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COMMITTEE REPORT

February 27, 2020

**H. 4937**

Introduced by Reps. Fry, Rose, Hewitt, Kirby, Clary and W. Newton

S. Printed 2/27/20--H. [SEC 3/3/20 3:36 PM]

Read the first time January 15, 2020.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4937) to amend Section 33‑57‑100, Code of Laws of South Carolina, 1976, relating to the exceptions to the prohibition on lotteries and raffles, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTIONS 1, 2, and 3 and inserting:

/ SECTION 1. Section 33‑57‑120(A)(2) of the 1976 Code is amended to read:

“(2) is organized and operated for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition ~~(but only if no part of its activities involve the provision of athletic facilities or equipment)~~, or for the prevention of cruelty to children or animals; and” /

Renumber sections to conform.

Amend title to conform.

PETER M. MCCOY, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 15, 2020**

**State Expenditure**

This bill changes the requirements for a report made to the Secretary of State from a nonprofit organization conducting or operating a nonprofit raffle. Additionally, it increases the maximum fair market value of an individual prize awarded to each winner in a raffle from $40,000 to $80,000 and increases the maximum total fair market value of all prizes offered by any nonprofit organization for each raffle event from $250,000 to $300,000. Lastly, the bill extends the provisions of Chapter 57 of Title 33. The Secretary of State’s office indicates that any expenditures for changes made to comply with the bill will be managed within its existing appropriations. Therefore, there is no expenditure impact on the general fund, federal funds, or other funds.

**State Revenue**

Pursuant to Section 33-56-30(A), the nonprofit organization conducting the raffle is required to file a registration statement with the Secretary of State, along with a fee of $50. In th

e absence of the extension of Title 33, Chapter 57, the Secretary of State’s office indicates a loss of revenue from registration fees and raffle fines. However, the bill, if passed, will not have an impact on revenue as the Secretary of State does not expect an increase in raffle registrations due to prize limit increases.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 33‑57‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EXCEPTIONS TO THE PROHIBITION ON LOTTERIES AND RAFFLES, SO AS TO CLARIFY THAT ELECTRONIC GAMING DEVICES ARE PROHIBITED; TO AMEND SECTION 33‑57‑110, RELATING TO DEFINITIONS, SO AS TO EXPAND THE DEFINITION OF A “NONPROFIT ORGANIZATION” TO INCLUDE AN ORGANIZATION RECOGNIZED AS TAX‑EXEMPT UNDER INTERNAL REVENUE CODE SECTION 501(c)(5) AND TO DEFINE THE TERM “ELECTRONIC GAMING DEVICE”; TO AMEND SECTION 33‑57‑120, AS AMENDED, RELATING TO RAFFLES CONDUCTED BY NONPROFIT ORGANIZATIONS, SO AS TO AUTHORIZE NONPROFIT ORGANIZATIONS RECOGNIZED AS TAX‑EXEMPT UNDER INTERNAL REVENUE CODE SECTION 501(c)(5) TO CONDUCT A RAFFLE AND TO REMOVE THE PROHIBITION ON THE USE OF FUNDS RAISED BY THE RAFFLE TO PURCHASE ATHLETIC EQUIPMENT; TO AMEND SECTION 33‑57‑140, AS AMENDED, RELATING TO STANDARDS FOR RAFFLES, SO AS TO INCREASE THE FAIR MARKET VALUE OF INDIVIDUAL PRIZE AND TOTAL PRIZE LIMITS; TO AMEND SECTION 33‑57‑150, RELATING TO ALLOWABLE EXPENSES AND RECORDS FOR A RAFFLE, SO AS TO PROVIDE WHAT MUST BE CONTAINED IN THE REPORT TO THE SECRETARY, TO ALLOW FOR THE SUBMISSION OF ONE REPORT FOR A NONPROFIT ORGANIZATION WITH AFFILIATES OR SUBSIDIARIES UNDER CERTAIN CIRCUMSTANCES, AND TO ESTABLISH CERTAIN RECORD KEEPING REQUIREMENTS; AND TO REPEAL SECTION 33‑57‑200 RELATING TO THE REPEAL OF CHAPTER 57, TITLE 33.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 33‑57‑100(C)(3) of the 1976 Code is amended to read:

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

SECTION 2. Section 33‑57‑110 of the 1976 Code is amended to read:

“Section 33‑57‑110. For purposes of this chapter:

(1) ‘Charitable purpose’ means religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals within the meaning of Internal Revenue Code Section 170(c)(2)(B). Any interpretation of this statute with respect to charitable purpose shall be guided by the applicable Internal Revenue Code provisions and regulations of the Internal Revenue Service as interpreted by the courts.

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

(3) ‘Member’ shall have the same meaning as defined in Chapter 31, Title 33.

(4) ‘Nonprofit organization’ means an organization 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)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d), or is a class, department, or organization of an educational institution, as defined in Chapter 56, Title 33.

(5) ‘Nonprofit gaming supplies and equipment’ means any material, device, apparatus, or paraphernalia customarily used in the conducting of raffles, including raffle tickets, and other apparatus or paraphernalia used in conducting raffles subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the raffle, such as pencils, playing cards, or other supplies that may be purchased or leased from normal sources of supply.

(6) ‘Electronic gaming device’ means a device that, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, may eject something of value.

(7) ‘Fifty‑fifty raffle’ means a raffle conducted by a nonprofit organization qualified to operate raffles pursuant to Section 33‑57‑120 and the proceeds collected by the sale of the raffle tickets are split evenly between the prize winner and the nonprofit organization after the raffle drawing.

~~(7)~~(8) ‘Gross receipts’ means all funds collected or received from the conduct of raffles.

~~(8)~~(9) ‘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.

~~(9)~~(10) ‘Operate’, ‘operated’, or ‘operating’ means the conduct, direction, supervision, management, operation, control, or guidance of activity.

~~(10)~~(11) ‘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.

~~(11)~~(12) ‘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.

~~(12)~~(13) ‘Secretary’ means the Office of the Secretary of State.

~~(13)~~(14) ‘Ticket’ means tangible evidence issued by the nonprofit organization to provide participation in a raffle.

~~(14)~~(15) ‘Year’ means a twelve‑month period that is the same as a nonprofit organization’s fiscal year.”

SECTION 3. Section 33‑57‑120(A) of the 1976 Code is amended to read:

“(A) A nonprofit organization is qualified to conduct raffles in accordance with the provisions of this chapter if the nonprofit 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)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d), or is a class, department, or organization of an educational institution, as defined in Chapter 56, Title 33;

(2) is organized and operated for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition ~~(but only if no part of its activities involve the provision of athletic facilities or equipment)~~, or for the prevention of cruelty to children or animals; and

(3) is registered with the Secretary pursuant to the requirements of Chapter 56, Title 33, unless it is exempt from or not required to follow the registration requirements of Chapter 56, Title 33, or is a governmental unit or educational institution of this State.”

SECTION 4. Section 33‑57‑140(F)(1) and (L) of the 1976 Code is amended to read:

“(1) A raffle shall be conducted only by a qualified and authorized nonprofit organization through its directors, bona fide employees, and unpaid volunteers none of whom shall receive compensation for their services in conducting the raffle, except that bona fide employees of a nonprofit organization may receive their regular and ordinary compensation. A nonprofit organization may compensate members for services rendered in a fundraising event that may include raffle costs related to entertainment including, but not limited to, the costs of a disc jockey, band, auctioneers, support staff, waiters, bartenders, and wait staff utilized to conduct the fundraising event.

(L) An individual prize awarded to each winner in a raffle shall not exceed a maximum fair market value of ~~forty~~ eighty thousand dollars. No real property shall be offered as a prize in a raffle. For each raffle event, the total fair market value of all prizes offered by any nonprofit organization shall not exceed ~~two~~ three hundred ~~fifty~~ thousand dollars.”

SECTION 5. Section 33‑57‑150 of the 1976 Code is amended to read:

“Section 33‑57‑150. (A) Expenses that are reasonable and necessary to operate and conduct raffles, as authorized by this chapter, are allowable.

(B) Allowable expenses include only reasonable and necessary expenses incurred for:

(1) advertising, including the cost of printing raffle tickets and gift certificates, provided that costs of advertising are reasonable and the services are not provided, directly or indirectly, in connection with any other service related to operating or conducting a nonprofit raffle regardless of whether those services are compensated;

(2) office supplies, copying, and minor office equipment costs incurred in conducting or operating a nonprofit raffle;

(3) reasonable postage, parking, and shipping costs;

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

(5) costs of materials and supplies for decorating a facility used for a nonprofit raffle drawing;

(6) entertainment‑related costs, such as disc jockeys, music bands, auctioneers, support staff, waiters, bartenders, and wait staff incurred during the conducting or operating of a nonprofit raffle drawing;

(7) repairs to premises and equipment related to conducting or operating a nonprofit raffle;

(8) door prizes or raffle prizes;

(9) stated premises’ rental or insurance expenses;

(10) security expenses incurred in conducting or operating a nonprofit raffle;

(11) bookkeeping, accounting, or legal services utilized in connection with a nonprofit raffle including, but not limited to, the registration fees and the required financial reports;

(12) permit costs, fees, or taxes required by local or state government to conduct and operate a nonprofit raffle; and

(13) janitorial services and supplies incurred in conducting or operating a nonprofit raffle.

(C) A report shall be submitted annually to the Secretary no later than the fifteenth day of the fifth month after the end of the nonprofit organization’s fiscal year. The report must be signed under penalty of perjury and must contain the following information for each raffle conducted within the preceding year:

(1) the amount of the gross receipts;

(2) ~~an itemized list of expenses incurred or paid, including the name of each person, company, or governmental entity to whom an expense was paid~~ the amount of adjusted gross receipts;

(3) ~~each item of an expenditure made or to be made, with a detailed description of the merchandise purchased or the services rendered, and the name of each person, company, or governmental entity to whom the expenditure is to be made~~ the total amount of expenses incurred in conducting the raffle;

(4) the amount of the net receipts;

(5) ~~the use to which the net receipts have been or are to be applied~~ the total value of cash prizes awarded;

(6) ~~a list of prizes offered and given, with an estimate of their respective values~~ the total value of noncash prizes awarded; and

(7) the number of tickets sold.

(D) A nonprofit organization that has affiliates or subsidiaries that are registered to conduct raffles pursuant to the provisions of this chapter may submit a single report that contains all of the required information for each raffle conducted by the affiliate or subsidiary to the Secretary provided that the report is submitted in a format authorized by the Secretary.

(E) Records required by this chapter shall be preserved for three years, and organizations shall make available their records relating to operations of raffles at any time at the request of a member of the organization, or investigators from the Secretary or from law enforcement. For each raffle conducted, the nonprofit organization must maintain records of the following information:

(1) a list of prizes offered and given with an estimate of their respective values;

(2) an itemized list of expenses incurred or paid, including the name of each person, company, or governmental entity to whom an expense was paid;

(3) each item of an expenditure made or to be made, with a detailed description of the merchandise purchased or the services rendered, and the name of each person, company, or governmental entity to whom the expenditure is to be made; and

(4) the use to which the net receipts have been applied.

~~(E)~~(F) 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 until the required reports are filed with the Secretary.”

SECTION 6. Section 33‑57‑200 of the 1976 Code is repealed.

SECTION 7. This act takes effect upon approval by the Governor.

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