

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 525

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROHRBACH.

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TERRY L. SPIELER, Secretary.

S2187.06P

AN ACT

To amend chapter 313, RSMo, by adding thereto one new section relating to raffles and sweepstakes as authorized by constitutional amendment, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 313, RSMo, is amended by adding thereto one new section, to be known as section 313.900, to read as follows:

313.900. 1. As used in this section, the following terms shall mean:

(1) "Bona fide member", a member of an organization recognized as charitable or religious pursuant to section 501(c)(3) or section 501(d) of the Internal Revenue Code, who has paid all required dues of the organization, who is eighteen years of age or older, who has equal voting rights with all other members, who has an equal opportunity to be an elected officer, who has equal rights and responsibilities of attendance at the regularly scheduled meetings of the organization, whose name and membership origination date appear with the member's knowledge and consent on a list of members of the organization, and who has been a member of the organization for at least six months;

(2) "Charitable organization", a not-for-profit organization recognized as charitable pursuant to section 501(c)(3) of the Internal Revenue Code;

(3) "Commission", the Missouri gaming commission;

(4) "Gross receipts", all receipts from the sale of raffles and any miscellaneous items associated with a raffle, excluding concessions;

(5) "Person", any individual, corporation, partnership, firm, association, limited liability company, organization, or other entity;

(6) "Prize", cash, gift certificate or item of personal property which shall be valued at its fair market value in a manner determined by the commission;

(7) "Raffle", a game in which tickets bearing a unique individual number are sold for good and valuable consideration and in which a prize or prizes are awarded on the basis of a random drawing from the tickets by the person or persons conducting the game, when the game is conducted by a charitable or religious organization, and when no person other than a bona fide member of the organization takes part in the conduct, management or operation of the game. A raffle does not include any gambling scheme which uses any mechanical, computer, electronic, or video gaming device which has the capability of awarding something of value, free games redeemable for something of value, or tickets or stubs redeemable for something of value;

(8) "Religious organization", a not-for-profit organization recognized as religious pursuant to section 501(c)(3) or section 501(d) of the Internal Revenue Code;

(9) "Supplies", materials only used solely and directly for raffles and sweepstakes purchased from a supplier licensed by the commission in the manner provided for bingo suppliers pursuant to section 313.057;

(10) "Sweepstakes", a legal contest or game in which a prize is distributed by lot or by chance and does not require participants to give good and valuable consideration in order to participate and win.

2. Charitable or religious organizations, organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license from the commission when such raffles are held in accordance with this section, other applicable laws, and the rules of the commission and when the value of all prizes from all such raffles held by the organization during the calendar year do not exceed five thousand dollars and the organization conducts no more than four raffles per calendar year. The charitable or religious organization may conduct multiple raffles once per calendar year in conjunction with a fair, festival, carnival or other event provided that the value of all prizes for all raffles conducted by the organization for the calendar year do not exceed five thousand dollars. Charitable or religious organizations conducting raffles without a license pursuant to this subsection are subject to the following restrictions:

(1) The books, paperwork, documents, rules and other materials used to conduct the raffle or raffles or related to raffles shall be open to inspection by the commission at any time;

(2) The premises on which the raffle is conducted shall be open to inspection by the commission at any time;

(3) Only bona fide members of the charitable or religious organization who are not paid for such services may participate in the conduct, management or operation of the raffle;

(4) All revenue from the raffle, after deducting the cost of prizes and supplies, shall be devoted solely to the charitable or religious purposes for which the organization qualifies as a charitable or religious organization;

(5) The organization conducting the raffle shall maintain records for a period of two years from the date each raffle is conducted which accurately show the gross receipts from each raffle, the uses to which those receipts have been put, the value of prizes awarded, and the names of persons to whom prizes have been awarded unless such prize is valued at less than one hundred dollars;

(6) A statement from the person responsible for managing the conduct of each raffle made available to the commission attesting that he or she has not pled guilty to or been convicted of a felony and has not pled guilty to or been convicted of any offense related to gambling;

(7) No person may participate in the management, conduct or operation of the raffle that meets the criteria set forth in subdivisions (1) through (8) of subsection 1 of section 313.035;

(8) The commission may impose a fine in an amount not to exceed one thousand dollars against any organization failing to comply with the provisions of this section; and

(9) Any organization that is discovered to have conducted a raffle without a license when a license was required to have been obtained, shall pay to the commission a fine, to be determined by the commission but not to exceed three times the amount of taxes that should have been paid pursuant to subsection 4 of this section.

3. A charitable or religious organization shall only be authorized to conduct a raffle or multiple raffles with annual prizes for all such raffles conducted by the organization valued in excess of five thousand dollars if such organization applies for and receives a license from the commission. The commission shall issue the license upon clear and convincing evidence that the organization is qualified and suitable for licensure, and upon receipt of a nonrefundable application fee of fifty dollars. Such evidence shall include a copy of the document from the Internal Revenue Service which grants the applicant tax-exempt status and a federal identification number, a copy of the articles of incorporation and certificate of incorporation, if applicable, and a statement as to whether the organization has had any previous application refused, revoked or suspended and other evidence required by the commission. The application

form for licensure shall contain such information and be in a form as prescribed by the commission. Licensees shall be subject to the following provisions:

(1) An amount equal to at least fifty percent of the gross receipts from any raffle conducted by a charitable or religious organization whose prize exceeds fifteen thousand dollars shall be awarded as prizes, provided that prizes that are donated to the organization for use in the conduct of the raffle shall be valued at a fair market rate as determined by the commission;

(2) All licensees are required to keep the application information required by this section current. Any changes in the information submitted in the application shall be reported to the commission within thirty days. Failure to report such changes may be cause for discipline;

(3) Proceeds from the conduct of raffles shall not be used to pay for leasing or owning the premises where the raffle is conducted. Licensees shall provide to the commission, by March first of each year, a detailed statement of revenue and expenses for each raffle conducted during the previous calendar year;

(4) All revenue from the raffle, after deducting the cost of prizes and supplies, shall be devoted solely to the charitable or religious purposes for which the organization qualifies as a charitable or religious organization;

(5) Licensees shall provide additional information as reasonably requested by the commission;

(6) In addition to the license and fees required by this section, the licensee shall notify the commission of each subsequent raffle or sweepstakes event on forms provided by the commission at least ten days prior to the commencement of such event. The forms shall be accompanied by an event fee set by the commission not to exceed twenty-five dollars;

(7) Licensees shall acquire all supplies used for the conduct of the raffle from a supplier licensed by the commission;

(8) A holder of any license shall be subject to imposition of penalties, exclusion from the management, conduct or operation of charity games, suspension or revocation of any license, if applicable, or other action for any act or failure to act by himself or his agents or employees, that is injurious to the public health, safety, good order and general welfare of the people of the state of Missouri, or that would discredit or tend to discredit charitable gaming operations in the state of Missouri unless the person proves by clear and convincing evidence that he or she is not guilty of such action. The commission shall take appropriate action against any licensee or person who violates the law or the rules and regulations of the commission. Without limiting other provisions of this section, the following acts or omissions may be grounds for such discipline:

(a) Failing to comply with or make provision for compliance with the provisions of this section, the rules and regulations of the commission or any federal, state or local law or regulation;

(b) Failing to comply with any rule, order or ruling of the commission or its agents pertaining to charitable raffles or sweepstakes;

(c) Receiving or purchasing goods or services from a person or business entity who does not hold a supplier's license issued pursuant to this section;

(d) Association with, either socially or in business affairs, or employing persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body and would adversely affect public confidence and trust in gaming;

(e) Employing in any charity gaming operation any person known to have been found guilty of cheating or using any improper device in connection with any charity game;

(f) Use of fraud, deception, misrepresentation or bribery in securing any permit or license issued pursuant to the provisions of this section;

(g) Obtaining or attempting to obtain any fee, charge, or other compensation by fraud, deception, or misrepresentation;

(h) Incompetence, misconduct, gross-negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by the provisions of this section.

4. A tax is hereby imposed on all organizations required to be licensed by subsection 3 of this section in the amount of two percent of the value of all prizes awarded in conjunction with all raffles, to be paid in a manner prescribed by the commission.

5. Charitable or religious organizations are hereby authorized to conduct sweepstakes without obtaining a license from the commission when such sweepstakes are held in accordance with this subsection, other applicable laws, and rules of the commission. Charitable or religious organizations conducting sweepstakes pursuant to this subsection are subject to the following restrictions:

(1) The books, paperwork, documents, rules and other materials used to conduct the sweepstakes or related to the sweepstakes shall be open to inspection by the commission at any time;

(2) The premises on which the sweepstakes are conducted shall be open to inspection by the commission at any time;

(3) Only bona fide members of the charitable or religious organization who are not paid for such services may participate in the conduct, management or operation of the sweepstakes;

(4) Sweepstakes participants may not be required to give any thing of value in order to participate and win. Charitable or religious organizations conducting sweepstakes shall inform participants, in a prominent manner, that nothing of value is required to participate and win; and

(5) The person responsible for managing the conduct of each sweepstakes shall provide to the commission a statement attesting that he or she has not pled guilty to or been convicted of a felony and has not pled guilty to or been convicted of any offense related to gambling.

6. Any person who, with intent to defraud another person, makes, alters, forges, or counterfeits any raffle ticket, sweepstakes claim or other device used in conjunction with a raffle or sweepstakes that could affect the outcome of the raffle or sweepstakes, or who has in possession any forged, spurious, or altered raffle ticket or sweepstakes claim with the intent of, or with the result of, depriving another person of valuable consideration, is guilty of a class D felony.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

8. Any person who violates any provisions of subsection 3 of this section shall be guilty of a class A misdemeanor.

Section B. Because of the immediate need to implement safeguards in the establishment and operation of raffles and sweepstakes as authorized by constitutional amendment, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

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