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THE HOUSE OF DELEGATES
BOWLING GREEN, KY

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

Com. Sub. For
HOUSE BILL No. 4479

(By Delegates *Kiss, Michael*)



Passed *March 8* 1996

In Effect *July 1, 1996* ~~Passage~~



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4479

(BY DELEGATES KISS AND MICHAEL.)

[Passed March 8, 1996; in effect July 1, 1996]

AN ACT to amend and reenact sections two, three, six-a, ten, eleven, twelve-a, thirteen, fifteen and twenty-four, article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section five-a; and to amend and reenact sections four, eleven, twelve, fifteen and twenty-two, article twenty-one of said chapter, all relating to charitable bingo and raffles; establishing venue requirements for bingo and raffle occasions; same, exceptions; providing bingo and raffle license application procedures and time periods; increasing amount of prizes which may be awarded at a super bingo and regular bingo occasions; restricting eligibility for bingo and raffle license; exception for junior fire fighters to general rule that persons under eighteen years of age may not participate in conduct of bingo games; changing allowable compensation and number of employees; compensation for bingo concessionaire and concession workers only if net proceeds are donated for charitable or public service purposes; tax commissioner authorized to disapprove certain contracts and leases; disapproved contracts and leases void; same, attempt by licensee to complete grounds for revocation or suspension of license; limitations on super bingo occasions; clarifying reporting requirements; bingo and raffle licensee may file compilation or review instead of both; removing cap on

raffle prizes allowed; amending compensation provisions for persons conducting raffles; and prohibiting commingling of funds in cases of joint bingo and raffle occasions conducted simultaneously.

Be it enacted by the Legislature of West Virginia:

That sections two, three, six-a, ten, eleven, twelve-a, thirteen, fifteen and twenty-four, article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-a; and that sections four, eleven, twelve, fifteen and twenty-two, article twenty-one of said chapter be amended and reenacted to read as follows:

ARTICLE 20. CHARITABLE BINGO.

§47-20-2. Definitions.

1 For purposes of this article, unless specified otherwise:

2 (a) "Bingo" means the game wherein participants pay
3 consideration for the use of one or more cards bearing
4 several rows of numbers in no two cards played in any one
5 game contain the same sequence or pattern. When the
6 game commences, numbers are selected by chance, one by
7 one, and announced. The players cover or mark those
8 numbers announced as they appear on the card or cards
9 which they are using. The player who first announces that
10 he or she has covered a predetermined sequence or pattern
11 which had been preannounced for that game is, upon
12 verification that he or she has covered the predetermined
13 sequence or pattern, declared the winner of that game.

14 (b) "Bingo occasion" or "occasion" means a single
15 gathering or session at which a series of one or more suc-
16 cessive bingo games is conducted by a single licensee.

17 (c) "Charitable or public service activity or endeavor"
18 means any bona fide activity or endeavor which directly
19 benefits a number of people by:

20 (1) Assisting them to establish themselves in life as
21 contributing members of society through education or
22 religion;

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

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

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

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

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

39 (7) Providing or supporting nonprofit cultural or
40 artistic activities.

41 (d) "Charitable or public service organization" means a
42 bona fide, not for profit, tax-exempt, benevolent, educa-
43 tional, philanthropic, humane, patriotic, civic, religious,
44 fraternal, or eleemosynary incorporated or unincorporated
45 association or organization; or a volunteer fire department,
46 rescue unit or other similar volunteer community service
47 organization or association; but does not include any
48 nonprofit association or organization, whether incorporat-
49 ed or not, which is organized primarily for the purposes of
50 influencing legislation or supporting or promoting the
51 campaign of any candidate for public office.

52 An organization or association is tax-exempt if it is,
53 and has received from the Internal Revenue Service a
54 determination letter that is currently in effect stating that
55 the organization is, exempt from federal income taxation
56 under subsection 501(a) and described in subsection
57 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19) or
58 501(d) of the Internal Revenue Code.

59 (e) "Commissioner" means the state tax commissioner.

60 (f) "Concession" means any stand, booth, cart, counter
61 or other facility, whether stationary or movable, where
62 beverages, both alcoholic and nonalcoholic, food, snacks,
63 cigarettes or other tobacco products, newspapers, souvenirs
64 or any other items are sold to patrons by an individual
65 operating the facility. Notwithstanding anything con-
66 tained in subdivision (2), subsection (a), section twelve,
67 article seven, chapter sixty of this code to the contrary,
68 "concession" includes beverages which are regulated by
69 and are subject to the provisions of chapter sixty of this
70 code: *Provided*, That in no case may the sale or the con-
71 sumption of alcoholic beverages or nonintoxicating beer
72 be permitted in any area where bingo is conducted.

73 (g) "Conduct" means to direct the actual playing of a
74 bingo game by activities including, but not limited to,
75 handing out bingo cards, collecting fees, drawing the
76 numbers, announcing the numbers, posting the numbers,
77 verifying winners and awarding prizes.

78 (h) "Expend net proceeds for charitable or public
79 service purposes" means to devote the net proceeds of a
80 bingo occasion or occasions to a qualified recipient orga-
81 nization or as otherwise provided by this article and ap-
82 proved by the commissioner pursuant to section fifteen of
83 this article.

84 (i) "Gross proceeds" means all moneys collected or
85 received from the conduct of bingo at all bingo occasions
86 held by a licensee during a license period; this term shall
87 not be considered to include any moneys collected or
88 received from the sale of concessions at bingo occasions.

89 (j) "Joint bingo occasion" means a single gathering or
90 session at which a series of one or more successive bingo
91 games is conducted by two or more licensees.

92 (k) "Licensee" means any organization or association
93 granted an annual, limited occasion or state fair bingo
94 license pursuant to the provisions of this article.

95 (l) "Net proceeds" means all moneys collected or re-
96 ceived from all the conduct of bingo at bingo occasions
97 held by a licensee during a license period after payment

98 of expenses authorized by sections ten, thirteen, fifteen
99 and twenty-two of this article; this term shall not be con-
100 sidered to include moneys collected or received from the
101 sale of concessions at bingo occasions.

102 (m) "Person" means any individual, association, soci-
103 ety, incorporated or unincorporated organization, firm,
104 partnership or other nongovernmental entity or institution.

105 (n) "Patron" means any individual who attends a bingo
106 occasion other than an individual who is participating in
107 the conduct of the occasion or in the operation of any
108 concession, whether or not the individual is charged an
109 entrance fee or plays any bingo games.

110 (o) "Qualified recipient organization" means any bona
111 fide, not for profit, tax-exempt, as defined in subdivision
112 (d) of this section, incorporated or unincorporated associ-
113 ation or organization which is organized and functions
114 exclusively to directly benefit a number of people as pro-
115 vided in subparagraphs (1) through (7), subdivision (c) of
116 this section. "Qualified recipient organization" includes
117 without limitation any licensee which is organized and
118 functions exclusively as provided in this subdivision.

119 (p) "Venue" means the location in which bingo occa-
120 sions are held.

**§47-20-3. Who may hold bingo games; application for li-
cense; licenses not transferable.**

1 Any charitable or public service organization which
2 has been in existence in this state two years prior to filing
3 an application for a bingo license issued pursuant to sec-
4 tion four or five of this article may hold bingo occasions
5 in accordance with the provisions of this article during the
6 time it holds a valid license.

7 Application for a bingo license shall be made to the
8 tax commissioner and shall be on a form which shall be
9 supplied by him or her. The application shall contain the
10 information required by section seven of this article and
11 any other information which the commissioner considers
12 necessary. An application shall be filed not less than sixty
13 days before the date when the applicant intends to hold its

14 first bingo occasion. No bingo occasion may be held until
15 an application filed in accordance with this article has
16 been approved by the tax commissioner, and the bingo
17 license has been received: *Provided*, That under no cir-
18 cumstances may a licensee organization conduct a bingo
19 occasion before the sixty day filing period between the
20 filing of the application and date of the first bingo occa-
21 sion has elapsed: *Provided, however*, That the date the
22 application is received by the tax commissioner shall be-
23 gin the sixty day filing period. The tax commissioner shall
24 send the applicant its license within five days after approv-
25 al of the bingo application. If the filing period has
26 elapsed, and the application has not been denied by the
27 tax commissioner, and the license has not been received
28 by the applicant, the applicant may consider the applica-
29 tion approved and begin to hold bingo occasions. The tax
30 commissioner shall send a bingo license to the applicant
31 within five days after the expiration of the filing period if
32 the application has not been otherwise denied.

33 No bingo license issued pursuant to this article may be
34 transferred.

§47-20-5a. Venue.

1 Any charitable or public service organization or any
2 of its auxiliaries or other organizations otherwise affiliated
3 with it possessing an annual or limited occasion bingo
4 license or a super bingo license shall conduct a bingo
5 occasion only in the county within which the organization
6 is principally located.

7 Any licensee which, in good faith, finds itself unable
8 to comply with this requirement shall apply to the tax
9 commissioner for permission to conduct a bingo occasion
10 in a location other than the county within which the orga-
11 nization is principally located: *Provided*, That the location
12 shall be in a contiguous county, or, if not in a contiguous
13 county, and not in the county where the licensee organiza-
14 tion has its principal location, the location of the proposed
15 bingo occasion may be no more than thirty air miles from
16 the county within which the organization is principally
17 located. The application shall be made on a form provid-
18 ed by the tax commissioner and shall include the particu-

19 lars of the requested change and the reasons for the
20 change. The application shall be filed no later than sixty
21 days before any scheduled bingo occasion.

22 For purposes of this section, the principal location of a
23 licensee is the address of the licensee shown on the licens-
24 ee's West Virginia business registration certificate.

§47-20-6a. Super bingo license.

1 Any charitable or public service organization may,
2 upon payment of a five thousand dollar license fee, apply
3 to the tax commissioner for issuance of an annual super
4 bingo license. All revenue from the license fee shall be
5 deposited in the special revenue account established under
6 the authority of section two-a, article nine, chapter eleven
7 of this code and used to support the investigatory activities
8 provided for in that section. The tax commissioner shall
9 promulgate legislative rules in accordance with article
10 three, chapter twenty-nine-a of this code specifying those
11 organizations which qualify as charitable or public service
12 organizations.

13 A holder of a super bingo license may conduct one
14 super bingo occasion each month during the period of the
15 license at which up to fifty thousand dollars in prizes may
16 be awarded, notwithstanding the ten thousand dollar limi-
17 tation on prizes specified in section ten of this article.

18 A charitable or public service organization that has a
19 regular or limited occasion bingo license may apply for a
20 super bingo license.

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

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

8 Prizes may be money or merchandise other than beer,
9 nonintoxicating beer, wine, spirits or alcoholic liquor as

10 defined in section five, article one, chapter sixty of this
11 code. If the prizes are merchandise, the value assigned to
12 them is their fair market value at the time of purchase.

§47-20-11. Operator of bingo games and related concessions.

1 Except as provided in sections thirteen and twenty-two
2 of this article, only persons, as defined in section two of
3 this article, who are residents of this state and who are
4 active members of the licensee organization or its autho-
5 rized auxiliary organization and who have been active
6 members in good standing of the licensee organization or
7 its authorized auxiliary for at least two years prior to the
8 date of filing of the application for a charitable bingo
9 license or the most recent filing of an application for re-
10 newal of the license may participate in any manner in the
11 conduct of any bingo game or operate any concession in
12 conjunction with a bingo occasion: *Provided*, That not-
13 withstanding anything contained in this article to the con-
14 trary, no individual under the age of eighteen years may
15 directly or indirectly participate in the conduct of a bingo
16 game except for junior firefighters, in accordance with the
17 provisions of this article.

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

1 (a) Within the guidelines set forth in subsections (b),
2 (c) and (d) of this section, a licensee may pay a salary, the
3 minimum of which shall be established at the federal mini-
4 mum wage, and the maximum being six dollars and fifty
5 cents per hour, to operators of bingo games who are active
6 members of the licensee organization and who have been
7 active members in good standing for at least two years
8 prior to the date of filing of the application for a charita-
9 ble bingo license or the most recent filing of an applica-
10 tion for renewal of the license.

11 (b) If the licensee's gross receipts from bingo occa-
12 sions equal or exceed one hundred thousand dollars for
13 the licensee's most recently filed annual financial report, a
14 salary may be paid to not more than eight operators.

15 (c) If the licensee's gross receipts from bingo occa-
16 sions are less than one hundred thousand dollars, but

17 equal or exceed fifty thousand dollars for the licensee's
18 most recently filed annual financial report, a salary may
19 be paid to not more than five operators.

20 (d) If the licensee's gross receipts from bingo occa-
21 sions are less than fifty thousand dollars for the licensee's
22 most recently filed annual financial report, a salary may
23 be paid to not more than three operators.

24 (e) If the licensee also possesses a super bingo license,
25 it may pay a salary to not more than fifteen operators
26 during the super bingo occasion.

27 (f) In the case of a licensee lawfully holding a charita-
28 ble bingo occasion simultaneously with a charitable raffle
29 occasion, the number of paid charitable bingo operator
30 employees allowed under this limitation for bingo licens-
31 ees shall be in addition to the number of charitable raffle
32 operator employees allowed under section fifteen, article
33 twenty-one of this chapter. Licensees holding such simul-
34 taneous occasions shall pay bingo operators from the
35 proceeds of bingo operations and shall pay raffle opera-
36 tors from the proceeds of raffle operations, and the chari-
37 table bingo fund and the charitable raffle fund and pay-
38 ments from the funds shall not be commingled.

39 (g) For purposes of the limitations set forth in this
40 section, the term "operator" or "bingo operator" or "raffle
41 operator" shall not include concession stand workers.
42 Wages paid to concession workers shall not exceed six
43 dollars and fifty cents per hour.

§47-20-13. Concessions exception.

1 A licensee may allow any individual, firm, partnership
2 or corporation to operate concessions in conjunction with
3 bingo occasions, and to be compensated for the operation,
4 only if the individual, firm, partnership or corporation
5 agrees to donate all net proceeds received from the sale of
6 the concessions and all compensation received from the
7 licensee organization to charitable or public service pur-
8 poses as specified under section two, subsection (c) of this
9 article.

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

1 (a) The reasonable, necessary and actual expenses
2 incurred in connection with the conduct of bingo occa-
3 sions, not to exceed twenty-five percent of the gross pro-
4 ceeds collected during a license period, may be paid out
5 of the gross proceeds of the conduct of bingo, including,
6 but not limited to:

7 (1) Rent paid for the use of the premises: *Provided,*
8 That a copy of the rental agreement was filed with the
9 bingo license application and any changes to the rental
10 agreement were filed within ten days of being made:
11 *Provided, however,* That in no event may the rent paid for
12 the use of any premises exceed the fair market value of
13 rent for the premises;

14 (2) The cost of custodial services;

15 (3) The cost to the licensee organization for equip-
16 ment and supplies used to conduct the bingo occasion;

17 (4) The cost to the licensee organization for advertis-
18 ing the bingo occasion;

19 (5) The cost of hiring security personnel, licensed
20 pursuant to the provisions of article eighteen, chapter
21 thirty of this code; and

22 (6) The cost of providing child care services to the
23 raffle patrons: *Provided,* That any proceeds received
24 from the provision of child care services shall be handled
25 the same as raffle proceeds.

26 (b) The actual cost to the licensee for prizes, not to
27 exceed the amounts as specified in section ten of this arti-
28 cle, may be paid out of the gross proceeds of the conduct
29 of bingo.

30 (c) The cost of any refreshments, souvenirs or any
31 other item sold or otherwise provided through any conces-
32 sion to the patrons may not be paid for out of the gross
33 proceeds from the bingo occasion. The licensee shall
34 expend all net bingo proceeds and any interest earned on
35 the proceeds for the charitable or public service purposes

36 stated in the application within one year after the expira-
37 tion of the license under which the bingo occasions were
38 conducted. A licensee which does not qualify as a quali-
39 fied recipient organization may apply to the commissioner
40 at the time it applies for a bingo license or as provided in
41 subsection (e) of this section for permission to apply any
42 or all of its net proceeds to directly support a charitable or
43 public service activity or endeavor which it sponsors.

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

51 (e) The tax commissioner has the authority to disap-
52 prove any contract for sale of goods or services to any
53 charitable bingo licensee for use in or with relation to any
54 charitable bingo operation or occasion, or any lease of
55 real or tangible personal property to any charitable bingo
56 licensee for use in or with relation to any charitable bingo
57 operation or occasion, if the contract or lease is unreason-
58 able or not representative of fair market value. Contracts
59 or leases which are disapproved shall be considered to be
60 in contravention of this article, and are void. Any attempt
61 by any charitable bingo licensee to engage in transactions
62 under the terms of any lease or contract that has been
63 disapproved is grounds for revocation or suspension of
64 the charitable bingo license and for refusal by the tax
65 commissioner to renew the charitable bingo license.

66 (f) If a property owner or lessee, including his or her
67 agent, has entered into a rental contract to hold super
68 bingo occasions on his or her premises, the premises shall
69 be rented, for super bingo occasions, to not more than
70 four super bingo licensees during any period of four
71 consecutive calendar weeks: *Provided*, That each of the
72 charitable or public service organizations desiring to hold
73 a super bingo occasion must possess its own super bingo
74 license. Subject to this limitation, the premises may be
75 used for super bingo occasions during two consecutive

76 days during a conventional weekend. For purposes of this
77 subsection, the term "conventional weekend" means Satur-
78 day and Sunday: *Provided, however,* That the super bingo
79 occasions may occur at the same facility no more often
80 than alternating weekends during a calendar month.

81 (g) Any licensee which, in good faith, finds itself un-
82 able to comply with the requirements of this provision
83 shall apply to the commissioner for permission to expend
84 its net proceeds for one or more charitable or public ser-
85 vice purposes other than that stated in its license applica-
86 tion or for permission to expend its net proceeds later than
87 the one-year time period specified in this section. The
88 application shall be on a form furnished by the commis-
89 sioner and shall include the particulars of the requested
90 changes and the reasons for the changes. The application
91 shall be filed no later than sixty days before the end of the
92 one-year period specified in this section. In the case of an
93 application to extend the time in which the net proceeds
94 are to be expended for a charitable or public service pur-
95 pose, the licensee shall file such periodic reports with the
96 commissioner as the commissioner directs until the pro-
97 ceeds are expended.

§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 financial
3 report summarizing its bingo operations for the time peri-
4 od covered by the report. Each quarterly report shall be
5 filed within twenty days after the end of the quarter which
6 it covers. The annual report shall be filed within thirty
7 days after the expiration of the license under which the
8 operations covered by the report were held. The time
9 period covered by the annual report is the full license year
10 or, at the election of a licensee receiving state or federal
11 funding, the most recently ended state or federal fiscal
12 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 the
17 license under which the operations covered by the report

18 are held. The report shall contain the name, address and
 19 social security number of any individual who receives,
 20 during the course of a bingo occasion prizes, the aggregate
 21 value of which exceeds one hundred dollars, and
 22 other information required by the commissioner: *Provided*,
 23 That any licensee failing to file the report when due is
 24 liable for a penalty of twenty-five dollars for each month
 25 or fraction of a month during which the failure continues,
 26 the penalty not to exceed one hundred dollars: *Provided*,
 27 however, That annual financial reports must contain either
 28 a compilation or review of the financial report by a certified
 29 or licensed public accountant, or may be audited by a
 30 certified or licensed public accountant, if a licensee's gross
 31 receipts exceed fifty thousand dollars.

ARTICLE 21. CHARITABLE RAFFLES.

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

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

10 (b) Application for a raffle license shall be made to
 11 the tax commissioner and shall be on a form supplied by
 12 him or her. The application shall contain the information
 13 required by section eight of this article and any other
 14 information which the commissioner considers necessary.
 15 No raffle may be held and no tickets may be sold pursuant
 16 to this article until the raffle application has been approved
 17 by the tax commissioner and the license has been received
 18 by the applicant: *Provided*, That no raffle occasion
 19 may be held and no raffle tickets may be sold until a
 20 sixty day filing period, which is that time period between
 21 the receipt of that application by the tax commissioner
 22 and the first raffle occasion, has expired: *Provided, however*,
 23 That the tax commissioner shall send the applicant its

24 license within five days after the application is approved.
25 If the sixty day filing period has expired and the applica-
26 tion has not been denied and the raffle license has not
27 been received by the applicant, the applicant may consider
28 the application approved and begin to sell tickets for the
29 raffle or hold the raffle occasion. The tax commissioner
30 shall send the applicant its license within five days after the
31 expiration of the filing period if the application has not
32 been otherwise denied.

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

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

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

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

§47-21-12. Compensation.

1 (a) A licensee may pay a salary, the minimum of
2 which shall be established at the federal minimum wage,
3 and the maximum which should be six dollars and fifty
4 cents per hour, to operators of charitable raffle games who
5 are active members of the licensee organization and who
6 have been active members in good standing for at least
7 two years prior to the date of filing of the application for a
8 charitable raffle license or the most recent filing of an
9 application for renewal of the license.

10 (b) If the licensee's gross receipts from raffle occa-
11 sions equal or exceed one hundred thousand dollars for
12 the licensee's most recently filed annual financial report, a
13 salary may be paid to not more than eight operators.

14 (c) If the licensee's gross receipts from charitable raf-
 15 fle occasions are less than one hundred thousand dollars,
 16 but equal or exceed fifty thousand dollars for the licens-
 17 ee's most recently filed annual financial report, a salary
 18 may be paid to not more than five operators.

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

23 (e) In the case of a licensee lawfully holding a charita-
 24 ble bingo occasion simultaneously with a charitable raffle
 25 occasion, the number of paid charitable raffle operator
 26 employees allowed under this limitation for charitable
 27 raffle licensees is in addition to the number of charitable
 28 bingo operator employees allowed under section twelve-a,
 29 article twenty of this chapter. Licensees holding simulta-
 30 neous occasions shall pay bingo operators from the pro-
 31 ceeds of bingo operations and shall pay raffle operators
 32 from the proceeds of raffle operations, and the charitable
 33 bingo fund and the charitable raffle fund and payments
 34 from the funds shall not be commingled.

35 (f) For purposes of the limitations set forth in this
 36 section, the term "operator" or "bingo operator" or "raffle
 37 operator" shall not include concession stand workers.
 38 Wages paid to concession workers shall not exceed six
 39 dollars and fifty cents per hour.

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

1 (a) The reasonable, necessary and actual expenses
 2 incurred in connection with the conduct of raffle occa-
 3 sions, not to exceed twenty-five percent of the gross pro-
 4 ceeds collected during a license period, may be paid out
 5 of the gross proceeds of the conduct of raffle, including,
 6 but not limited to:

7 (1) Rent paid for the use of the premises: *Provided,*
 8 That a copy of the rental agreement was filed with the
 9 raffle license application with any modifications to the
 10 rental agreement to be filed within ten days of being

11 made: *Provided, however,* That in no event may the rent
12 paid for the use of any premises exceed the fair market
13 value of rent for the premises;

14 (2) The cost of custodial services;

15 (3) The cost to the licensee organization for equip-
16 ment and supplies used to conduct the raffle occasion;

17 (4) The cost to the licensee organization for advertis-
18 ing the raffle occasion;

19 (5) The cost of hiring security personnel, licensed
20 pursuant to the provisions of article eighteen, chapter
21 thirty of this code; and

22 (6) The cost of providing child care services to the
23 raffle patrons: *Provided,* That any proceeds received
24 from the provision of child care services shall be handled
25 the same as raffle proceeds.

26 (b) The actual cost to the licensee for prizes, not to
27 exceed the amounts as specified in section eleven of this
28 article, may be paid out of the gross proceeds of the con-
29 duct of raffle.

30 (c) The cost of any refreshments, souvenirs or any
31 other item sold or otherwise provided through any conces-
32 sion to the patrons may not be paid for out of the gross
33 proceeds from the raffle occasion. The licensee shall ex-
34 pend all net raffle proceeds and any interest earned on the
35 net raffle proceeds for the charitable or public service
36 purposes stated in the application within one year after the
37 expiration of the license under which the raffle occasions
38 were conducted. A licensee which does not qualify as a
39 qualified recipient organization may apply to the commis-
40 sioner at the time it applies for a raffle license or as pro-
41 vided in subsection (e) of this section for permission to
42 apply any or all of its net proceeds to directly support a
43 charitable or public service activity or endeavor which it
44 sponsors.

45 (d) No gross proceeds from any raffle operation may
46 be devoted or in any manner used by any licensee or
47 qualified recipient organization for the construction, ac-

48 quisation, or improvement, of real or personal property
49 except that which is used exclusively for one or more
50 charitable or public service purposes or as provided in
51 subdivision (3), subsection (a) of this section.

52 (e) The tax commissioner has the authority to disap-
53 prove any contract for sale of goods or services to any
54 charitable raffle licensee for use in or with relation to any
55 charitable raffle operation or occasion, or any lease of real
56 or tangible personal property to any charitable raffle li-
57 censee for use in or with relation to any charitable raffle
58 operation or occasion, if the contract or lease is unreason-
59 able or not representative of fair market value. Disap-
60 proved contracts or leases shall be considered to be in
61 contravention of this article, and are void. Any attempt by
62 any charitable raffle licensee to engage in transactions
63 under the terms of any disapproved lease or contract is
64 grounds for revocation or suspension of the charitable
65 raffle license and for refusal by the tax commissioner to
66 renew the charitable raffle license.

67 (f) Any licensee which, in good faith, finds itself un-
68 able to comply with the requirements of the subsections
69 (a) through (e) of this section shall apply to the commis-
70 sioner for permission to expend its net proceeds for one
71 or more charitable or public service purposes other than
72 that stated in its license application or for permission to
73 expend its net proceeds later than the one-year time peri-
74 od specified in this section. The application shall be on a
75 form furnished by the commissioner and shall include the
76 particulars of the requested changes and the reasons for
77 the changes. The application shall be filed no later than
78 sixty days before the end of the one-year period specified
79 in this section. In the case of an application to extend the
80 time in which the net proceeds are to be expended for a
81 charitable or public service purpose, the licensee shall file
82 such periodic reports with the commissioner as the com-
83 missioner directs until the proceeds are expended.

§47-21-22. Filing of reports.

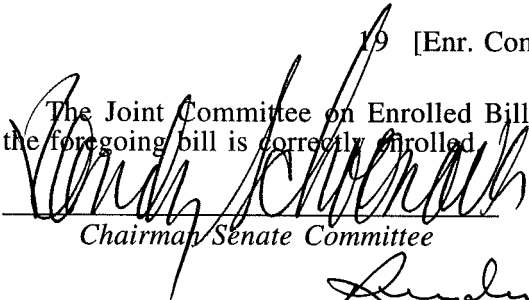
1 Each licensee holding an annual, limited or state fair
2 license shall file with the commissioner a financial report
3 summarizing its raffle operations within thirty days after


4 the expiration date of the license. The time period covered
5 by an annual report is the full license year or, at the elec-
6 tion of a licensee receiving state or federal funding, the
7 most recently ended state or federal fiscal year.

8 The reports required by this section shall contain the
9 name, address and social security number of any individu-
10 al who received during the course of a raffle occasion
11 prizes the aggregate value of which exceeded one hundred
12 dollars, and other information required by the commis-
13 sioner: *Provided*, That any licensee failing to file the re-
14 port when due is liable for a penalty of twenty-five dollars
15 for each month or fraction of a month during which the
16 failure continues, the penalty not to exceed one hundred
17 dollars: *Provided, however*, That annual financial reports
18 must contain either a compilation or review of such finan-
19 cial report by a certified or licensed public accountant, or
20 may be audited by a certified or licensed public accoun-
21 tant, if a licensee's gross receipts exceed fifty thousand
22 dollars.

19 [Enr. Com. Sub. for H. B. 4479]

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

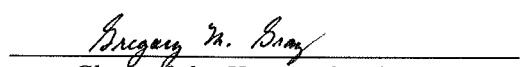

Chairman Senate Committee

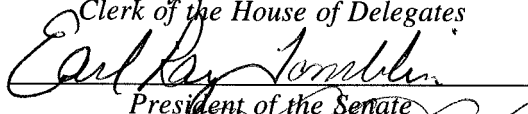

Chairman House Committee


Originating in the House.

Takes effect July 1, 1996.

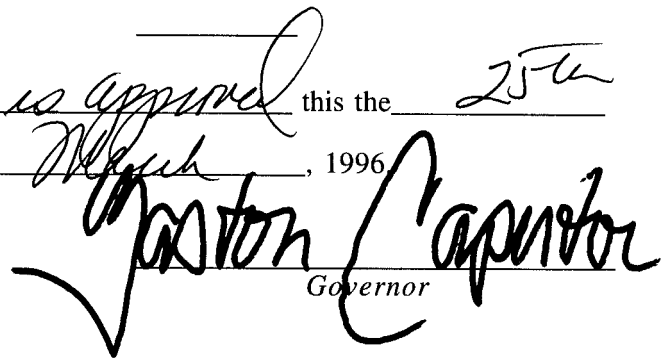

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 25th
day of March, 1996


Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/96

Time 9:18 am