WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED
Committee Substitute for
SENATE BILL NO. 241

(By Senator CHAFIN ET AL)

PASSED March 14, 1995
In Effect 90 Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 241

(SENATORS CHAFIN, PLYMALE, ROSS AND ANDERSON, original sponsors)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to repeal section fourteen, article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal section fourteen, article twenty-one of said chapter; to amend and reenact sections four, ten, eleven, twelve-a, fifteen, seventeen and twenty-four, article twenty of said chapter; to amend and reenact sections four, eleven, fourteen, fifteen and twenty-two, article twenty-one of said chapter; and to amend and reenact section two, article twenty-three of said chapter, all relating to licensure and reporting requirements relating to charitable bingo, raffles, raffle boards or games; repealing provisions relating to limitations on permissible amounts of rent which may be received for premises upon which bingo and raffle occasions are held; providing that certain junior firemen may assist in the conduction of bingo games; prohibiting hiring persons to advertise; allowing acceptance of personal
checks by licensees; removing certain limitations on prizes awarded during duration of bingo license period; allowing twenty-five percent of gross proceeds to be used to pay expenses; increasing the number of paid employees for charitable bingo games, operating bingo games and related concessions; requiring operators to be residents of this state; limiting rent payments to the fair market value of the premises; permitting nonprofit entities holding raffle and bingo occasions receiving state or federal funds to elect annual reporting periods which coincide with the licensee's fiscal year; permitting licensed public accountants to compile and review or audit records of licensed entities holding raffle or bingo occasions; deleting requirement for audited financial reports in accordance with certain standards; permitting nonprofit social clubs to hold raffle license; removing certain limitations on awards of raffle prizes; allowing thirty percent of raffle gross proceeds from raffle license be used for payment of expenses; and providing that persons donating raffle or game items or services without compensation are not required to be licensed as a wholesaler or distributor.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section fourteen, article twenty-one of said chapter be repealed; that sections four, ten, eleven, twelve-a, fifteen, seventeen and twenty-four, article twenty of said chapter be amended and reenacted; that sections two, four, eleven, fifteen and twenty-two, article twenty-one of said chapter be amended and reenacted; and that sections four, eleven, fifteen and twenty-two, article twenty-three of said chapter be amended and reenacted, all to read as follows:

ARTICLE 20. CHARITABLE BINGO.
§47-20-4. Annual license; conditions on holding of games.

1 A charitable or public service organization or any of its auxiliaries or other organizations otherwise affiliated
with it may apply for an annual license. Only one license
per year in the aggregate may be granted to a charitable
or public service organization and all of its auxiliaries or
other associations or organizations otherwise affiliated
with it: Provided, That for purposes of this section the
various branches, chapters or lodges of any national
association or organization or local churches of a nation-
ally organized church are not considered affiliates or
auxiliaries of each other. The commissioner shall by
regulation provide for the manner for determining to
which organization, whether the parent organization, an
affiliate or an auxiliary, the one license allowed under
this section is granted. An annual license is valid for one
year from the date of issuance and entitles only the
licensee to hold no more than two bingo occasions per
week. No two or more organizations may hold a joint
bingo occasion under any annual licenses. No bingo
occasion held pursuant to an annual license may exceed
six hours duration.

A licensee shall display its annual bingo license
conspicuously at the location where the bingo occasion
is held.

All bingo occasions shall be open to the general public:
Provided, That no licensee shall permit or allow any
individual under the age of eighteen to participate in the
playing of any bingo game with knowledge or reason to
believe that the individual is under the age of eighteen:
Provided, however, That an individual under the age of
eighteen may attend the playing of a bingo game when
accompanied by and under the supervision of an adult
relative or a legal guardian of said individual: Provided
further, That nothing contained herein may be construed
to prohibit junior volunteer firefighters sixteen years of
age or older from assisting the volunteer fire company of
which such junior firefighter is a member in the conduct
of an event under this article where such junior fire-
fighter is supervised by a senior member of the same
volunteer fire company who is over the age of twenty-
one years.
Any licensee may receive and cash personal checks in an amount not to exceed one hundred dollars during the normal operation of a bingo game.

§47-20-10. Limits on prizes awarded — General provisions.

Except as otherwise provided in section twenty-two of this article, during the period of a license the average total prizes awarded by a licensee, or in the aggregate by two or more limited occasion licensees holding a joint bingo occasion, for any bingo occasion held pursuant to an annual or limited occasion license, may not exceed seven thousand five hundred dollars in value.

Prizes may be money or merchandise other than beer, nonintoxicating beer, wine, spirits or alcoholic liquor as defined in section five, article one, chapter sixty of this code. If the prizes are merchandise, the value assigned to them is their fair market value at the time of purchase.


Except as provided in sections thirteen and twenty-two of this article, only persons, as defined in section two of this article, who are residents of this state and who are active members of the licensee organization or its authorized auxiliary organization may participate in any manner in the conduct of any bingo game or operate any concession in conjunction with a bingo occasion: Provided, That notwithstanding anything contained in this article to the contrary, no individual under the age of eighteen years may directly or indirectly participate in the conduct of a bingo game.

§47-20-12a. Compensation of bingo operator; number of employees.

(a) Within the guidelines set forth in subsections (b), (c) and (d) of this section, a licensee may pay a salary, not to exceed the federal minimum wage, to operators of bingo games who are active members of the licensee organization.
(b) If the licensee's gross receipts from bingo occasions equal or exceed one hundred thousand dollars for the licensee's most recently filed annual financial report, a salary may be paid to not more than five operators.

(c) If the licensee's gross receipts from bingo occasions are less than one hundred thousand dollars, but equal or exceed fifty thousand dollars for the licensee's most recently filed annual financial report, a salary may be paid to not more than three operators.

(d) If the licensee's gross receipts from bingo occasions are less than fifty thousand dollars for the licensee's most recently filed annual financial report, a salary may be paid to no more than two operators.

§47-20-15. Payment of reasonable expenses from proceeds; net proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of bingo occasions, not to exceed twenty-five percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of bingo, including, but not limited to:

(1) Rent paid for the use of the premises: Provided, that a copy of the rental agreement was filed with the bingo license application and any changes thereto were filed within ten days of being made: Provided, however, that in no event may the rent paid for the use of any premises exceed the fair market value of rent for such premises;

(2) The cost of custodial services;

(3) The cost to the licensee organization for equipment and supplies used to conduct the bingo occasion;

(4) The cost to the licensee organization for advertising the bingo occasion;

(5) The cost of hiring security personnel, licensed pursuant to the provisions of article eighteen, chapter
(6) The cost of providing child care services to the raffle patrons: Provided, That any proceeds received from the provision of child care services shall be handled the same as raffle proceeds.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in section ten of this article, may be paid out of the gross proceeds of the conduct of bingo.

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the gross proceeds from the bingo occasion. The licensee shall expend all net bingo proceeds and any interest earned thereon for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the bingo occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a bingo license or as provided in subsection (e) of this section for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) No gross proceeds from any bingo operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction or acquisition of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

(e) Any licensee which, in good faith, finds itself unable to comply with the requirements of this provision shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than
the one-year time period specified in this section. The
application shall be on a form furnished by the commis-
sioner and shall include the particulars of the requested
changes and the reasons for the changes. The applica-
tion shall be filed no later than sixty days before the end
of the one-year period specified in this section. In the
case of an application to extend the time in which the
net proceeds are to be expended for a charitable or
public service purpose, the licensee shall file such
periodic reports with the commissioner as the commis-
sioner directs until the proceeds are so expended.

§47-20-17. Advertising.

1 A licensee may advertise its bingo occasions in a
2 manner reasonably necessary to promote the occasion:
3 Provided, That a licensee may not hire any person, as
4 defined in section two of this article, to develop or
5 conduct an advertising campaign to promote any bingo
6 occasion.

§47-20-24. Filing of reports.

1 Each licensee holding an annual license shall file with
2 the tax commissioner a quarterly and an annual finan-
3 cial report summarizing its bingo operations for the time
4 period covered by the report. Each quarterly report
5 shall be filed within twenty days after the end of the
6 quarter which it covers. The annual report shall be filed
7 within thirty days after the expiration of the license
8 under which the operations covered by the report were
9 held. The time period covered by the annual report is
10 the full license year or, at the election of a licensee
11 receiving state or federal funding, the most recently
12 ended state or federal fiscal year.
13 Each licensee holding a limited occasion license or
14 state fair license shall file with the tax commissioner a
15 financial report summarizing its bingo operations for the
16 license period within thirty days after the expiration of
17 the license under which the operations covered by the
18 report are held. The report shall contain the name,
address and social security number of any individual who receives during the course of a bingo occasion prizes the aggregate value of which exceeds one hundred dollars, and other information required by the commissioner: Provided, That any licensee failing to file such report when due shall be liable for a penalty of twenty-five dollars for each month or fraction thereof during which the failure continues, such penalty not to exceed one hundred dollars: Provided, however, That annual financial reports for years ending after the first day of July, one thousand nine hundred ninety-three, must contain a compilation and review of such financial report by a certified or licensed public accountant, or may be audited by a certified or licensed public accountant, if a licensee’s gross receipts exceed fifty thousand dollars.

ARTICLE 21. CHARITABLE RAFFLES.

§47-21-4. Who may hold raffles; application for license; licenses not transferable.

(a) Except as provided in section three of this article, only persons, as defined in section two of this article, who are residents of this state and who are active members of any charitable or public service organization which has been in existence in this state for at least one year prior to filing an application for a raffle license issued pursuant to section five or six of this article may hold raffle occasions in accordance with the provisions of this article during such time as it holds a valid license.

(b) Application for a raffle license shall be made to the tax commissioner and shall be on a form which shall be supplied by him. The application shall contain the information required by section eight of this article and any other information which the commissioner considers necessary. An application shall be filed not less than sixty days before the date when the applicant intends to hold its first raffle occasion. An application which is not denied within thirty days after filing is considered approved and the commissioner shall, within five days
after the expiration of such thirty days, send to the
applicant its license.

(c) For purposes of this article, any application for an
annual license or a limited occasion license received
prior to the effective date of this article is considered
filed on such effective date.

(d) No raffle license issued pursuant to this article may
be transferred.

§47-21-11. Limits on prizes awarded — General provisions.

During the period of a license, the total prizes awarded
by a licensee, or in the aggregate by two or more limited
occasion licensees holding a joint raffle occasion, for any
raffle occasion held pursuant to a limited occasion
license, may not exceed in value seven thousand five
hundred dollars.

Prizes may be money, real or personal property or
merchandise other than beer, wine, spirits or alcoholic
liquor as defined in section five, article one, chapter
sixty of this code. If the prizes are real or personal
property or merchandise, the value assigned to them is
their fair market value at the time of acquisition for the
raffle or at the time of purchase.

§47-21-15. Payment of reasonable expenses from proceeds;
net proceeds disbursement.

(a) The reasonable, necessary and actual expenses
incurred in connection with the conduct of raffle occa-
sions, not to exceed twenty-five percent of the gross
proceeds collected during a license period, may be paid
out of the gross proceeds of the conduct of raffle, includ-
ing, but not limited to:

(1) Rent paid for the use of the premises: Provided,
That a copy of the rental agreement was filed with the
raffle license application with any modifications thereto
to be filed within ten days of being made: Provided,
however, That in no event may the rent paid for the use
of any premises exceed the fair market value of rent for
such premises;
(2) The cost of custodial services;
(3) The cost to the licensee organization for equipment and supplies used to conduct the raffle occasion;
(4) The cost to the licensee organization for advertising the raffle occasion;
(5) The cost of hiring security personnel, licensed pursuant to the provisions of article eighteen, chapter thirty of this code; and
(6) The cost of providing child care services to the bingo patrons: Provided, That any proceeds received from the provision of child care services shall be handled the same as bingo proceeds.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in section eleven of this article, may be paid out of the gross proceeds of the conduct of raffle.

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the gross proceeds from the raffle occasion. The licensee shall expend all net raffle proceeds and any interest earned thereon for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a raffle license or as provided in subsection (e) of this section for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) No gross proceeds from any raffle operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, improvement, maintenance or repair of real or
personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

(e) Any licensee which, in good faith, finds itself unable to comply with the requirements of the foregoing provisions of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than sixty days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file such periodic reports with the commissioner as the commissioner directs until the proceeds are so expended.

§47-21-22. Filing of reports.

Each licensee holding an annual, limited or state fair license shall file with the commissioner a financial report summarizing its raffle operations within thirty days after the expiration date of such license. The time period covered by an annual report is the full license year or, at the election of a licensee receiving state or federal funding, the most recently ended state or federal fiscal year.

The reports required by this section shall contain the name, address and social security number of any individual who received during the course of a raffle occasion prizes the aggregate value of which exceeded one hundred dollars, and other information required by the commissioner: Provided, That any licensee failing to file such report when due shall be liable for a penalty of
twenty-five dollars for each month or fraction thereof during which the failure continues, such penalty not to exceed one hundred dollars: Provided, however, That annual financial reports for license years ending after the first day of July, one thousand nine hundred ninety-three, must contain a compilation and review of such financial report by a certified or licensed public accountant, or may be audited by a certified or licensed public accountant, if a licensee's gross receipts exceed fifty thousand dollars.

ARTICLE 23. CHARITABLE RAFFLE BOARDS AND GAMES.


For purposes of this article, unless specified otherwise:

(a) "Commissioner" means tax commissioner of the state of West Virginia, or his delegate.

(b) "Retail value" means the actual consideration paid to the wholesaler by the retailer for any raffle boards or games.

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

(d) "Retailer" means every person engaged in the business of making retail sales of raffle chances except a charitable or public service organization authorized to conduct raffles pursuant to section three, article twenty-one of this chapter.

(e) "Charitable raffle board" or "charitable raffle game" means: (1) A board or other device that has many folded printed slips to be pulled from the board or otherwise distributed without a board on payment of a nominal sum in an effort to obtain a slip or chance that entitles the player to a designated prize; (2) a series of paper cards with perforated break-open tabs, a face value of which is covered or otherwise hidden from view to conceal one or more numbers, letters or symbols,
which, on payment of a nominal sum, entitles the player

to obtain a chance to a designated prize; or (3) such other

similar game which may be defined by the state tax

commissioner by legislative rule.

(f) "Sale" means the transfer of the ownership of
tangible personal property for a consideration.

(g) "Verification" means a unique manufacture identi-
fiable serial number which is required to be printed on
each ticket in a charitable raffle board or charitable
raffle game or such other form of identification as may
be prescribed by the tax commissioner upon a showing
of undue hardship by the taxpayer: Provided, That such
other form of identification shall be prescribed by rule in
accordance with the provisions of article three, chapter
twenty-nine-a of this code.

(h) "Wholesaler" or "distributor" means any person or
entity engaged in the wholesale distribution of charita-
table raffle boards or games or similar boards or devices,
as defined by the commissioner, and licensed under the
provisions of this article, to distribute said devices to
charitable raffle boards or games retailers as defined in
this article. It also includes anyone who is engaged in
the manufacturing, packaging, preparing or repackaging
of charitable raffle boards or games for distribution in
this state: Provided, That no license taxes or other fees
provided for in this section may be charged to any
newspaper or other printing or duplicating operation not
regularly engaged in the business of manufacturing,
packaging, preparing or repackaging charitable raffle
boards or games where the gross sales of such printing or
duplicating operation from such activity does not exceed
seven thousand five hundred dollars per calendar year
and who is donating such items or services to a nonprofit
entity without compensation may not be considered a
"wholesaler" or "distributor" under this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ........................................ this the........................................

day of .........................................................., 1995.

Governor