

1 238.505 Definitions for chapter.

2 As used in this chapter, unless the context requires otherwise:

3 (1) "Department" means the Department of Charitable Gaming within the Public  
4 Protection Cabinet;

5 (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity  
6 fundraising events conducted for fundraising purposes by charitable organizations licensed and  
7 regulated under the provisions of this chapter. "Charitable gaming" shall not include slot  
8 machines, electronic video gaming devices, wagering on live sporting events, or simulcast  
9 broadcasts of horse races;

10 (3) "Charitable organization" means a nonprofit entity organized for charitable, religious,  
11 educational, literary, civic, fraternal, or patriotic purposes;

12 (4) "Bingo" means a specific game of chance in which participants use cards or paper  
13 sheets, or card-minding device representations thereof, divided into horizontal and vertical  
14 spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis  
15 of the letters and numbers on the card conforming to a predetermined and preannounced  
16 configuration of letters and numbers selected at random;

17 (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket,  
18 or a paper card with perforated break-open tabs, or electronic pulltab device representations  
19 thereof, the face of which is covered or otherwise hidden from view to conceal a number, letter,  
20 symbol, or set of numbers, letters, or symbols, some of which have been designated in advance  
21 as prize winners and shall include charity game tickets that utilize a seal card. "Charity game  
22 ticket" shall include pulltabs, both paper and electronic representations thereof;

1 (6) "Seal card" means a board or placard used in conjunction with charity game tickets,  
2 that contains a seal or seals which, when removed or opened, reveal predesignated winning  
3 numbers, letters, or symbols;

4 (7) "Raffle" means a game of chance in which a participant is required to purchase a  
5 ticket for a chance to win a prize, with the winner to be determined by a random drawing;

6 (8) "Charity fundraising event" means an activity of limited duration at which games of  
7 chance approved by the department are conducted, including bingo, raffles, charity game tickets,  
8 special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230  
9 notwithstanding. Examples of such activities include events that attract patrons for community,  
10 social, and entertainment purposes apart from charitable gaming, such as fairs, festivals,  
11 carnivals, licensed charitable gaming organization conventions, bazaars, and banquets. For the  
12 purposes of this subsection, "banquet" shall mean a formal meal or feast held by a charitable  
13 organization for community, social, or entertainment purposes apart from charitable gaming;

14 (9) "Manufacturer" means a person who assembles from raw materials or subparts any  
15 charitable gaming equipment or supplies used in the conduct of charitable gaming, including a  
16 person who converts, modifies, and adds to or removes parts from, charitable gaming equipment  
17 and supplies. The term shall not include:

18 (a) Any person who services or repairs charitable gaming supplies and equipment, so  
19 long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with  
20 a similar or identical part; and

21 (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies  
22 and equipment purchased in bulk;

1 (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a  
2 charitable organization charitable gaming equipment or supplies, or both, used in the conduct of  
3 charitable gaming. "Distributor" shall not include:

4 (a) A resident printer who prints raffle tickets at the request of a licensed charitable  
5 organization; and

6 (b) A licensed charitable organization that affects a one-time donation of charitable  
7 gaming supplies or equipment to another licensed charitable organization if the donation is first  
8 approved by the department.

9 (11) "Charitable gaming facility" means the premises on which charitable gaming is  
10 conducted [~~a person, including a licensed charitable organization, that owns or is a lessee of~~  
11 ~~premises which are leased or otherwise made available to two (2) or more licensed charitable~~  
12 ~~organizations, other than itself, during a one (1) year period for the conduct of charitable~~  
13 ~~gaming~~];

14 (12) "Gross receipts" means all moneys collected or received from the conduct of  
15 charitable gaming;

16 (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount  
17 paid for merchandise prizes purchased;

18 (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and  
19 deductions authorized under this chapter;

20 (15) "Charitable gaming supplies and equipment" means any material, device, apparatus,  
21 or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and  
22 paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of  
23 chance at charity fundraising events subject to regulation under this chapter. The term shall not

1 include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils,  
2 daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

3 (16) "Door prize" means a prize awarded to a person based solely upon the person's  
4 attendance at an event or the purchase of a ticket to attend an event;

5 (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money  
6 wheel; baccarat; pusher-type games; any dice game where the player competes against the house;  
7 and any other game of chance as identified, defined, and approved by administrative regulation  
8 of the department;

9 (18) "Special limited charity fundraising event" means any type of charity fundraising  
10 event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo  
11 night," at which the predominant number or types of games offered for play are special limited  
12 charitable games;

13 (19) "Session" or "bingo session" means a single gathering at which a bingo game or  
14 series of successive bingo games are played, excluding bingo played at a charity fundraising  
15 event;

16 (20) "Immediate family" means:

17 (a) Spouse and parents-in-law;

18 (b) Parents and grandparents;

19 (c) Children and their spouses; and

20 (d) Siblings and their spouses;

21 (21) "Affiliate" means any corporation, partnership, association, or other business or  
22 professional entity or any natural person that directly or indirectly, through one or more

1 intermediaries, controls, or is controlled by, or is under common control with a licensed  
2 manufacturer, distributor, or charitable gaming facility;

3 (22) "Secretary" means the secretary of the Public Protection Cabinet;

4 (23) "Commissioner" means the commissioner of the Department of Charitable Gaming  
5 within the Public Protection Cabinet;

6 (24) "Chairperson" means the chief executive officer and any officer, member, or  
7 employee of a licensed charitable organization who will be involved in the management and  
8 supervision of charitable gaming as designated in the organization's charitable gaming license  
9 application under KRS 238.535(13)(g);

10 (25) "Year" means calendar year except as used in subsection (11) of this section and  
11 KRS 238.535(11), 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's  
12 license year; and

13 (26) "Card-minding device" means any mechanical, electronic, electromechanical, or  
14 computerized device that is interfaced with or connected to equipment used to conduct a game of  
15 bingo and that allows a player to store, display, and mark a bingo card face. A card-minding  
16 device shall not be designed and manufactured to resemble any electronic gaming device that  
17 utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker  
18 machine, or any similar video gaming device;

19 (27) "Electronic pulltab device" means an electronic device used only for charitable  
20 gaming to facilitate the play of an electronic pulltab. An electronic pulltab device shall be a  
21 tablet or other personal computing device, other than a mobile phone or similar handheld device,  
22 as approved by the department. An electronic pulltab device may only operate on a closed  
23 network or intranet that is confined to the licensee's premises, and shall not be Internet accessible

1 by patrons, but shall be connected to a central server system solely for the purposes of  
2 monitoring, reporting, accounting, and software maintenance. An electronic pulltab device shall  
3 not be designed and manufactured to resemble any electronic gaming device that utilizes a video  
4 display monitor, such as a video lottery terminal, video slot machine, video poker machine, or  
5 any similar video gaming device; and

6 (28) "Electronic video gaming device," as used in this chapter and the related  
7 administrative regulations, means any device that possesses a video display and computer  
8 mechanism for playing a game. Electronic video gaming device shall not mean any electronic  
9 representation of charitable gaming games identified, defined, and approved by statute and by  
10 administrative regulation of the department.

1           238.536 Amount and use of net receipts retained by charitable organization --

2           Penalties imposed upon charitable organization failing to retain certain percentage of  
3 adjusted gross receipts -- Submission of financial plan—~~Petition for reconsideration.~~

4           (1) The net receipts from charitable gaming retained by a charitable organization for the  
5 previous calendar year, provided the charitable organization was licensed at the start of the  
6 calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts  
7 of the charitable organization for the same period. A licensed charitable organization shall expend  
8 net receipts exclusively for purposes consistent with the charitable, religious, educational, literary,  
9 civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization  
10 received and maintains federal tax-exempt status, or consistent with its status as a common school,  
11 an institution of higher education, or a state college or university. No net receipts shall inure to the  
12 benefits or financial gain of an individual. Any charitable organization which permits its license  
13 to expire or otherwise lapse shall still be subject to the retention requirement. The following fees  
14 and taxes shall be excluded from the calculation of the percentage retained, retroactive to  
15 calculations made for calendar year 1999:

16           (a) All fees paid to the department during the calendar year;

17           (b) Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies  
18 and equipment that are paid by a licensed charitable organization during the calendar year; and

19           (c) Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a  
20 licensed charitable organization during the calendar year.

21           (2) The following actions shall be imposed on a licensed charitable organization that fails  
22 to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this  
23 section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

1 (a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-  
2 tenths percent (39.9%), the licensee shall be placed on probation for a period of six (6) months and  
3 shall be required to submit to the department an acceptable financial plan detailing corrective  
4 actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the  
5 calendar year in which the probation is imposed;

6 (b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-  
7 tenths percent (34.9%), the licensee shall be placed on probation for a period of one (1) year and  
8 shall be required to submit to the department a financial plan as described in paragraph (a) of this  
9 subsection. The department shall conduct a six (6) month review of the charitable gaming activities  
10 of a licensee placed on probation pursuant to this subsection to evaluate the licensee's compliance  
11 with its financial plan;

12 (c) If the percentage retained falls between twenty-nine and nine-tenths percent (29.9%)  
13 and twenty-five percent (25%), the licensee shall be placed on probation for a period of one (1)  
14 year, shall submit to the department an acceptable financial plan as described in paragraph (a) of  
15 this subsection, and shall participate in a mandatory training program designed by the department.  
16 The department shall conduct a quarterly review of the licensee's activities to evaluate the  
17 licensee's compliance with its financial plan and its progress toward achievement of the forty  
18 percent (40%) threshold during the probationary period;

19 (d) If the percentage falls below twenty-five percent (25%) or if the licensee fails to attain  
20 the forty percent (40%) threshold for a second consecutive calendar year, the licensee shall have  
21 its license suspended for a period of one (1) year; and

22 (e) For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of probation  
23 and suspension shall commence, unless appealed, from the date the department notifies the



1 licensee of its failure to satisfy the retention requirement for the previous calendar year. If a  
2 probation or suspension is appealed, the action shall commence on the date final adjudication of  
3 the matter is complete.

4 (3) Any licensee that has had its license suspended under the provisions of subsection (2)(d)  
5 of this section shall be required to submit to the department an acceptable financial plan as  
6 described in subsection (2)(a) of this section, upon applying for reinstatement of its license. As a  
7 condition of reinstatement, the licensee shall be on probation for a period of one (1) year and shall  
8 be subject to quarterly review by the department in accordance with subsection (2)(c) of this  
9 section.

10 ~~(4) Any licensee that has had its license revoked, has had its renewal application denied,~~  
11 ~~or has had action initiated to revoke, suspend, or deny its license for failure to meet the forty~~  
12 ~~percent (40%) retention threshold prior to July 14, 2000, may petition the department for~~  
13 ~~reconsideration of its action or proposed action. Upon petition for reconsideration, the department~~  
14 ~~shall apply the standards contained in subsection (2) of this section and shall adjust the license~~  
15 ~~status of the petitioner accordingly. The department shall give credit for the amount of time a~~  
16 ~~license has been revoked in assessing penalties under subsection (2) of this section not to exceed~~  
17 ~~the amount of time imposed under the new penalty.~~

18 (4) The provisions of paragraph (2) of this section shall be waived for all licensees for the  
19 calendar year 2020.

1 238.555 Charitable gaming facility license -- Lease agreements for use of facility --

2 Quarterly reports -- Number of events that may be held -- Display of license and charitable  
3 organization's name.

4 (1) No person or organization shall operate a charitable gaming facility unless the person  
5 or organization is licensed under the provisions of this chapter, except that facilities that are utilized  
6 by two or fewer charitable organizations for the purpose of conducting charitable gaming and  
7 facilities that only host charity fundraising events shall be exempt from licensure, and. The  
8 department shall charge a license fee not to exceed two thousand five hundred dollars (\$2,500).  
9 Specific license fees to be charged shall be prescribed in a graduated scale promulgated by  
10 administrative regulation and based on the number of sessions which the facility holds per week  
11 or other applicable factors or combination of factors. Charitable gaming may be conducted in a  
12 charitable gaming facility only by a licensed charitable organization in accordance with the  
13 provisions of this chapter.

14 (2) In the application process, an applicant for a charitable gaming facility license shall  
15 submit the following information:

16 (a) The address of the facility;

17 (b) A description of the facility to include square footage of the gaming area, capacity  
18 levels, and available parking;

19 (c) The names, addresses, dates of birth, and Social Security numbers of all individuals  
20 employed by or contracted with the applicant to manage the facility or provide other authorized  
21 services;

22 (d) The name, address, date of birth, and Social Security number of any individual who has  
23 a ten percent (10%) or greater financial interest in the facility;

1 (e) A copy of the lease agreement used by the applicant; and

2 (f) Any other information the department deems appropriate.

3 (3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or  
4 an affiliate, or any member of the immediate family of any officer, employee, or contractee of a  
5 licensed charitable gaming facility or an affiliate shall, concerning a lessee:

6 (a) Manage or otherwise be involved in the conduct of charitable gaming;

7 (b) Provide bookkeeping or other accounting services related to the conduct of charitable  
8 gaming;

9 (c) Handle any moneys generated in the conduct of charitable gaming;

10 (d) Advise a licensed charitable organization on the expenditure of net receipts;

11 (e) Provide transportation services in any manner to patrons of a charitable gaming activity;

12 (f) Provide advertisement or marketing services in any manner to a licensed charitable  
13 organization;

14 (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

15 (h) Influence or require a licensed charitable organization to use a certain distributor or any  
16 particular gaming supplies; or

17 (i) Donate or give any prize to be awarded in the conduct of charitable gaming.

18 (4) A licensed charitable gaming facility shall execute a lease agreement with each licensed  
19 charitable organization that desires to conduct charitable gaming at the facility. [~~The licensed  
20 charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for  
21 the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct  
22 of charitable gaming, adequate storage space, security, and janitorial services. The costs of the  
23 goods and services provided shall be itemized in the lease. A licensed charitable organization may~~

1 elect to provide for itself any of the goods and services that a charitable gaming facility is required  
2 to provide under this subsection, provided these arrangements are clearly noted in the lease  
3 agreement, and provided the total compensation to be paid the charitable gaming facility is reduced  
4 commensurate with the cost of the goods and services as itemized in the lease.] The amount of  
5 rent, goods, and services charged shall be reasonable and shall be based on prevailing market  
6 values in the general locality for the goods and services to be provided. The amount charged to  
7 rent a charitable gaming facility, whether the facility is licensed or unlicensed, [Rent] shall not be  
8 based in whole or in part[;] on a percentage of gross receipts, [or] net proceeds derived from the  
9 conduct of charitable gaming, or by reference to the number of people in attendance. [The  
10 department by administrative regulation may establish standards for the determination of  
11 prevailing market values.] A licensed charitable gaming facility shall file a copy of each signed  
12 lease agreement [shall be filed] with the department. [The provisions of this subsection shall apply  
13 to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it  
14 is with a licensed charitable gaming facility.]

15 (5) The number of bingo sessions conducted at a charitable gaming facility shall be limited  
16 to the following:

17 (a) No more than eighteen (18) sessions per week if the charitable gaming facility is located  
18 in one (1) of the following:

19 1. A city containing a population equal to or greater than twenty thousand (20,000) based  
20 upon the most recent federal decennial census;

21 2. An urban-county government;

22 3. A consolidated local government;

23 4. A charter county government; or

1           5. A county containing a city of the first class or a city containing a population equal to or  
2 greater than twenty thousand (20,000) based upon the most recent federal decennial census; or

3           (b) No more than eight (8) sessions per week if the charitable gaming facility is located in  
4 a city other than those listed in paragraph (a) of this subsection, or in a county that does not contain  
5 a city that is listed in paragraph (a) of this subsection.

6           (6) A licensed charitable gaming facility shall report at least quarterly to the department  
7 and shall provide any information concerning its operation that the department may require.

8           (7) A charity fundraising event at which special limited charitable games are played may  
9 be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility  
10 shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

11           (8) A licensed charitable gaming facility shall conspicuously display a sign bearing the  
12 name and the license number of the charitable organization that is conducting charitable gaming  
13 activities in the facility.

14           (9) The license to operate the charitable gaming facility shall be prominently displayed on  
15 or in the premises where charitable gaming activity is being conducted, in a conspicuous location  
16 that is readily accessible to gaming patrons as well as employees of the department, law  
17 enforcement officials, and other interested officials.