

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 263

BY SENATORS HAMILTON, PHILLIPS, ROMANO,

WOODRUM, CAPUTO, AND LINDSAY

[Originating in the Committee on the Judiciary;

reported on March 1, 2021]

1 A BILL to amend and reenact §47-20-2 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §47-21-2, all relating to authorizing charitable and public service
3 organizations to raise funds by conducting charitable raffles and bingo virtually over the
4 Internet; and defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 20. CHARITABLE BINGO.

§47-20-2. Definitions.

1 For purposes of this article, unless specified otherwise:

2 (a) "Bingo" means the game wherein participants pay consideration for the use of one or
3 more paper or virtual cards bearing several rows of numbers in which no two cards played in any
4 one game contain the same sequence or pattern. When the game commences, numbers are
5 selected by chance, one by one, and announced. The players cover or mark those numbers
6 announced as they appear on the card or cards which they are using. The player who first
7 announces that he or she has covered a predetermined sequence or pattern which had been
8 preannounced for that game is, upon verification that he or she has covered the predetermined
9 sequence or pattern, declared the winner of that game. Bingo, as authorized by this article, may
10 be operated and played virtually over the Internet using an online bingo software system or web
11 application.

12 (b) "Bingo occasion" or "occasion" means a single gathering or session at which a series
13 of one or more successive bingo games is conducted by a single licensee.

14 (c) "Charitable or public service activity or endeavor" means any bona fide activity or
15 endeavor which directly benefits a number of people by:

16 (1) Assisting them to establish themselves in life as contributing members of society
17 through education or religion; ~~or~~

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

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

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

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

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

28 (7) Providing or supporting nonprofit cultural or artistic activities.

29 (d) "Charitable or public service organization" means a bona fide, not-for-profit, tax-
30 exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or
31 eleemosynary incorporated or unincorporated association or organization; or a volunteer fire
32 department, rescue unit, or other similar volunteer community service organization or association;
33 but does not include any nonprofit association or organization, whether incorporated or not, which
34 is organized primarily for the purposes of influencing legislation or supporting or promoting the
35 campaign of any candidate for public office.

36 An organization or association is tax-exempt if it is, and has received from the Internal
37 Revenue Service a determination letter that is currently in effect stating that the organization is,
38 exempt from federal income taxation under subsection 501(a) and described in subsection
39 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code.

40 (e) "Commissioner" means the State Tax Commissioner.

41 (f) "Concession" means any stand, booth, cart, counter, or other facility, whether stationary
42 or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other
43 tobacco products, newspapers, souvenirs, or any other items are sold to patrons by an individual
44 operating the facility. Notwithstanding anything contained in §60-7-12(a)(2) of this code to the

45 contrary, “concession” includes beverages which are regulated by, and are subject to, the
46 provisions of chapter 60 of this code: *Provided*, That in no case may the sale or the consumption
47 of alcoholic beverages or nonintoxicating beer be permitted in any area where bingo is conducted.

48 (g) “Conduct” means to direct the actual playing of a bingo game by activities including,
49 but not limited to, handing out bingo cards, collecting fees, drawing the numbers, announcing the
50 numbers, posting the numbers, verifying winners, and awarding prizes.

51 (h) “Expend net proceeds for charitable or public service purposes” means to devote the
52 net proceeds of a bingo occasion or occasions to a qualified recipient organization or as otherwise
53 provided by this article and approved by the commissioner pursuant to §47-20-15 of this code.

54 (i) “Gross proceeds” means all moneys collected or received from the conduct of bingo at
55 all bingo occasions held by a licensee during a license period; this term shall not be considered
56 to include any moneys collected or received from the sale of concessions at bingo occasions.

57 (j) “Joint bingo occasion” means a single gathering or session at which a series of one or
58 more successive bingo games is conducted by two or more licensees.

59 (k) “Licensee” means any organization or association granted an annual, limited occasion,
60 or state fair bingo license pursuant to the provisions of this article.

61 (l) “Net proceeds” means all moneys collected or received from all the conduct of bingo at
62 bingo occasions held by a licensee during a license period after payment of expenses authorized
63 by §47-20-10, §47-20-13, §47-20-15, and §47-20-22 of this code; this term shall not be
64 considered to include moneys collected or received from the sale of concessions at bingo
65 occasions.

66 (m) “Person” means any individual, association, society, incorporated or unincorporated
67 organization, firm, partnership, or other nongovernmental entity or institution.

68 (n) “Patron” means any individual who attends a bingo occasion other than an individual
69 who is participating in the conduct of the occasion or in the operation of any concession, whether
70 or not the individual is charged an entrance fee or plays any bingo games.

71 (o) "Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, as
72 defined in subdivision (d) of this subsection, incorporated or unincorporated association or
73 organization which is organized and functions exclusively to directly benefit a number of people
74 as provided in paragraphs (1) through (7), inclusive, subdivision (c) of this subsection. "Qualified
75 recipient organization" includes without limitation any licensee which is organized and functions
76 exclusively as provided in this subdivision.

77 (p) "Venue" means the location in which bingo occasions are held.

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-
18 exempt, 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 subsection, 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 subsection. "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 virtual 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; or

80 (5) An online raffle software system, web application, method, or process for the purpose
81 of conducting online raffles over the Internet.

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.