WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990

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E N R O L L E D

Com. Sub. for
HOUSE BILL No. 4351

(By Delegate L. Scott Berry)

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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 otherwise:

3 (a) “Charitable or public service activity or endeavor” means any bona fide activity or endeavor which directly benefits a number of people by:

6 (1) Contributing to educational or religious purposes;
or

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

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

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

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

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

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

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

(b) "Charitable or public service organization" means a bona fide, not for profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal or eleemosynary incorporated or unincorporated association or organization; or a volunteer fire department, rescue unit or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any single candidate for public office.

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

(d) "Concession" means any stand, booth, cart, counter or other facility, whether stationary or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other tobacco products, newspapers,
souvenirs or any other items are sold to patrons by an individual operating the facility. Notwithstanding anything contained in subdivision (2), subsection (a), section twelve, article seven, chapter sixty of this code to the contrary, "concession" includes beverages which are regulated by and shall be subject to the provisions of chapter sixty of this code.

(e) "Conduct" means to direct the actual holding of a raffle by activities including, but not limited to, handing out tickets, collecting money, drawing the winning numbers or names, announcing the winning numbers or names, posting the winning numbers or names, verifying winners and awarding prizes.

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

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

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

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

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

(k) "Person" means any individual, association,
society, incorporated or unincorporated organization, 
firm, partnership or other nongovernmental entity or 
institution.

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

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

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

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

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

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

(a) A license fee shall be paid to the tax commissioner 
for annual licenses in the amount of one thousand 
dollars. A license fee shall be paid to the tax commis-
sioner for a limited occasion license in the amount of
fifty dollars. The license fee imposed by this section is
in lieu of all other license or franchise taxes or fees of
this state, and no county, or municipality or other
political subdivision of this state is empowered to impose
a license or franchise tax or fee on any raffle or raffle
occasion.

(b) The gross proceeds derived from the conduct of a
raffle occasion are exempt from state and local business
and occupation taxes, income taxes, excise taxes and all
special taxes. Any charitable or public service organi-
zation conducting a raffle occasion pursuant to the
provisions of this article is exempt from payment of
consumers sales and service taxes, use taxes and all
other taxes on all purchases for use or consumption in
the conduct of a raffle occasion and is exempt from
collecting consumers sales taxes on any admission fees
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
PRESENTED TO THE
GOVERNOR
Date 3/29/40
Time 11:30 A.M.