

# **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]



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2 1931, as amended, all relating to charitable raffles; removing outdated prohibitions against  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.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2020.

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*Governor*