

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]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2020 MAR 24 A 9:53

FILED

SB232

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FILED

1 AN ACT to amend and reenact §47-21-2, §47-21-20, and §47-21-26 of the Code of West Virginia,
2 1931, as amended, all relating to charitable raffles; removing outdated prohibitions against
3 electronic or mechanical ticket dispensers and readers and associated digital fundraising
4 platforms; limiting types and numbers of mechanical or electronic ticket dispenser
5 systems; and removing restriction that a licensee may only use raffle equipment obtained
6 from another licensee.

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;

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

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

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;

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

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

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 (c) "Commissioner" means the State Tax Commissioner.

25 (d) "Concession" means any stand, booth, cart, counter, or other facility, whether
26 stationary or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes
27 or other tobacco products, newspapers, souvenirs, or any other items are sold to patrons by an
28 individual operating the facility. Notwithstanding anything contained in §60-7-12(a)(2) of this code
29 to the contrary, "concession" includes beverages which are regulated by and are 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 §47-21-15 of this code.

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 determined 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 not be determined
49 to include moneys collected or received from the sale of concessions at raffle occasions.

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

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

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

61 (n) "Raffle" means a game involving the selling or distribution of paper tickets, entitling the
62 holder or holders to participate in a raffle game for a chance on a prize or prizes: *Provided*, That
63 any mechanical or electronic raffle ticket system of whatever design or function is prohibited
64 except as provided in paragraph (2) of this subdivision. This subdivision shall not be interpreted
65 to prevent the use of:

66 (1) Hand-cranked or motorized drum mixers which randomly mix tickets or other indicia
67 together for the purpose of allowing the hand drawing of a ticket or winning indicia;

68 (2) Mechanical or electronic ticket dispenser systems that produce paper tickets with
69 randomly generated indicia that cannot be redeemed electronically, cannot be used for any other
70 purpose than a one-time raffle, and are limited as follows:

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

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

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

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

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

82 (p) "Tax-exempt association or organization" means an association or organization which
83 is, and has received from the Internal Revenue Service a determination letter that is currently in
84 effect stating that the organization is exempt from federal income taxation under subsection
85 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or
86 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under
87 subsection 527(a) of that code.

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

1 (a) Any person who knowingly violates any provisions of this article, other than the
2 provisions of §47-21-18 or §47-21-19 of this code, or subsection (b) of this section, is guilty of a
3 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 (b) On and after July 1, 2010, any person licensed under this article, or any person who
7 operates a raffle without a license under §47-21-3 of this code, who is in possession of any
8 electronic or mechanical raffle ticket system of whatever design or function, other than those
9 machines and apparatus allowed under §47-21-2(n) of this code, that is used or designed to be
10 used as part of a licensed raffle is guilty of a felony and, upon conviction thereof, shall be
11 imprisoned in a state correctional facility for a term of not less than one year nor more than three
12 years, and fined not less than \$50,000 nor more than \$100,000, for each electronic or mechanical
13 raffle ticket system of whatever design or function, other than those machines and apparatus
14 allowed under §47-21-2(n) of this code, in the person's actual or constructive possession in this
15 state. For a person other than an individual, upon conviction, the fine may not be less than
16 \$100,000 nor more than \$500,000 for each video electronic or mechanical raffle ticket system of
17 whatever design or function in the person's actual or constructive possession in this state.

18 (c) A licensee may also have his or her license suspended or revoked for failure to comply
19 with this article and may be required to forfeit the machines or devices to the Tax Commissioner
20 for destruction.

21 (d) In addition to any other penalty provided by law, any person, licensed or unlicensed
22 under this article, who violates any provisions of this article, or who fails to perform any of the
23 duties or obligations created and imposed upon them by the provisions of this article, other than
24 the provisions of §47-21-18 or §47-21-19 of this code, or subsection (b) of this section, is subject
25 to a civil penalty as may be determined by the Tax Commissioner in an amount not to exceed
26 \$10,000.

§47-21-26. Restrictions on use of raffle equipment.

1 A licensee may use only raffle equipment which it owns, which it borrows without
2 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.

Mark Hayward
.....
Chairman, Senate Committee

Noel Caputo
.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

Joe Linn
.....
Clerk of the Senate

Steve Harrison
.....
Clerk of the House of Delegates

Nith B. Carmichael
.....
President of the Senate

Ken Holman
.....
Speaker of the House of Delegates

FILED
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CLERK OF THE SENATE

The within is approved this the 24th
Day of March 2020.

James Perdue
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 13 2020

Time 3:16pm