

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 and casino night charity games through registration with the SC Secretary of State (Secretary). Under this bill, only certain charitable organizations would be qualified to conduct raffles or casino nights. 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 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 enforcement. Additionally, this bill would provide the manner in which the administrative and criminal fines revenue assessed pursuant to these provisions would be allocated. These provisions would become effective only after the 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), or 509(a) (public charities, like the American Cancer Society).
- Qualified organizations would be required to register with the Secretary of State (SOS) for the purposes of conducting raffles or casino night charity events. The qualified charitable organization would be required to submit an annual raffle and casino night charity game form with a \$50.00 registration fee to the SOS. Organizations would be restricted to no more than 4 raffles and 2 casino night charity events per year.
- The organization would also be required to have been operating continuously for at least 2 years prior to the date of the first raffle or casino night charity game.
- The charitable organization would also have to be either already registered with the Secretary 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.
- The only raffles that would be exempt from the registration requirements and the raffle number limit would be the following:
 - 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 were less than \$950.00.
- There would be no exemptions for casino night charity games.
- 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 and 2 casino night charity games per year. Each affiliate or subsidiary of a charitable organization would be allowed to operate up to 4 raffles and 2 casino night

charity games in addition to the parent organization operating such raffles or casino night charity games, so long as the registration requirements were met.

- Only certain games would be allowed at casino night charity game events, and the events would have to be conducted as raffles, with no cash consideration for receipt of chips or imitation money, except for the cost of an event ticket. Players at these events would be able to collect prizes only via a raffle at the end of the event. Electronic devices or machines, electronic video gaming devices, and slot machines would be prohibited from use at these events.
- Each charitable raffle could not continue for more than 9 months.
- A casino night charity game could not last for more than 6 consecutive hours.
- No raffle or casino night charity game 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.
- Qualified organizations would be required to follow all local building and fire codes and regulations when conducting any authorized raffles and casino night charity games.
- Except for 50/50 raffles, at least 90% of the net receipts of an authorized raffle or a casino night would have to go towards the charitable or philanthropic purposes of an organization.
- None of the money involved in the operation of a raffle or casino night charity game 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 hire someone to operate a raffle or casino night charity game on behalf of that organization; nor could a charitable organization lend its name to someone operating a raffle or casino night.
- Only officers and volunteers of the organization would be authorized to conduct a raffle or casino night, and would not be allowed extra compensation for these services. Food and beverages served to volunteers would be allowed.
- Two or more charitable organizations could conduct and operate a raffle or casino night together.
- Any advertisement for a charitable raffle or casino night 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 or casino night charity game, such as advertising costs, costs of printing raffle tickets, decoration costs, food and beverage costs, security costs, bookkeeping expenses.
- Additionally, each organization conducting a registered raffle or casino night would be required to keep records of all gross receipts, expenses, adjusted gross receipts, and net receipts for each raffle or casino night for a period of 3 years, as well 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 or charity night casino game:

- 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 application and registration would be granted for the following year.
- No person under the age of 18 would be allowed to be involved in any manner with a casino night charity game.

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 or casino night 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 and casino nights.
- 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 or casino night events 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 or casino night event 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.

BACKGROUND INFORMATION

In the fall of 2010, Senator McConnell, chair of the Senate Judiciary Committee, appointed a special subcommittee to hold public hearings and receive public input about allowing charities and other nonprofits to hold raffles and about changing the current gambling laws. Senator Cleary was appointed chair of the subcommittee, and the other members appointed were Senator McConnell, Senator Hutto, and Senator Bright. Four public hearings were held in Charleston, Greenville, Rock Hill, and Florence. The majority of those who testified spoke in favor of charitable raffles, and did not have many comments about the gaming law changes, except to note that the penalties for illegal lotteries seemed very steep. A few people at each public hearing spoke against charitable raffles, stating that raffles were a form of gambling, and they were opposed to any type of gambling, even for charitable purposes. The special subcommittee met in December 2010 and the majority voted for a joint resolution and implementing bill to allow qualified charitable and nonprofit organizations to hold charitable raffles.

Most southeastern states, including North Carolina, Georgia, Kentucky, Tennessee, Virginia, West Virginia, Mississippi, Missouri, Texas and Maryland, have similar laws that allow charitable and other non-profit and tax-exempt organizations to conduct raffles and casino night charity events. 46 states allow charitable raffles. The only states that do not are Utah, Hawaii, Kansas, and South Carolina.

The constitutional amendment that was adopted in 2001 changed the law so that only the State was allowed to conduct a lottery. That established the Educational Lottery Act. The amendment authorized that only the State could conduct lotteries, thereby retaining its proscription against any lotteries conducted by private entities. The 2001 amendment retained its long-instituted provision, exempting charitable bingo games from the category of “lottery,” but the amendment failed to include any provision exempting charitable raffles, poker runs, or casino nights conducted by non-profit organizations for charitable purposes.

Attorney General opinions have consistently opined that raffles are lotteries because the raffles contain the 3 elements of a lottery: (1) a prize is offered; (2) there is payment of some consideration for the raffle ticket; and (3) the winner is determined by chance. Other opinions have also held that “casino nights” and “poker runs” would constitute a lottery and would be illegal under SC law. The AG opinions have also opined that the fact that these events are conducted by a non-profit entity for a charitable purpose would not change this conclusion, and that an amendment to the state constitution is necessary to exempt these types of games from the constitutional provision prohibiting lotteries.