

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 263**

BY SENATORS HAMILTON, PHILLIPS, ROMANO,

WOODRUM, CAPUTO, AND LINDSAY

[Introduced February 12, 2021; referred  
to 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 enabling the conducting of online raffles for charitable and public service organizations  
 3 to raise funds.

*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 or electronic tickets,  
62 entitling the holder or holders to participate in a raffle game for a chance on a prize or prizes:  
63 *Provided*, That any mechanical or electronic raffle ticket system of whatever design or function is  
64 prohibited except as provided in paragraph (2) of this subdivision. This subdivision shall not be  
65 interpreted 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 (5) An approved online raffle software system, method or process for the purpose of  
81 conducting online raffles.

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

84 (p) "Tax-exempt association or organization" means an association or organization which  
85 is, and has received from the Internal Revenue Service a determination letter that is currently in  
86 effect stating that the organization is exempt from federal income taxation under subsection  
87 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or  
88 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under  
89 subsection 527(a) of that code.

NOTE: The purpose of this bill is to enable charitable organizations to conduct online raffles to raise funds for their causes.

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