

A BILL

TO AMEND TITLE 33, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 57, SO AS TO AUTHORIZE QUALIFIED RELIGIOUS, CHARITABLE, EDUCATIONAL, AND OTHER ELEEMOSYNARY ORGANIZATIONS TO OPERATE AND CONDUCT RAFFLES AND OTHER FUNDRAISING EVENTS, AND TO PROVIDE PENALTIES FOR VIOLATIONS.

SECTION 1. Title 33 of the 1976 Code is amended by adding:

“CHAPTER 57

Charitable Raffles and Other Fundraising Events

Section 33-57-100. (A) A lottery or raffle of any type whatsoever is unlawful unless it is authorized by the following:

- (1) Chapter 150, Title 59, the Education Lottery;
- (2) Article 24, Chapter 21, Title 12, Charitable Bingo; or
- (3) Chapter 57, Title 33, Charitable Raffles.

(B) It is the intent of the General Assembly that only qualified tax-exempt entities organized for religious, charitable, educational, philanthropic, or eleemosynary purposes shall operate and conduct raffles or other fundraising events as authorized by this chapter.

(C) Nothing in this chapter may be construed to allow video poker play or to change or alter in any manner the prohibitions regarding video poker in Chapter 21, Title 12 and Chapter 19, Title 16.

Section 33-57-110. For purposes of this chapter:

(1) ‘Adjusted gross receipts’ means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased.

(2) ‘Casino night charity game’ means a charity fundraising event commonly known and operated as a ‘casino night’, ‘Las Vegas night’, or ‘Monte Carlo night’ involving live individuals playing roulette, blackjack, poker, baccarat, or other card games, or dice games where

(a) no consideration or value is paid for receipt of the chips or imitation money or other script that will be used to play the games, other than the cost of an admission ticket;

(b) players are allowed to conduct raffles at the end of the event for non-cash prizes; and

(c) no events with an electronic device or machine, slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races are authorized.

(3) ‘Charitable organization’ means a person or organization that is or holds itself out to be established for a religious, benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic, or other eleemosynary purpose, or for the benefit of law enforcement personnel, firefighters, or other persons who protect the public safety.

(4) ‘Charity gaming supplies and equipment’ means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including charity game tickets, and

other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, playing cards, or other supplies that may be purchased or leased from normal sources of supply.

(5) 'Gross receipts' means all funds collected or received from the conduct of raffles or casino night charity games.

(6) 'Net receipts' means adjusted gross receipts less all expenses, charges, fees, and deductions that are authorized under this chapter. Payment of unauthorized expenses, charges, fees, and deductions from the gross receipts is a violation of this chapter.

(7) 'Operate', 'operated', or 'operating' means the conduct, direction, supervision, management, operation, control, or guidance of activity.

(8) 'Person' means an individual, an organization, a trust, a foundation, a group, an association, a partnership, a corporation, a society, any other private entity, or a combination of them, or a manager, agent, servant, officer, or employee thereof.

(9) 'Raffle' means a game of chance in which a participant is required to pay something of value for a ticket for a chance to win a prize, with the winner to be determined by a random drawing or similar process whereby all entries have an equal chance of winning.

(10) 'Secretary' means the Office of the Secretary of State.

(11) 'Year' means a twelve-month period from January first to December thirty-first.

Section 33-57-120. (A) A charitable organization is qualified to conduct raffles or casino night charity games in accordance with the provisions of this chapter if the charitable organization:

(1) is recognized by the South Carolina Department of Revenue and the United States Internal Revenue Service as exempt from federal and state income taxation pursuant to Internal Revenue Code Section 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d); or is an educational institution, as defined in Chapter 56, Title 33; and

(2) has been in continuous existence and operation in the State for a period of not less than two years prior to the date of the first raffle or casino night charity game; and

(3) is registered with the Secretary pursuant to the requirements of Chapter 56, Title 33. In the event that a charitable organization is not registered with the Secretary pursuant to Chapter 56, Title 33, or is unable to provide the Secretary with documents that are required by Chapter 56, Title 33, the charitable organization must provide sufficient evidence concerning the structure and operation of the organization to enable the Secretary to determine whether the applicant meets the charitable, religious, education, patriotic, or fraternal criteria required for charitable raffle and casino night charity game authorization. Sufficient evidence includes submission of a document attesting to the stated purpose of the organization, names of board members or organizers of the organization, and the formation date of the organization.

NOTE: For explanation only, and not for inclusion in the bill, these are the types of tax-exempt organizations listed in this draft:

501(c)(3)--Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations

501(c)(4)--Civic Leagues, Social Welfare Organizations, and Local Associations of Employees

501(c)(7) — Social and Recreational Clubs

501(c)(8) — Fraternal Beneficiary Societies and Associations

501(c)(10) — Domestic Fraternal Societies and Associations

501(c)(19) — Post or Organization of Past or Present Members of the Armed Forces

501(d)---Religious and Apostolic Associations

Educational Institutions---- Defined in Chapter 56, Title 33: organized and operated exclusively for educational purposes, maintains a regular faculty and curriculum, has a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly conducted. Also includes junior and senior colleges in SC whose major campuses are located in SC as well as persons performing fundraising activities for the schools, like foundations.

(B) (1) The requirement to register for the purpose of conducting raffles and casino night charity games with the Secretary shall apply to any and all charitable organizations that intend to conduct a raffle or casino night charity game in this State, including those organizations that are exempt from or not required to follow the registration requirements of Chapter 56, Title 33.

(2) An exemption from registration for the purpose of conducting raffles is authorized solely for raffles conducted by a charitable organization where a non-cash prize is donated for the charitable raffle and the total value of the prize or prizes offered for a raffle event is not more than nine hundred fifty dollars. There are no exemptions from registration for organizations conducting casino night charity games.

(C) Charitable organizations that meet the requirements of Section 33-57-120(A) and intend to conduct a raffle or casino night charity game must submit an annual raffle and casino night charity game form with a fee of fifty dollars to the Secretary. This registration form and fee shall cover all authorized raffles and casino night charity games for a year. Registrations for raffles and casino night charity games shall expire by December thirty-first each year. Proceeds from the fees shall be retained by the Secretary for enforcement of these provisions.

(D) The Secretary may revoke a registration issued pursuant to this chapter if it finds that an organization is not in compliance with the exemption requirements of the Internal Revenue Code. A registration revoked under this chapter must not be reissued until a new application for registration has been made and the Secretary determines that the organization is complying with the applicable provisions of the Internal Revenue Code.

(E) Charitable organizations registering with the Secretary pursuant to the provisions of this chapter shall be subject to investigation and other actions by the Office of the Secretary of State, and subject to all penalties contained in Chapters 56 and 57 of Title 33. The Secretary shall refer violations, when applicable, to law enforcement for criminal prosecution pursuant to the provisions of this chapter.

Section 33-57-130. (A) Charitable organizations are limited to four raffles and two casino night charity games per year. Each affiliate or subsidiary of a charitable organization that otherwise qualifies pursuant to the requirements of this chapter and shares a Federal Employer's Identification Number (EIN) with the parent charitable organization shall be entitled to operate and conduct four raffles per year and two casino night charity games per year, provided that the affiliate or subsidiary register pursuant to Section 33-57-120(C). Each charitable raffle shall continue for not more than ninety days from the date the first raffle ticket is sold and each casino night charity game shall continue for not more than six consecutive hours from the beginning of the game.

(B) The restriction on numbers of raffles shall not apply to raffles held by charitable organizations that are exempt pursuant to Section 33-57-120(B)(2).

Section 33-57-140. (A) No less than ninety percent of the net receipts of a raffle or a casino night charity game authorized pursuant to this chapter must be used for the charitable, religious, educational, philanthropic, or eleemosynary purposes of the charitable organization.

(B) No gross receipts, expenses, or net receipts of a raffle or casino night charity game shall be used to influence the outcome of a political office or to influence the outcome of an issue pending before a political body.

(C) A charitable organization shall not enter into a contract with any person to have that person operate raffles or casino night charity games on behalf of the charitable organization.

(D) (1) A charitable organization shall not lend its name nor allow its identity to be used by any person in the operating or advertising of a raffle or casino night charity game in which the charitable organization is not directly and solely operating the raffle or casino night charity game.

(2) No person shall purchase or lease the name of a charitable organization for the purpose of conducting a raffle or casino night charity game.

(3) Nothing in this section, however, shall prohibit two or more charitable organizations from participating together to conduct a raffle or a casino night charity game.

(E) A charitable organization conducting a raffle or casino night charity game may advertise the events.

(F) A raffle or a casino night charity game shall be conducted only by a qualified and authorized charitable organization through its bona fide officers and members who volunteer their time and receive no compensation for their services. Food and beverages served to and consumed by volunteers during a raffle or a casino night charity game are not compensation.

(G) A charitable organization shall not conduct raffles or casino night charity games through any agent or third party, and shall not pay consulting fees or something of value to any person for any services performed in relation to the operating or conducting of a raffle or a casino night charity game. Rental of raffle or casino night charity game equipment from a third party and the hiring of a person to operate equipment, so long as the expense is reasonable, are not considered conducting a raffle or casino night charity game by a third party.

(H) The provisions of this chapter are not intended and shall not be construed to allow the play of raffles or casino night charity games through any electronic device or machine. The operation of raffles or casino night charity games excludes video poker games.

Section 33-57-150. Expenses that are reasonable and necessary to raffles or casino night charity games, as authorized by this chapter, are allowable and include only expenses incurred for:

(1) advertising, including the cost of printing raffle and casino night charity game tickets and gift certificates;

(2) reasonable postage and shipping costs;

(3) costs of food and beverages, including corkage and gratuity fees, provided to the attendees and volunteers of the event;

(4) rental of equipment and hiring a person to operate the equipment during the limited time period allowed for casino night charity games;

(5) repairs to premises and equipment related to conducting or operating the charitable raffles and casino night charity games;

(6) door prizes or prizes;

(7) stated premises' rental or insurance expenses;

(8) security expenses incurred in conducting or operating charitable raffles or casino night games; and

(9) bookkeeping, accounting, or legal services utilized in connection with a raffle or casino night charity game.

Section 33-57-160. (A) Each charitable organization conducting a registered raffle or casino night charity game shall keep records of its gross receipts, expenses, adjusted gross receipts, and net receipts for each separate raffle or casino night charity game at which winning chances are determined. All deductions from gross receipts for each separate raffle or casino night charity game shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the expense deduction, and the recipient. The distribution of net receipts shall be itemized as to payee, purpose, amount, and date of payment.

(B) At the conclusion of each raffle or casino night charity game, each charitable organization conducting a raffle or casino night charity game shall report within forty-five days from the conclusion of the event to its membership the gross receipts, expenses and net receipts from each separate raffle or casino night charity game, and the distribution of net receipts itemized as required by this chapter.

(C) Each registered charitable organization conducting charitable raffles or casino night charity games shall submit annually by January fifteenth to the Secretary a report under oath containing the following information for each raffle or casino night charity game conducted within the year:

- (1) the amount of the gross proceeds;
- (2) an itemized list of expenses incurred or paid;
- (3) each item of an expenditure made or to be made, with a detailed description of the merchandise purchased or the services rendered;
- (4) the amount of the net proceeds;
- (5) the use to which the proceeds have been or are to be applied;
- (6) a list of prizes offered and given, with an estimate of their respective values; and
- (7) the number of tickets sold.

(D) Records required by this chapter shall be preserved for three years, and organizations shall make available their records relating to operations of raffles and casino night charity games at any time at the request of a member of the organization, or investigators from the Secretary or law enforcement.

(E) No new registration shall be issued to an organization that fails to file its report as required by this section until all reports are filed, and the Secretary has confirmed that the information in the reports is in compliance with the provisions of this chapter. An organization that fails to file a timely annual report required by this section may be assessed by the Secretary administrative fines of ten dollars for each day of noncompliance for each delinquent report not to exceed two thousand dollars for each separate violation. In addition to the assessed fines, the Secretary may revoke an organization's registration for failure to file an annual report and bring an action before an administrative law judge to enjoin the organization from conducting raffles or casino night charity games until the required reports are filed with the Secretary.

Section 33-57-170. No person under the age of eighteen years may promote, conduct, operate, or work at a casino night charity game, and no person under the age of eighteen years may sell or promote the sale of a casino night charity game ticket, nor shall any sponsoring organization permit any person under the age of eighteen to promote, conduct, or operate any casino night charity game or any person under the age of eighteen to sell or promote the sale of such tickets. This restriction does not apply to the promotion, sale, conduct, or operation of a raffle.

Section 33-57-180. (A) The Secretary shall perform all functions incident to the administration, collection, enforcement, and operation of the provisions imposed pursuant to this chapter. Upon his own

motion or upon complaint of any person, the Secretary may investigate an organization to determine if it has violated the provisions of this chapter or has filed an application, or other information required by this chapter, which contains false or misleading statements. The Secretary may subpoena or audit persons and organizations and require production of books, papers, and other documents to aid in the investigation of alleged violations of this chapter.

(B) (1) In addition to other actions authorized by this chapter and by law, the Secretary, if he has reason to believe that one or more of the following acts or violations listed below has occurred or may occur, may assess a fine of not more than five hundred dollars for each violation, and bring an action before an administrative law judge to enjoin a person or an organization from continuing the act or violation, or committing other acts in furtherance of it, and for other relief as the court considers appropriate:

(a) a person or organization operates in violation of the provisions of this chapter;

(b) a person or organization makes a false statement in any information required to be filed by this chapter;

(c) a person or organization uses a device, scheme, or artifice to defraud or to obtain money or property by means of false pretences, representation, or promise during the charitable raffles or casino night charity games;

(d) the officers, directors, representatives, or agents of a charitable organization refuse or fail, after notice, to produce records of the organization; or

(e) the funds raised by the charitable raffles or casino night charity games are not devoted to or distributed to the charitable purposes of the raffle or game.

(2) Each violation and each day in violation of a provision of this chapter constitutes a separate offense for which an administrative fine may be assessed.

(C) A person or organization that is assessed an administrative fine, has its registration suspended or revoked, or that has its registration denied, has thirty days from receipt of certified notice from the Secretary to pay the fine or request an evidentiary hearing before an administrative law judge. If a person or organization fails to remit fines or request a hearing after the required notice is given and after thirty days from the date of receipt of certified notice has elapsed, the Secretary may suspend its registration pending final resolution and may bring an action before the administrative law judge to enjoin the person or organization from engaging in further charitable raffles or casino night charity games. The decision of the administrative law judge may be appealed according to the procedures in the Administrative Procedures Act.

Section 33-57-190. (A) A person or organization that knowingly and willfully conducts a charitable raffle or casino night charity game without obtaining the necessary registration or qualifying for an exemption is guilty of conducting an illegal lottery and, upon conviction of a first offense, must be fined not more than one thousand dollars or imprisoned not more than one year, or both. For a second or subsequent offense, a person or organization is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

(B) A person or organization that knowingly and willfully violates a provision of this chapter with the intent to deceive or defraud an individual or charitable organization is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not more than five thousand dollars or imprisoned not more than one year, or both. For a second or subsequent offense, a person or organization is guilty of

a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

(C) A person or organization that knowingly and willfully gives false or misleading information to the Secretary in a registration or report required by this chapter is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than two thousand dollars or imprisoned not more than one year, or both. For a second or subsequent offense, a person or organization is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) Upon the conviction of a member of a charitable organization or the conviction of a charitable organization for a violation pursuant to this section, all proceeds of the raffle or charity casino night event from which the offense arose shall be disgorged to the Secretary. Proceeds disgorged pursuant to this chapter shall be retained by the Secretary for purposes of enforcement of this chapter.

(E) An organization whose officer or director is convicted of a violation pursuant to this section shall be prohibited from applying for a raffle or casino night charity game permit for a period of no less than five years after the date of the conviction.

Section 33-57-200. The first two hundred thousand dollars in administrative fine revenue received pursuant to this chapter in a fiscal year may be retained by the Secretary to offset the expenses of enforcing this chapter. All administrative fines collected pursuant to this chapter in excess of two hundred thousand dollars in a fiscal year must be transmitted to the State Treasurer and deposited in the State General Fund. All fees collected pursuant to this chapter must be transmitted to the State Treasurer and deposited in a fund separate and distinct from the general fund and used by the Secretary for the purpose of administering the provisions of this chapter. All criminal fines collected pursuant to this chapter may be retained by the law enforcement agency assisting the Secretary in its prosecution.

SECTION 2. This act shall apply prospectively. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. The provisions of this act become effective thirty days after ratification of an amendment to Section 7, Article XVII of the Constitution of this State allowing its terms as proposed to the qualified electors of this State at the 2012 General Election.