

## CHAPTER 374

## (HB 103)

AN ACT relating to reorganization.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 15.728 is amended to read as follows:

All law enforcement agencies and investigative bodies shall notify the **Department**~~[Division]~~ of Charitable Gaming of any investigation or prosecution of any violation of the charitable gaming laws as soon as reasonably possible after commencing the investigation or prosecution and shall coordinate any investigation with the **department**~~[division]~~.

Section 2. KRS 238.505 is amended to read as follows:

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

- (1) "**Department**~~[Division]~~" means the **Department**~~[Division]~~ of Charitable Gaming within the **Public Protection and Regulation**~~[Justice]~~ Cabinet;
- (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;
- (3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;
- (4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, **or card-minding device representations thereof**, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;
- (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;
- (6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;
- (7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;
- (8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the **department**~~[division]~~ are conducted, **including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable**

***gaming, such as*** ~~[and examples of which include] fairs, festivals, carnivals, **and** bazaars[, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding];~~

- (9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:
- (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
  - (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;
- (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:
- (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; **and**
  - (b) ***A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the department.***
- (11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;
- (12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;
- (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;
- (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;
- (15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, 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, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;
- (16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;
- (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the ***department***~~[division];~~

- (18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;
- (19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, ~~including~~ bingo ~~played~~ at a charity fundraising event;
- (20) "Immediate family" means:
- (a) Spouse and parents-in-law;
  - (b) Parents and grandparents;
  - (c) Children and their spouses; and
  - (d) Siblings and their spouses; and
- (21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;
- (22) *"Secretary" means the secretary of the Public Protection and Regulation Cabinet;*
- (23) *"Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection and Regulation Cabinet;*
- (24) *"Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under subsection (9)(g) of Section 8 of this Act;*
- (25) *"Year" means calendar year except as used in subsection (7) of Section 13 of this Act, subsection (4) of Section 11 of this Act, and KRS 238.547(1), when "year" means the licensee's license year; and*
- (26) *"Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.*

Section 3. KRS 238.510 is amended to read as follows:

- (1) The ~~Department~~~~Division~~ of Charitable Gaming is created as a ~~department~~~~division~~ within the *Public Protection and Regulation*~~Justice~~ Cabinet. The ~~department~~~~division~~ shall license and regulate the conduct of charitable gaming and license and regulate charitable organizations that desire to engage in charitable gaming, charitable gaming facilities, manufacturers, and distributors in the Commonwealth of Kentucky in accordance with the provisions of this chapter.
- (2) *The department shall be headed by a commissioner who shall be appointed by the Governor upon recommendation of the secretary. The commissioner shall employ staff*~~secretary~~~~of~~

~~justice shall employ a division director, an assistant director, and other staff] as may be necessary to administer and enforce the provisions of this chapter.~~

- (3) All ~~*department*~~~~[division]~~ staff shall be classified and employed in accordance with applicable personnel requirements of the Personnel Cabinet *in accordance with*~~]. The division director shall be a nonmerit employee and all other staff shall be merit employees with all rights and privileges afforded under]~~ KRS Chapter 18A.
- (4) No employee of the ~~*department*~~~~[division]~~ during his or her term of employment shall be an officer in a charitable organization that is licensed to conduct charitable gaming or be involved in the conduct of charitable gaming as a member of a licensed charitable organization. No employee of the ~~*department*~~~~[division]~~ during his or her term of employment shall be licensed as a manufacturer, distributor, or charitable gaming facility, or have a financial interest in any business that is licensed as a manufacturer, distributor, or charitable gaming facility.
- (5) *The commissioner shall appoint charitable gaming investigators who shall have the powers of peace officers throughout the Commonwealth; however, those powers shall be limited to:*
- (a) *Enforcement of the provisions of KRS Chapter 238, relating to charitable gaming;*
  - (b) *Violations of KRS Chapter 528, relating to:*
    1. *Unlicensed and illegal charitable gaming;*
    2. *Gambling offenses committed on licensed charitable gaming premises; and*
    3. *Gambling offenses committed in conjunction with charitable gaming;*
  - (c) *Violations of KRS Chapter 514, relating to theft, embezzlement, or other illegal diversions of charitable gaming proceeds;*
  - (d) *Violations of KRS Chapters 516 and 517, relating to forgery and fraud in the conduct of charitable gaming;*
  - (e) *Violations relating to the damage or destruction of real or personal property owned or leased by a charitable gaming licensee; and*
  - (f) *Violation of any criminal felony offense committed:*
    1. *On licensed charitable gaming premises; and*
    2. *In the presence of a charitable gaming investigator.*
- (6) *Charitable gaming investigators shall satisfy the certification standards established by the Department of Criminal Justice Training pursuant to KRS Chapter 15. The commissioner may possess peace officer powers granted under subsection (5) of this section, if he or she is duly qualified. Charitable gaming investigators shall not qualify for hazardous duty coverage under the Kentucky Employees Retirement System.*
- (7) *Charitable gaming investigators so appointed shall not possess peace officer powers other than those provided in subsection (5) of this section.* Section 4. KRS 238.515 is amended to read as follows:

The ~~*department*~~~~[division]~~ shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the ~~*department*~~~~[division]~~ shall have the following powers and duties:

- (1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;
- (2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;
- (3) Prescribing reasonable fees for licenses;
- (4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;
- (5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the **department**~~[division]~~ shall have the authority to issue administrative subpoenas and summonses. The **department**~~[division]~~ shall also establish toll-free telephone service for receiving complaints and inquiries;
- (6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;
- (7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;
- (8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the **department**~~[division]~~; and
- (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter.

Section 5. KRS 238.520 is amended to read as follows:

- (1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:
  - (a) The secretary of the **Public Protection and Regulation**~~[Justice]~~ Cabinet or his designee;
  - (b) The Attorney General or his designee;
  - (c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;
  - (d) One (1) representative from the Kentucky Charitable Gaming Association;
  - (e) One (1) certified public accountant; and
  - (f) Four (4) members selected from the public at large.

The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

- (2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same

manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

- (3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the ~~department~~<sup>division</sup> and to the General Assembly **but shall not establish policy or become directly involved in** ~~[to assist in establishing effective policy for]~~ the licensing and regulation of charitable gaming **by the department**.
- (4) The commission shall meet quarterly or as otherwise directed by the ~~department~~<sup>division</sup>. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, **and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each**. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 6. KRS 238.525 is amended to read as follows:

- (1) Licenses shall be issued by the ~~department~~<sup>division</sup> on an annual or biennial basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the ~~department~~<sup>division</sup> in any manner it deems appropriate to facilitate efficient licensing. The ~~department~~<sup>division</sup> shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.
- (2) The ~~department~~<sup>division</sup> may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.
- (3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the ~~department~~<sup>division</sup>, with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the ~~department~~<sup>division</sup> with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The ~~department~~<sup>division</sup> shall require the fingerprinting of all applicants for licensure under KRS 238.530 and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The ~~department~~<sup>division</sup> may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.
- (4) No applicant shall be licensed **and no license holder shall be able to maintain a license** if an individual associated with the applicant **or license holder** in a capacity listed in subsection (3) of this section or the applicant **or license holder** itself has been convicted of a felony,

gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

- (5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The *department*~~{division}~~ may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.
- (6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the *department*~~{division}~~ in writing within thirty (30) days of the date the change occurred.

Section 7. KRS 238.530 is amended to read as follows:

- (1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the *department*~~{division}~~ as a distributor. The *department*~~{division}~~ shall charge a license fee not to exceed one thousand dollars (\$1,000).
- (2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the *department*~~{division}~~ as a manufacturer. The *department*~~{division}~~ shall charge a license fee not to exceed *one thousand*~~{five hundred}~~ dollars (*\$1,000*)~~(\$500)~~.
- (3) No person who is licensed as a charitable organization, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer. No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.
- (4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the *department*~~{division}~~ and shall submit as part of the application process the following:
  - (a) The full name, address, date of birth, and Social Security number of the applicant;
  - (b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;
  - (c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;
  - (d) Federal employer tax number;
  - (e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;

- (f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and
  - (g) Any other information the *department*~~{division}~~ deems appropriate.
- (5) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the *department*~~{division}~~ to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be available for inspection by the *department*~~{division}~~ at reasonable times, and all records shall be maintained for a minimum of three (3) years. The *department*~~{division}~~ may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the *department*~~{division}~~.
- (6) A distributor who does not receive payment in accordance with the terms of its sales or lease agreement from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the *department*~~{division}~~ of the delinquency in writing in a form and manner prescribed by the *department*~~{division}~~. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the *department*~~{division}~~ of the delinquency in writing in a form and manner prescribed by the *department*~~{division}~~.
- (7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.
- (8) A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor or a charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter.
- (9) A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.
- (10) No officer, owner, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates, shall, with respect to a licensed charitable organization:
- (a) Manage or otherwise be involved in the conduct of charitable gaming;
  - (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
  - (c) Handle any moneys generated in the conduct of charitable gaming;
  - (d) Advise a licensed charitable organization on the expenditure of net receipts;
  - (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
  - (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
  - (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;



- (h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;
- (i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility; or
- (j) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 8. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the **department**~~[division]~~. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
  - (a) Bingo in which the gross receipts do not exceed a total of **twenty-five**~~[fifteen]~~ thousand dollars (**\$25,000**)~~(\$15,000)~~ per year;
  - (b) A raffle or raffles for which the gross receipts do not exceed **twenty-five**~~[fifteen]~~ thousand dollars (**\$25,000**)~~(\$15,000)~~ per year; and
  - (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed **twenty-five**~~[fifteen]~~ thousand dollars (**\$25,000**)~~(\$15,000)~~ per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed **twenty-five**~~[fifteen]~~ thousand dollars (**\$25,000**)~~(\$15,000)~~.

- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the **department**~~[division]~~ in writing, on a **simple** form issued by the **department**~~[division]~~, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter **relating to the conduct of charitable gaming**, except:
  - (a) Payment of the fee imposed under the provisions of KRS 238.570; and
  - (b) The **quarterly** reporting requirements imposed under the provisions of KRS 238.550(5)~~(2)~~, unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

***Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the department a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the department. Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to Section 15 of this Act. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the***

*organization shall apply for a retroactive license in accordance with subsection (3) of this section.*

- (3) If an organization exceeds the limit imposed by any subsection of this section it shall:
  - (a) Report the amount to the ~~department~~~~division~~; and (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the ~~department~~~~division~~ shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the ~~department~~~~division~~ determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (6) If the ~~department~~~~division~~ determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.
- (8) In order to qualify for licensure, a charitable organization shall:
  - (a)
    1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or
    2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;
  - (b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;
  - (c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the ~~department~~~~division~~, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "**reasonable progress in accomplishing its charitable purposes**" means **the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish** relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). **In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall**

*additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph;* and

- (d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted.

The office or place of business shall be a separate and distinct address and location from that of any other licensee of the *department*~~[division]~~; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.

- (9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:
  - (a) The name and address of the charitable organization;
  - (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;
  - (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
  - (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;
  - (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;
  - (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
  - (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
  - (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

- (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
  - (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;
  - (k) An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the *department*~~[division]~~; and
  - (l) Any other information the *department*~~[division]~~ deems appropriate.
- (10) ***An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars (\$150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.***
- (11) The *department*~~[division]~~ may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- ~~(12)~~~~(11)~~ The *department*~~[division]~~ shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.
- (13) (a) ***A licensed charitable organization may place its charitable gaming license in escrow if:***
- 1. ***The licensee notifies the department in writing that it desires to place its license in escrow; and***
  - 2. ***The license is in good standing and the department has not initiated disciplinary action against the licensee.***
- (b) ***During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under Section 9 of this Act.***
- (c) ***A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:***
- 1. ***The charitable organization continues to qualify for licensure;***
  - 2. ***The charitable organization has not engaged in charitable gaming during the escrow period; and***
  - 3. ***The charitable organization pays a reinstatement fee established by the department.***

Section 9. KRS 238.536 is amended to read as follows:

- (1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the

charitable organization for the same period. *A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the benefits or financial gain of an individual.* Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. *The following fees and taxes shall be excluded from the calculation of the percentage retained, retroactive to calculations made for calendar year 1999:* (a) All fees paid to the ~~department~~<sup>[division]</sup> during the calendar year:

- (b) *Any sales or use taxes levied under KRS Chapter 139 on charitable gaming supplies and equipment that are paid by a licensed charitable organization during the calendar year; and*
- (c) *Any federal excise taxes levied under 26 U.S.C. secs. 4401 and 4411 and paid by a licensed charitable organization during the calendar year*~~[shall be excluded from the calculation of percentage retained].~~

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

- (a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of *six (6) months*~~[one (1) year]~~ and shall be required to submit to the ~~department~~<sup>[division]</sup> an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the *calendar year in which the probation is imposed*~~[probationary period]~~;
- (b) If the percentage retained is between thirty percent (30%) and thirty-four and ninthtenths percent (34.9%), the licensee shall *be placed on probation*~~[have its license suspended]~~ for a period of one (1) year *and shall be required to submit to the department a financial plan as described in paragraph (a) of this subsection. The department shall conduct a six (6) month review of the charitable gaming activities of a licensee placed on probation pursuant to this subsection to evaluate the licensee's compliance with its financial plan;* ~~[and]~~
- (c) If the percentage retained falls *between twenty-nine and nine-tenths percent (29.9%) and twenty-five percent (25%), the licensee shall be placed on probation for a period of one (1) year, shall submit to the department an acceptable financial plan as described in paragraph (a) of this subsection, and shall participate in a mandatory training program designed by the department. The department shall conduct a quarterly review of the licensee's activities to evaluate the licensee's compliance with its financial plan and its progress toward achievement of the forty percent (40%) threshold during the probationary period;*
- (d) *If the percentage falls below twenty-five*<sup>[thirty]</sup>~~[thirty]~~ percent (25%)~~[(30%)]~~ or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive *calendar year*<sup>[time]</sup>~~[time]~~, the licensee shall have its license suspended for a period of *one (1) year;* ~~and~~<sup>[two (2) years]</sup>

- (e) *For purposes of paragraphs (a), (b), (c), and (d) of this subsection, periods of probation and suspension shall commence, unless appealed, from the date the department notifies the licensee of its failure to satisfy the retention requirement for the previous calendar year. If a probation or suspension is appealed, the action shall commence on the date final adjudication of the matter is complete.*
- (3) Any licensee that has had its license suspended under the provisions of subsection (2)~~(d)~~~~(b)~~ ~~or (c)~~ of this section shall be required to submit to the *department*~~[division]~~ an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license. *As a condition of reinstatement, the licensee shall be on probation for a period of one (1) year and shall be subject to quarterly review by the department in accordance with paragraph (c) of subsection (2) of this section.*
- (4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke, *suspend*, or deny its license for failure to meet the forty percent (40%) retention threshold prior to *the effective date of this Act*~~[April 1, 1998]~~, may petition the *department*~~[division]~~ for reconsideration of its action or proposed action. Upon petition for reconsideration, the *department*~~[division]~~ shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The *department*~~[division]~~ shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

Section 10. KRS 238.540 is amended to read as follows:

- (1) Charitable gaming shall be conducted by a licensed charitable organization at ~~the~~~~only one~~ ~~(1)~~ location, ~~and at the~~ date, and time which shall be stated on the license. A license holder shall notify the *department*~~[division]~~ at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the *department*~~[division]~~ shall be received by the licensee prior to the conduct of charitable gaming at a new location.
- (2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.
- (3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the *department*~~[division]~~, law enforcement officials, and other interested officials.
- (4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the *administration and conduct of the* charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. *No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual.* Any

effort or attempt to disguise any other type of compensation *or private inurement* shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

- (5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.
- (6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.
- (7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.
- (8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. ***An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars (\$5,000) per twenty-four (24) hour period set forth in subsection (1) of Section 11 of this Act.***

Section 11. KRS 238.545 is amended to read as follows:

- (1) A licensed charitable organization shall be limited by the following:
  - (a) In the conduct of bingo, to ***one (1) session per day***, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars (\$5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars (\$10);
  - (b) ***A licensed charitable organization may provide card-minding devices for use by players of bingo games. If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times. The department shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them;***
  - (c) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;
  - ~~(d)(e)~~—Charity game tickets may be sold, with prior approval of the ~~department~~***division***:
    1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or
    2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

- (e)~~(d)~~ An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the *department*~~[division]~~, only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The *department*~~[division]~~ shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.
- (2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars (\$599) in value, not including the value of cumulative or carryover prizes awarded in seal card games. Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars (\$2,400). Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars (\$50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement. Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the *department*~~[division]~~. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.
- (3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.
- (4) ***With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:***
- (a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the *department*~~;~~~~[division].~~
- (b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars (\$100);~~[-]~~
- (c) ***The department may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed five thousand dollars (\$5,000) for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian;***
- (d) ***The department may grant approval for a licensed charitable organization to play special limited charitable games at a charity fundraising event authorized under this section. The department shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless***



*the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with subsection (8) of Section 2 of this Act; and*

- (e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventytwo (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The **department**~~[division]~~ shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547.
- (5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

Section 12. KRS 238.550 is amended to read as follows:

- (1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.
- (2) ***Within two (2) business days after the completion of a charitable gaming event or session, all gross receipts and adjusted gross receipts shall be deposited***~~[within two (2) business days]~~ into ***one***~~[a]~~ checking account devoted exclusively to charitable gaming. ***This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.***
- (3) All payments for charitable gaming expenses, ***payments made for*** prizes purchased, and any charitable donations from charitable gaming receipts shall be made from ***the charitable gaming***~~[this checking]~~ account and ***the***~~[any]~~ payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. ***No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations.*** The **department**~~[division]~~ may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.
- (4) ***A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic***

*functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.*

(5)~~(2)~~—Accurate records and books shall be maintained by each *organization exempt from licensure under subsection (1) of Section 8 of this Act and each* licensed charitable organization for a period of three (3) years. *Department*~~Division~~ staff shall have access to these records at reasonable times. *Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status.* All licensed charitable organizations shall be required to submit reports to the division at least quarterly. *An exempt organization shall submit a yearly financial report in accordance with subsection (2) of Section 8 of this Act, and failure to file this report shall constitute grounds for revocation of the organization's exempt status. Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with subsection (3) of Section 14 of this Act. Reports filed by a licensed charitable organization*~~These reports~~ shall include, but shall not be limited to, the following information:

- (a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;
- (b) The amounts or values of all prizes paid out during the reporting period, including a listing of all prizes donated *having a fair market value in excess of fifty dollars (\$50)*, the names of donors, and the fair market value of the donated prizes;
- (c) The names and addresses of all persons who are winners of prizes *having a fair market value* of six hundred dollars (\$600) or more;
- (d) All expenses paid and the names and addresses of all persons to whom expenses were paid;
- (e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and
- (f) Any other information the *department*~~division~~ deems appropriate.

(6)~~(3)~~—No licensed charitable organization shall incur *charitable gaming* expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following *charitable gaming* expenses:

- (a) Charitable gaming supplies and equipment;
- (b) Rent;
- (c) Utilities;
- (d) Insurance;
- (e) Advertising;
- (f) Janitorial services;
- (g) Bookkeeping and accounting services;

- (h) Security services;
- (i) Membership dues for its participation in any charitable gaming trade organization; and
- (j) Any other expenses the *department*~~[division]~~ may determine by administrative regulation to be legitimate.

***No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.***

Section 13. KRS 238.555 is amended to read as follows:

- (1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The *department*~~[division]~~ shall charge a license fee not to exceed two thousand five hundred dollars (\$2,500). Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors. Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.
- (2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:
  - (a) The address of the facility;
  - (b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;
  - (c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;
  - (d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;
  - (e) A copy of the lease agreement used by the applicant; and
  - (f) Any other information the *department*~~[division]~~ deems appropriate.
- (3) No owner, officer, employee, or contractee of a licensed charitable gaming facility or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate shall, concerning a lessee:
  - (a) Manage or otherwise be involved in the conduct of charitable gaming;
  - (b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;
  - (c) Handle any moneys generated in the conduct of charitable gaming;
  - (d) Advise a licensed charitable organization on the expenditure of net receipts;
  - (e) Provide transportation services in any manner to patrons of a charitable gaming activity;
  - (f) Provide advertisement or marketing services in any manner to a licensed charitable organization;
  - (g) Provide, coordinate, or solicit the services of personnel or volunteers in any manner;

- (h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or
  - (i) Donate or give any prize to be awarded in the conduct of charitable gaming.
- (4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs, and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease. The amount of rent, goods, and services charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The ~~department~~~~division~~ by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the ~~department~~~~division~~. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.
- (5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:
- (a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;
  - (b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.
- (6) A licensed charitable gaming facility shall report at least quarterly to the ~~department~~~~division~~ and shall provide any information concerning its operation that the ~~department~~~~division~~ may require.
- (7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.
- (8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license number of the charitable organization that is conducting charitable gaming activities in the facility.
- (9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location

that is readily accessible to gaming patrons as well as employees of the *department*~~[division]~~, law enforcement officials, and other interested officials.

Section 14. KRS 238.560 is amended to read as follows:

- (1) The *department*~~[division]~~ may investigate allegations of wrongdoing upon complaint or upon its own volition. The *department*~~[division]~~ by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.
- (2) In carrying out its enforcement responsibilities, the *department*~~[division]~~ may:
  - (a) Inspect and examine all premises in which or on which charitable gaming is conducted or charitable gaming supplies or equipment are manufactured or distributed;
  - (b) Seize and remove from premises and impound charitable gaming supplies and equipment for the purposes of examination and inspection pursuant to an appropriate court order;
  - (c) Demand access to, inspect, and audit books and records of licensees for the purpose of determining compliance with laws and administrative regulations relative to charitable gaming; and
  - (d) Conduct in-depth audits and investigations, when warranted.
- (3) The *department*~~[division]~~ may take appropriate administrative action against any person licensed under this chapter for any violation of the provisions of this chapter or administrative regulations promulgated thereunder. The *department*~~[division]~~ may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, issue a letter of reprimand, and levy a fine. An administrative fine shall not exceed one thousand dollars (\$1,000) for each offense. ***The department may deny the issuance of a license or a license renewal if the applicant or licensee has failed to pay a fine levied by the department.*** The *department*~~[division]~~ shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the ***history of previous violations and the*** nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in this chapter or under other provisions of law.
- (4) The *department*~~[division]~~ may reinstate a license that has been revoked at any time after two (2) years from the date of revocation. A license may be reinstated only upon a finding that the violations for which the license was revoked have been corrected.
- (5) All departments, divisions, boards, agencies, officers, and institutions of the Commonwealth of Kentucky and all subdivisions thereof, in particular local law enforcement entities, shall cooperate with the *department*~~[division]~~ in carrying out its enforcement responsibilities.
- (6) The *department*~~[division]~~ shall report any activity or action which would constitute a criminal offense to the appropriate authorities in the county where the activity or action occurred and to the Attorney General.

Section 15. KRS 238.565 is amended to read as follows:

- (1) A license holder may appeal any administrative action taken under KRS 238.560. A license holder shall be notified in writing of any action to be taken against him. The notification may be delivered in person or mailed by certified mail, return receipt requested, to the last known address of the license holder. ***Service of notification of administrative action, whether by***

*hand delivery or by certified mail, shall be deemed complete if the license holder fails or refuses to accept delivery. For service by hand delivery, notification shall be deemed received upon acceptance of delivery or upon failure or refusal to accept delivery, and the person affecting service on behalf of the department shall record the fact*

*of the failure or refusal. For service by certified mail, the notification of administrative action shall be deemed received when the license holder accepts delivery or fails or refuses to accept delivery at the last known address.* The notification shall specify the charges against the license holder, *specify the proposed administrative sanction*, and advise him of his right to appeal the decision within ten (10) days of the date of receipt of the notification.

- (2) Upon receipt of an appeal, the **department**~~[division]~~ shall schedule the matter for an administrative hearing that shall be conducted in accordance with KRS Chapter 13B.
- (3) Any provisions of KRS Chapter 13B notwithstanding, within twenty (20) days after the conclusion of a hearing, the hearing officer shall prepare and present to the **commissioner**~~[secretary of justice through the division director]~~ a recommended order based on findings of fact and conclusions of law. Within thirty (30) days of receipt of the recommended order, the **commissioner**~~[secretary of justice]~~ shall affirm, reject, or modify, in whole or in part, the recommended order and shall issue a final order. The final order shall be the final administrative action on the matter and a copy of the final order shall be mailed to the license holder, by certified mail, return receipt requested.
- (4) Any administrative action taken under this section shall, upon appeal, be stayed until a final order is issued, with the exception of a summary suspension. The **department**~~[division]~~ may issue an emergency order pursuant to KRS 13B.125 to summarily suspend a license upon finding that continued operation of the license holder pending a hearing would constitute a threat to the public health, safety, or welfare.
- (5) A final order *of the commissioner* may be appealed to Franklin Circuit Court in accordance with KRS Chapter 13B. *If the license holder against whom administrative action is proposed does not request an appeal of the action, the department shall enter a final order imposing the proposed administrative action.* Section 16. KRS 238.570 is amended to read as follows:
  - (1) A fee is imposed on charitable gaming in the amount of four-tenths of one percent (0.4%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the **department**~~[division]~~ all moneys due on a quarterly basis. *Failure by a licensed charitable organization to timely remit the fee required under this subsection upon notice of delinquency shall constitute grounds for disciplinary action in accordance with Section 14 of this Act.*
  - (2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the **Public Protection and Regulation**~~[Justice]~~ Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the **department**~~[division]~~ shall be deposited in this account. Moneys in this account shall be expended by the **department**~~[division]~~ only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the **department**~~[division]~~ shall assess the amount of funds raised by all fees levied in this chapter

and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

- (3) If the provision of subsection (1) of this section that imposes a fee of four-tenths of one percent (0.4%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.
- (a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the *department*~~[division]~~.
- (b) The *department*~~[division]~~ may require a bond from distributors in accordance with the administrative regulations promulgated by the *department*~~[division]~~.
- (4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable. Section 17. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutory-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body. I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
4. Department of Law.
  - (a) Attorney General.

5. Department of the Treasury.
    - (a) Treasurer.
  6. Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.
- II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Offices of the Deputy Secretaries.
    - (g) Office of General Counsel.
    - (h) Division of Kentucky State Medical Examiners Office.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    - (a) Department of Education.
      - (1) Kentucky Board of Education.
      - (2) Education Professional Standards Board.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Arts Council.
    - (d) Kentucky Educational Television.
    - (e) Kentucky Historical Society.
    - (f) Kentucky Teachers' Retirement System Board of Trustees.
    - (g) Kentucky Center for the Arts.
    - (h) Kentucky Craft Marketing Program.
    - (i) Kentucky Commission on the Deaf and Hard of Hearing.
    - (j) Governor's Scholars Program.



- (k) Governor's School for the Arts.
  - (l) Operations and Development Office.
  - (m) Kentucky Heritage Council.
  - (n) Kentucky African-American Heritage Commission.
  - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
  - (b) Kentucky Nature Preserves Commission.
  - (c) Department for Environmental Protection.
  - (d) Department for Natural Resources.
  - (e) Department for Surface Mining Reclamation and Enforcement.
  - (f) Office of Legal Services.
  - (g) Office of Information Services.
4. Transportation Cabinet:
- (a) Department of Highways.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Administrative Services.
  - (d) Department of Fiscal Management.
  - (e) Department of Rural and Municipal Aid.
  - (f) Office of General Counsel.
  - (g) Office of Public Affairs.
  - (h) Office of Personnel Management.
  - (i) Office of Minority Affairs.
  - (j) Office of Environmental Affairs.
  - (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
- (a) Department of Administration and Support.
  - (b) Department of Job Development.
  - (c) Department of Financial Incentives.
  - (d) Department of Community Development.
  - (e) Tobacco Research Board.
  - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
- (a) Public Service Commission.

- (b) Department of Insurance.
  - (c) Department of Housing, Buildings and Construction.
  - (d) Department of Financial Institutions.
  - (e) Department of Mines and Minerals.
  - (f) Department of Public Advocacy.
  - (g) Department of Alcoholic Beverage Control.
  - (h) Kentucky Racing Commission.
  - (i) Board of Claims.
  - (j) Crime Victims Compensation Board.
  - (k) Kentucky Board of Tax Appeals.
  - (l) Backside Improvement Commission.
  - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
  - (n) ***Department of Charitable Gaming.***
7. Cabinet for Families and Children:
- (a) Department for Social Insurance.
  - (b) Department for Social Services.
  - (c) Public Assistance Appeals Board.
  - (d) Office of the Secretary.
  - (e) Office of the General Counsel.
  - (f) Office of Program Support.
  - (g) Office of Family Resource and Youth Services Centers.
  - (h) Office of Technology Services.
  - (i) Office of the Ombudsman.
  - (j) Office of Aging Services.
8. Cabinet for Health Services.
- (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission on Children with Special Health Care Needs.
  - (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of the General Counsel.
  - (h) Office of Program Support.
  - (i) Office of the Inspector General.

9. Finance and Administration Cabinet:
  - (a) Office of Legal and Legislative Services.
  - (b) Office of Management and Budget.
  - (c) Office of Financial Management and Economic Analysis.
  - (d) Office of the Controller.
  - (e) Department for Administration.
  - (f) Department of Facilities Management.
  - (g) Department of Information Systems.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Pollution Abatement Authority.
  - (j) Kentucky Savings Bond Authority.
  - (k) Deferred Compensation Systems.
  - (l) Office of Equal Employment Opportunity Contract Compliance.
  - (m) Office of Capital Plaza Operations.
  - (n) County Officials Compensation Board.
  - (o) Kentucky Employees Retirement Systems.
  - (p) Commonwealth Credit Union.
  - (q) State Investment Commission.
  - (r) Kentucky Housing Corporation.
  - (s) Governmental Services Center.
  - (t) Kentucky Local Correctional Facilities Construction Authority.
  - (u) Kentucky Turnpike Authority.
  - (v) Historic Properties Advisory Commission.
  - (w) Kentucky Are Health Insurance Authority.
10. Labor Cabinet:
  - (a) Department of Workplace Standards.
  - (b) Department of Workers' Claims.
  - (c) Kentucky Labor-Management Advisory Council.
  - (d) Occupational Safety and Health Standards Board.
  - (e) Prevailing Wage Review Board.
  - (f) Workers' Compensation Board.
  - (g) Kentucky Employees Insurance Association.
  - (h) Apprenticeship and Training Council.
  - (i) State Labor Relations Board.

- (j) Kentucky Occupational Safety and Health Review Commission.
  - (k) Office of Administrative Services.
  - (l) Office of Labor-Management Relations and Mediation.
  - (m) Office of General Counsel.
  - (n) Workers' Compensation Funding Commission.
  - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
  - (b) Department of Tax Administration.
  - (c) Office of Financial and Administrative Services.
  - (d) Department of Law.
  - (e) Department of Information Technology.
  - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
  - (b) Department of Parks.
  - (c) Department of Fish and Wildlife Resources.
  - (d) Kentucky Horse Park Commission.
  - (e) State Fair Board.
  - (f) Office of Administrative Services.
  - (g) Office of General Counsel.
13. Cabinet for Workhorse Development:
- (a) Department for Adult Education and Literacy.
  - (b) Department for Technical Education.
  - (c) Department of Vocational Rehabilitation.
  - (d) Department for the Blind.
  - (e) Department for Employment Services.
  - (f) State Board for Adult and Technical Education.
  - (g) Governor's Council on Vocational Education.
  - (h) The State Board for Proprietary Education.
  - (i) The Foundation for Adult Education.
  - (j) The Kentucky Job Training Coordinating Council.
  - (k) Office of General Counsel.
  - (l) Office of Communication Services.

- (m) Office of Development and Industry Relations.
  - (n) Office of Workhorse Analysis and Research.
  - (o) Office for Administrative Services.
  - (p) Office for Policy and Budget.
  - (q) Office of Personnel Services.
  - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
- (a) Office of Administrative and Legal Services.
  - (b) Department for Personnel Administration.
  - (c) Department for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Kentucky Are.
  - (f) Division of Performance Management.
  - (g) Division of Employee Records.
  - (h) Division of Staffing Services.
  - (i) Division of Classification and Compensation.
  - (j) Division of Employee Benefits.
  - (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Post secondary Education.
  - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 18. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
  - (a) State Police officers;
  - (b) City, county, and urban-county police officers;
  - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

- (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
  - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
  - (f) Airport safety and security officers appointed under KRS 183.880;
  - (g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and
  - (h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.
- (2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
- (a) Deputy coroners;
  - (b) Deputy constables;
  - (c) Deputy jailers;
  - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
  - (e) Officers appointed under KRS 61.360;
  - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
  - (g) Private security officers;~~and~~
  - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; *and*
  - (i) *Investigators employed by the Department of Charitable Gaming in accordance with Section 3 of this Act.*
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
  - (b) Coroners; (c) Constables; and (d) Jailers.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Section 19. The General Assembly hereby confirms Executive Order 98-905 of the Public Protection and Regulation Cabinet, to the extent it is not otherwise confirmed by this Act. This executive order creates the Department of Charitable Gaming within the Public Protection and Regulation Cabinet, including the Office of General Counsel, Division of Licensing and

Compliance, and Division of Enforcement; and it abolishes the Division of Charitable Gaming within the Justice Cabinet and transfers all personnel, files, equipment, and funding to the Department of Charitable Gaming within the Public Protection and Regulation Cabinet.

Section 20. (1) The Interim Joint Committee on Licensing and Occupations is directed to study during the 2000-2001 interim, the following issues related to charitable gaming:

- (a) The impact of the 40% Rule on charitable organizations, with particular emphasis on charitable organizations located in areas that are in close proximity to competitive forms of gaming, such as riverboat casinos;
- (b) Development of a reasonable and workable method of establishing facility rental rates, to include a review of basing rental rates on attendance or gross receipts;
- (c) The impact of inflation on charitable gaming expenses and the need to adjust accordingly prize limits and other policies limiting gross receipts; and (d)

Any other issue brought to the attention of the committee.

(2) The Interim Joint Committee on Licensing and Occupations shall conduct the study in cooperation with the Department of Charitable Gaming and the committee is encouraged to seek input from the:

- (a) Kentucky Charitable Gaming Advisory Committee;
- (b) Kentucky Charitable Gaming Association;
- (c) Licensed charitable organizations, manufacturers, distributors, and facility operators; and
- (d) Any other interested individuals or groups.

**Approved April 7, 2000**