

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4809

BY DELEGATES STORCH, WESTFALL, BARRETT, CRISS,

HOUSEHOLDER, CANESTRARO AND FLUHARTY

[Introduced February 11, 2020; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §47-21-2 of the Code of West Virginia, 1931, as amended, relating
 2 to charitable raffles; and removing outdated prohibitions against electronic or mechanical
 3 ticket dispensers and readers and associated digital fundraising platforms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. CHARITABLE RAFFLES.

§47-21-2. Definitions.

1 For purposes of this article, unless specified otherwise:

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

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

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

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

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

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

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

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

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

17 ~~(b)~~ “Charitable or public service organization” means a bona fide, not for profit, tax-exempt,
 18 benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal or
 19 eleemosynary incorporated or unincorporated association or organization; or a volunteer fire
 20 department, rescue unit or other similar volunteer community service organization or association;

21 but does not include any nonprofit association or organization, whether incorporated or not, which
22 is organized primarily for the purposes of influencing legislation or supporting or promoting the
23 campaign of any single candidate for public office.

24 ~~(e)~~ "Commissioner" means the State Tax Commissioner.

25 ~~(d)~~ "Concession" means any stand, booth, cart, counter or other facility, whether stationary
26 or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other
27 tobacco products, newspapers, souvenirs or any other items are sold to patrons by an individual
28 operating the facility. Notwithstanding anything contained in §60-7-12(a)(2), of this code to the
29 contrary, "concession" includes beverages which are regulated by and shall be subject to the
30 provisions of chapter 60 of this code.

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

35 ~~(f)~~ "Expend net proceeds for charitable or public service purposes" means to devote the
36 net proceeds of a raffle occasion or occasions to a qualified recipient organization or as otherwise
37 provided by this article and approved by the commissioner pursuant to section 15 of this article.

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

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

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

46 ~~(j)~~ "Net proceeds" means all moneys collected or received from the conduct of raffle or

47 raffles at occasions held by a licensee during a license period after payment of the raffle expenses
48 authorized by §47-21-11, §47-21-13 and §47-21-15 of this code this term ~~shall~~ may not be
49 ~~deemed~~ considered to include moneys collected or received from the sale of concessions at raffle
50 occasions.

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

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

56 ~~(m)~~ "Qualified recipient organization" means any bona fide, not for profit, tax-exempt, as
57 defined in ~~subdivision (p)~~ of this section, incorporated or unincorporated association or
58 organization which is organized and functions exclusively to directly benefit a number of people
59 as provided in subparagraphs (1) through (7), ~~subdivision (a)~~ of ~~in this section~~ the definition of
60 "charitable or public service activity or endeavor" in this section "Qualified recipient organization"
61 includes, without limitation, any licensee which is organized and functions exclusively as provided
62 in this subdivision.

63 ~~(n)~~ "Raffle" means a game involving the selling or distribution of paper tickets, ~~not~~
64 ~~enhanced or aided by the use of any electronic or mechanical raffle ticket dispenser, raffle ticket~~
65 ~~reader or other electronic or mechanical device of whatever design or function~~ entitling the holder
66 or holders to participate in a raffle game for a chance on a prize or prizes. This subsection shall
67 not be interpreted to prevent the use of:

68 (1) Hand cranked or motorized drum mixers which randomly mix tickets or other indicia
69 together for the purpose of allowing the hand drawing of a ticket or winning indicia.

70 (2) Electronic or mechanical ticket dispensers, raffle ticket readers and associated digital
71 fundraising platforms that function to process the sale and printing of paper tickets, monitor and
72 tabulate raffle jackpots and select random winning indicia.

73 ~~(2)~~ (3) A cash register for handling proceeds of sales and other ordinary cash handling
74 and record keeping functions of a raffle licensee.

75 ~~(3)~~ (4) Accounting and recordkeeping software for the purpose of maintaining accounting
76 and reporting records of the licensee, and the computer for running those applications, ~~not used~~
77 ~~in the play of any game.~~

78 ~~(e)~~ “Raffle occasion” or “occasion” means a single gathering or session at which a series
79 of one or more successive raffles is conducted by a single licensee.

80 ~~(f)~~ “Tax-exempt association or organization” means an association or organization which
81 is, and has received from the “Internal Revenue Service” a determination letter that is currently in
82 effect stating that the organization is exempt from federal income taxation under subsection
83 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19) or
84 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under
85 subsection 527(a) of said code.

NOTE: The purpose of this bill is to update the definition of raffle to remove outdated prohibitions against electronic or mechanical ticket dispensers and readers and associated digital fundraising platforms.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.