 65 raffle occasions held by a licensee during a license  
 66 period; this term shall not be deemed to include any  
 67 moneys collected or received from the sale of concessions  
 68 at raffle occasions.

69 (h) "Joint raffle occasion" means a single gathering or  
 70 session at which a series of one or more successive  
 71 raffles is conducted by two or more licensees.

72 (i) "Licensee" means any organization or association  
 73 granted an annual or limited occasion license pursuant  
 74 to the provisions of this article.

75 (j) "Net proceeds" means all moneys collected or  
 76 received from the conduct of raffle or raffles at  
 77 occasions held by a licensee during a license period after  
 78 payment of the raffle expenses authorized by sections  
 79 eleven, thirteen and fifteen of this article; this term shall  
 80 not be deemed to include moneys collected or received  
 81 from the sale of concessions at raffle occasions.

82 (k) "Person" means any individual, association,

83 society, incorporated or unincorporated organization,  
84 firm, partnership or other nongovernmental entity or  
85 institution.

86 (l) "Patron" means any individual who attends a raffle  
87 occasion other than an individual who is participating  
88 in the conduct of the occasion or in the operation of any  
89 concession, whether or not the individual is charged an  
90 entrance fee or participates in any raffle.

91 (m) "Qualified recipient organization" means any  
92 bona fide, not for profit, tax-exempt, as defined in  
93 subdivision (p) of this section, incorporated or unincor-  
94 porated association or organization which is organized  
95 and functions exclusively to directly benefit a number  
96 of people as provided in subparagraphs (1) through (7),  
97 subdivision (a) of this section. "Qualified recipient  
98 organization" includes without limitation, any licensee  
99 which is organized and functions exclusively as provided  
100 in this subdivision.

101 (n) "Raffle" means a game involving the selling of  
102 tickets to participate in such game entitling the holder  
103 or holders to a chance on a prize or prizes.

104 (o) "Raffle occasion" or "occasion" means a single  
105 gathering or session at which a series of one or more  
106 successive raffles is conducted by a single licensee.

107 (p) "Tax-exempt association or organization" means  
108 an association or organization which is, and has received  
109 from the "Internal Revenue Service" a determination  
110 letter that is currently in effect stating that the  
111 organization is exempt from federal income taxation  
112 under subsection 501(a) and described in subsection  
113 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19) or  
114 501(d) of the Internal Revenue Code of 1986, as  
115 amended; or is exempt from income taxes under  
116 subsection 527(a) of said code.

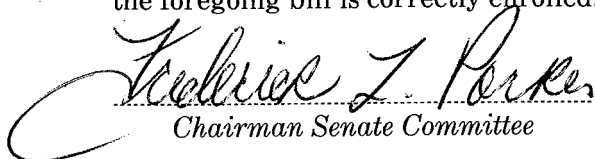
**§47-21-7. License fee and exemption from taxes.**

1 (a) A license fee shall be paid to the tax commissioner  
2 for annual licenses in the amount of one thousand  
3 dollars. A license fee shall be paid to the tax commis-  
4 sioner for a limited occasion license in the amount of

5 fifty dollars. The license fee imposed by this section is  
6 in lieu of all other license or franchise taxes or fees of  
7 this state, and no county, or municipality or other  
8 political subdivision of this state is empowered to impose  
9 a license or franchise tax or fee on any raffle or raffle  
10 occasion.

11 (b) The gross proceeds derived from the conduct of a  
12 raffle occasion are exempt from state and local business  
13 and occupation taxes, income taxes, excise taxes and all  
14 special taxes. Any charitable or public service organi-  
15 zation conducting a raffle occasion pursuant to the  
16 provisions of this article is exempt from payment of  
17 consumers sales and service taxes, use taxes and all  
18 other taxes on all purchases for use or consumption in  
19 the conduct of a raffle occasion and is exempt from  
20 collecting consumers sales taxes on any admission fees  
21 and sales of raffle tickets.

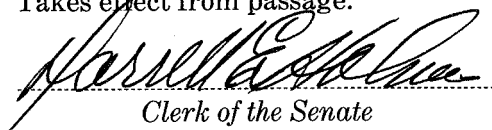
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

  
Chairman House Committee

Originating in the House.

Takes effect from passage.

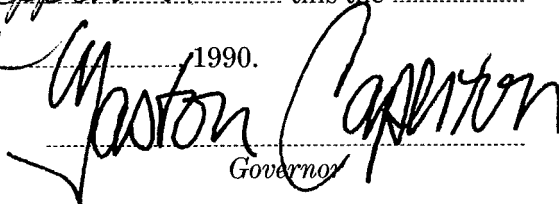
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 29th  
day of March 1990.

  
Governor

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SECRETARY OF STATE



PRESENTED TO THE

GOVERNOR

Date 3/29/60

Time 11:55 am