

S. 255 (after 3rd reading in the Senate)
Senators Cleary, McConnell, Hutto, Rose, Ford, and Knotts
CHARITABLE RAFFLES IMPLEMENTING BILL SUMMARY

- This bill would add a new chapter in Title 33 of the SC Code that would authorize qualified tax-exempt organizations and entities to operate and conduct raffles through registration with the SC Secretary of State (Secretary).
- Under this bill, only certain charitable organizations would be qualified to conduct raffles.
- This bill would provide registration requirements for charitable entities to be able to conduct these events, would set limitations and restrictions on the operation of these events, and would require proceeds to be used for charitable purposes.
- The bill would also create administrative and civil fines, as well as criminal penalties for violations of these provisions.
- The Secretary would be the governing authority in charge of administration, collection, enforcement, and operation of the provisions. The Secretary would also have the power to promulgate any regulations necessary for implementation of these provisions.
- These provisions would become effective only after the state constitution was amended to allow charitable and nonprofit organizations to hold raffles.

Qualifications Requirements

- Qualified organizations would have to be state and federally tax-exempt pursuant to IRS Code 501(c)(3) (charitable orgs); 501(c)(4) (civic leagues, like Lions Clubs), 501(c)(6) (business leagues), 501(c)(7)(social and recreational clubs), 501(c)(8) (fraternal beneficiary societies), 501(c)(10)(domestic fraternal societies), 501(c)(19)(VFW or American Legion posts), 501(d) (religious organizations), 509(a) (public charities, like the American Cancer Society), or certain educational institutions.
- The charitable organization would also have to be either already registered with the Secretary (SOS) pursuant to the SC Solicitation of Charitable Funds Act (Title 33, Chapter 56), or if not registered for charitable solicitations, then it would have to provide to the SOS evidence of its charitable purposes by providing the organization's stated purpose, names of board members, and the date of its establishment, as well as the required tax-exempt status.
- Qualified organizations would be required to submit an annual raffle form to the SOS for the purposes of conducting raffle events. Organizations would be restricted to no more than 4 raffles per year.
- The organization would also be required to have been operating continuously for at least 5 years prior to the date of the first raffle.
- The only organizations that would be exempt from submitting the annual raffles form and allowed to hold more than 4 raffles a year would be organizations holding the following types of raffles:
 - A raffle with a non-cash prize(s) having a total value of less than \$950.00; or
 - A 50/50 raffle in which proceeds from tickets sold to members and guests were less than \$950.00.
- If a registered organization was found to be in non-compliance with tax-exempt requirements of the I.R.S. Code, the SOS would have the authority to revoke the organization's registration.

Operations Requirements

- A qualified charitable organization would be allowed to conduct and operate no more than 4 raffles per year. Each affiliate or subsidiary of a charitable organization would be allowed to operate up to 4 raffles a year, in addition to the parent organization operating such raffles, so long as the registration requirements were met.
- No person would be able to hold a fundraiser event by playing casino type games, unless the event was only for entertainment, and no prizes, financial rewards, or incentives were given. Electronic devices or machines, electronic video gaming devices, similar electronic machines, and slot machines would be prohibited from use at these events.
- Each charitable raffle could not continue for more than 9 months.
- No raffle drawing could be held between the hours of midnight and 10 a.m. or on Christmas Day, and local law enforcement would have the authority to enforce the hours of operation.
- Non-cash prizes could not be redeemed for money from the charitable organization or from a business set up to redeem prizes.
- Individual prizes for raffles would be limited to no more than \$40,000 in fair market value, and the total fair market value of all prizes offered for a raffle would be limited to \$250,000. No real property (houses, real estate, condominiums) could be offered as a prize.
- No raffle ticket could cost more than \$100.
- Qualified organizations would be required to follow all local building and fire codes and regulations when conducting any authorized raffles.
- Except for 50/50 raffles, at least 90% of the net receipts of an authorized raffle would have to go towards the charitable or philanthropic purposes of an organization.
- None of the money involved in the operation of a raffle could be used to influence any political body, political party, or an issue pending before a political body.
- An organization would not be allowed to conduct a raffle through a 3rd party or agent, or hire someone to operate a raffle; nor could a charitable organization lend its name to someone operating a raffle.
- Only officers and volunteers of the organization would be authorized to conduct a raffle, and would not be allowed extra compensation for these services. Food and beverages served to volunteers would be allowed. No member, officer, director, employee, or agent of the organization could receive any pecuniary benefit from a raffle.
- Two or more charitable organizations could conduct and operate a raffle together.
- Any advertisement for a charitable raffle would have to include the identification of the charitable organization sponsoring the event.
- Equipment for these authorized events could be rented from a third party, so long as the cost was reasonable; however, such equipment could not be any electronic device or machine.
- This bill would provide an exclusive list of the expenses that would be allowed in the operation of a raffle, such as advertising costs, costs of printing raffle tickets, decoration costs, door prizes, food and beverage costs related solely to the event, security costs, bookkeeping expenses, and janitorial services.
- Additionally, each organization conducting a registered raffle would be required to keep records of all gross receipts, expenses, adjusted gross receipts, and net receipts for each raffle for a period of 3 years, as well as documentation for all deductions and other

accountings for each event. The distribution of the net receipts would also have to be itemized as to payee, purpose, amount, and date of payment.

- Each organization would be required to report these records to its membership within 45 days of each event.
- Each organization would be required to submit to the SOS by March 15th an annual report that contains the following for each raffle:
 - the amount of the gross proceeds;
 - an itemized list of expenses incurred or paid that includes a detailed description of the merchandise purchased or services rendered
 - the amount of the net proceeds;
 - the charitable purpose to which the proceeds have been or are to be applied;
 - a list of prizes offered and given, and an estimated value of each; and
 - the number of tickets sold.
- All annual reports would be required to be filed with the SOS before the qualified organization's raffle application would be approved for the following year.

Penalties

Administrative Violations and Fines

- Delinquent Reports
 - If an organization filed a late or otherwise delinquent annual report, the SOS could fine that organization \$10.00 per day, up to \$2,000 total.
 - Until the delinquent reports were filed, the SOS would be able to prevent any organization from conducting a raffle event by bringing an action in administrative law court.
- This bill would provide the SOS with the authority to investigate an organization to determine whether it had violated any provisions, including filing a registration form with false information.
 - Such an investigation could include any subpoena or audit of an organization or individual and would also allow the SOS and delegated local law enforcement authorities to enter upon the premises of an event and enforce these provisions regarding the operation of charitable raffles.
- In addition to enforcement authority, the SOS would have the authority to assess a fine of up to \$500.00 against an organization or person for each of the following violations: operating in violation of the provisions; making false statements in any application or report required under this bill; using a device or scheme to defraud or obtain money or property under false pretenses; or failure to produce the organization's records.
 - The SOS could also move in administrative court to enjoin an organization or individual from continuing raffles for any of the violations listed above, including non-payment of administrative fines.

Criminal Violations and Penalties

- When applicable, the SOS would be required to report any violations to law enforcement and prosecuting attorneys for criminal prosecution.
- This bill would make it a criminal offense for an organization or person to knowingly and willfully conduct a raffle without registering with the SOS. The penalties would be tiered so that for a first offense, the penalties would be a fine of up to \$1,000, or imprisonment of up to 1 year, or both. A second or subsequent offense would make the person or

organization guilty of a felony and such person or organization could be fined up to \$10,000 or imprisoned for up to 5 years, or both.

- This bill would also make it a criminal offense for a person or organization to knowingly and willfully violate any provision with the intent to deceive or defraud an individual or charitable organization. Again, the penalties would be tiered, so a first offense would be a misdemeanor, with a fine of up to \$5,000, or imprisonment for up to one year, or both. For a second or subsequent offense, an organization or person would be guilty of a felony and could be fined up to \$10,000 or imprisoned for up to 5 years, or both.
- Additionally, any organization or person that knowingly or willfully gave the SOS false or misleading information pursuant to these provisions would be guilty, for a first offense, of a misdemeanor and would be fined up to \$2,000 or imprisoned for up to 1 year, or both. For any second or subsequent offense, an organization or person would be guilty of a felony and could be fined up to \$5,000 or imprisoned for up to 5 years, or both.

Effective dates

- If provisions in the bill are interpreted to allow Indian Tribes in South Carolina to fall within the jurisdiction of the Indian Gaming Regulatory Act, and the result is that a tribe or other groups are allowed to have for-profit casinos, then all of the provisions are automatically repealed.
- The provisions of this bill would become effective 30 days after ratification of a constitutional amendment allowing raffles in the constitution, so not effective until 2013 at the earliest.
- The provisions of the bill would automatically sunset in 5 years unless re-authorized by the General Assembly.