WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 232

SENATOR WELD, original sponsor

[Passed March 2, 2020; in effect 90 days from passage]
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AN ACT to amend and reenact §47-21-2, §47-21-20, and §47-21-26 of the Code of West Virginia, 1931, as amended, all relating to charitable raffles; removing outdated prohibitions against electronic or mechanical ticket dispensers and readers and associated digital fundraising platforms; limiting types and numbers of mechanical or electronic ticket dispenser systems; and removing restriction that a licensee may only use raffle equipment obtained from another licensee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. CHARITABLE RAFFLES.

§47-21-2. Definitions.

For purposes of this article, unless specified otherwise:
(a) "Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:
(1) Contributing to educational or religious purposes;
(2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;
(3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;
(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;
(5) Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people;
(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled;
(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 §60-7-12(a)(2) of this code to the contrary, "concession" includes beverages which are regulated by and are subject to the provisions of chapter 60 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 §47-21-15 of this code.

(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 determined 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 §47-21-11, §47-21-13, and §47-21-15 of this code; this term shall not be determined 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 occasion 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 unincorporated association or organization which is organized and functions exclusively to directly benefit a number of people as provided in paragraphs (1) through (7), inclusive, 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 or distribution of paper tickets, entitling the holder or holders to participate in a raffle game for a chance on a prize or prizes: Provided, That any mechanical or electronic raffle ticket system of whatever design or function is prohibited except as provided in paragraph (2) of this subdivision. This subdivision shall not be interpreted to prevent the use of:

(1) Hand-cranked or motorized drum mixers which randomly mix tickets or other indicia together for the purpose of allowing the hand drawing of a ticket or winning indicia;
(2) Mechanical or electronic ticket dispenser systems that produce paper tickets with randomly generated indicia that cannot be redeemed electronically, cannot be used for any other purpose than a one-time raffle, and are limited as follows:

(A) No more than three electronic ticket dispensing units in facilities with a capacity of fewer than 3,000 people; or

(B) No more than one electronic ticket dispensing unit for every 1,000 persons permitted in facilities with a maximum occupancy greater than 3,000 people, not to exceed a total of 10 dispensing units;

(3) A cash register for handling proceeds of sales and other ordinary cash-handling and record-keeping functions of a raffle licensee; or

(4) Accounting and record-keeping software for the purpose of maintaining accounting and reporting records of the licensee, and the computer for running those applications.

(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 under 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 that code.

§47-21-20. Violation of provisions; crime; civil penalties; additional grounds for suspension or revocation.

(a) Any person who knowingly violates any provisions of this article, other than the provisions of §47-21-18 or §47-21-19 of this code, or subsection (b) of this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than
4 $1,000; and, upon a second or subsequent conviction thereof, shall be fined not less than $100
5 nor more than $100,000 or confined in jail not more than one year, or both fined and confined.
6
7 (b) On and after July 1, 2010, any person licensed under this article, or any person who
8 operates a raffle without a license under §47-21-3 of this code, who is in possession of any
9 electronic or mechanical raffle ticket system of whatever design or function, other than those
10 machines and apparatus allowed under §47-21-2(n) of this code, that is used or designed to be
11 used as part of a licensed raffle is guilty of a felony and, upon conviction thereof, shall be
12 imprisoned in a state correctional facility for a term of not less than one year nor more than three
13 years, and fined not less than $50,000 nor more than $100,000, for each electronic or mechanical
14 raffle ticket system of whatever design or function, other than those machines and apparatus
15 allowed under §47-21-2(n) of this code, in the person’s actual or constructive possession in this
16 state. For a person other than an individual, upon conviction, the fine may not be less than
17 $100,000 nor more than $500,000 for each video electronic or mechanical raffle ticket system of
18 whatever design or function in the person’s actual or constructive possession in this state.
19
20 (c) A licensee may also have his or her license suspended or revoked for failure to comply
21 with this article and may be required to forfeit the machines or devices to the Tax Commissioner
22 for destruction.
23
24 (d) In addition to any other penalty provided by law, any person, licensed or unlicensed
25 under this article, who violates any provisions of this article, or who fails to perform any of the
26 duties or obligations created and imposed upon them by the provisions of this article, other than
27 the provisions of §47-21-18 or §47-21-19 of this code, or subsection (b) of this section, is subject
28 to a civil penalty as may be determined by the Tax Commissioner in an amount not to exceed
29 $10,000.
30
31 §47-21-26. Restrictions on use of raffle equipment.
32
33 A licensee may use only raffle equipment which it owns, which it borrows without
34 compensation, or which it leases for a reasonable and customary amount.
The 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 90 days 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 24th Day of March, 2020.

Governor