

**CHAPTER 120****(HB 156)**

AN ACT relating to charitable gaming.

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

Section 1. 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 into one 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 account and the 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 office 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) Accurate records and books shall be maintained by each organization exempt from licensure under KRS 238.535(1) and each licensed charitable organization for a period of three (3) years. Office 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 office at least quarterly.~~ An exempt organization shall submit a yearly financial report in accordance with KRS 238.535(2), and failure to file this report shall constitute grounds for revocation of the organization's exempt status.
- (6) ***All licensed charitable organizations that have annual gross receipts of two hundred thousand dollars (\$200,000) or less and do not have a weekly bingo session shall report to the office annually at the time and on a form established in administrative regulations promulgated by the office.***
- (7) ***All other licensed charitable organizations shall submit reports to the office at least quarterly at the time and on a form established in administrative regulations promulgated by the office.***
- (8) 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 KRS 238.560(3). Reports filed by a licensed charitable organization 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;
  - (c)~~{(d)}~~ All expenses paid and the names and addresses of all persons to whom expenses were paid;
  - (d)~~{(e)}~~ All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and
  - (e)~~{(f)}~~ Any other information the office deems appropriate.
- (9)~~{(6)}~~ 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 office may determine by administrative regulation to be legitimate.
- (10)~~{(7)}~~ No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.

Section 2. KRS 238.560 is amended to read as follows:

- (1) The office may investigate allegations of wrongdoing upon complaint or upon its own volition. The office by administrative regulation shall establish procedures for receiving and investigating complaints in an expeditious manner.
- (2) In carrying out its enforcement responsibilities, the office 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) (a) ***As used in this subsection, "willful" means that the conduct constituting the violation was committed with intent, not accidentally or inadvertently.***
  - (b) The office 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 ***subject to the conditions established by this subsection.***
  - (c) The office 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 ***or letter of warning***, and levy a fine. An administrative fine shall not exceed one thousand dollars (\$1,000) for each offense. The office 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 office. The office 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.

- (d) 1. *Notwithstanding any other provisions of this section, the office shall review, within two (2) months of receipt, timely filed organization quarterly reports that include payment of the fee due as reflected on the organization quarterly report. If the office discovers reporting errors that are not willful, the office shall, prior to taking any other administrative action, issue a letter of warning to the licensee and allow the licensee thirty (30) days from the issuance of the letter to correct the identified violation. The purpose of this subparagraph is for the office to identify correctable reporting errors in a timely manner, and to notify the licensee of the errors prior to the due date of the next organization quarterly report so that the errors are corrected and are not repeated in subsequent organization quarterly reports.*
2. *A review conducted under subparagraph 1. of this paragraph shall not be considered an audit or final review and acceptance of an organization quarterly report and payment. The office shall have four (4) years from the date of filing to fully audit and review an organization quarterly report, and may pursue administrative actions against the licensee related to an organization quarterly report or the information reported on an organization quarterly report within the four (4) year period if violations or errors that are not willful are discovered. This subparagraph shall not be construed to require records that are not needed to audit or review an organization quarterly report to be kept longer than is required elsewhere in this chapter or in any related administrative regulations.*
3. *Notwithstanding the provisions of subparagraph 2. of this paragraph, for a violation that is determined to be willful, the office may pursue the administrative actions authorized by this section at any time.*
4. *A letter of warning issued under this section shall:*
- a. *Identify the violation;*
  - b. *Describe the corrective action necessary;*
  - c. *Identify the administrative actions that can be taken if the violation is not addressed; and*
  - d. *Provide that the person shall have thirty (30) days to correct the action leading to the violation.*

- (4) The office 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 office in carrying out its enforcement responsibilities.
- (6) The office 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 3. KRS 238.570 is amended to read as follows:

- (1) A fee is imposed on charitable gaming in the amount of fifty-three hundredths of one percent (0.53%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. ***The amount of the fee shall be adjusted by October 1 of each odd-numbered year in accordance with subsection (3) of this section.*** Each licensed charitable organization shall remit to the office all moneys due ***as set forth in administrative regulations promulgated by the office*** ~~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 KRS 238.560.

- (2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Environmental and Public Protection Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the office shall be deposited in this account. *Fund amounts attributable to the fee levied in subsection (1) of this section that are not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (3) (a) *No later than July 31 of each odd-numbered year, the Environmental and Public Protection Cabinet shall determine:*
1. *The amount of gross receipts during the prior biennium against which the fee collected under subsection (1) of this section was assessed; and*
  2. *The final budgeted amount as determined by the enacted budget for the upcoming biennium for the administration and enforcement of the provisions of this chapter. If a budget is not enacted, the amount shall be the corresponding amount in the last enacted budget.*
- (b) *On October 1 of each odd-numbered year, the fee assessed under subsection (1) of this section shall be proportionally adjusted by the Environmental and Public Protection Cabinet. The new rate shall be calculated by multiplying one hundred ten percent (110%) by the amount determined in paragraph (a)2. of this subsection, and subtracting from that amount one-half (1/2) of any remaining balance in the account. The total shall then be divided by the amount determined in paragraph (a)1. of this subsection. The result shall be expressed as a percentage and shall be rounded to the nearest thousandth of a percent (0.000%)*~~[Moneys in this account shall be expended by the office only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the office 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].~~

SECTION 4. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *If the office has proposed a new or amended administrative regulation that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs, the office shall not promulgate the proposed administrative regulation without first receiving comments from the Charitable Gaming Advisory Commission established in Section 5 of this Act, subject to the restrictions of paragraph (b) of this subsection.*
- (b) 1. *If the proposed administrative regulation qualifies under paragraph (a) of this subsection, the office shall distribute the proposed administrative regulation to the advisory commission.*
2. *The advisory commission shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the advisory commission shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.*
3. *The time limits in this paragraph shall begin from the day the office submits the regulatory change and sets a date for a proposed hearing for the comments of the advisory commission. If the advisory commission is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.*
4. *If an advisory commission is not scheduled to meet, the office shall arrange for the advisory commission to meet at a time that will provide the advisory commission an adequate opportunity to review and comment on the regulation within the time limit. If the advisory commission fails to comment within the time limit, the office may proceed with the administrative changes at its discretion.*
- (c) *To the extent that any other statute relating to the office's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.*
- (d) *If the advisory commission chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A, and may include majority or minority comments or both.*

- (2) *Any power or limitation relating to administrative regulations promulgated by the office that are subject to subsection (1) of this section shall also apply to administrative regulations promulgated by the executive director of the office.*

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 Environmental and Public Protection 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) ***One (1) member***~~Four (4) members~~ selected from the public at large;
  - (g) ***One (1) representative selected from the Joint Executive Council of Veterans Organizations of Kentucky;***
  - (h) ***One (1) representative from Catholic organizations; and***
  - (i) ***One (1) representative from Kentucky's volunteer firefighter organizations.***

The certified public accountant, the ***one (1)***~~four (4)~~ at-large ***member***~~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, ***the one (1) representative from the Joint Executive Council of Veterans Organizations of Kentucky, the one (1) representative from the Catholic organizations, and the one (1) representative from the volunteer firefighter organizations*** 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 office and to the General Assembly but shall not ~~establish policy or~~ become directly involved in the licensing and regulation of charitable gaming by the office.
- (4) The commission shall meet quarterly, ***upon the request of the chair or four (4) of its members*** or as otherwise directed by the office. 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 238.515 is amended to read as follows:

The office shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the office 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 office shall have the authority to issue administrative subpoenas and summonses. The office 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 office; and
- (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter. ***Any administrative regulation proposed by the office that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs shall be subject to the requirements of Section 4 of this Act. In promulgating administrative regulations under this subsection, the office shall submit any proposed regulations to the advisory commission established under Section 5 of this Act, and shall not promulgate the administrative regulations without giving the advisory commission the opportunity to produce written comments in accordance with Section 4 of this Act. If the advisory commission chooses to produce written comments, the comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.***

Section 7. 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 office. 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 thousand dollars (\$25,000) per year;
  - (b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars (\$25,000) 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 thousand dollars (\$25,000) per year.

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

- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the office in writing, on a simple form issued by the office, 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(7)~~+(5)~~, 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 office 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 office. Upon receipt of the yearly financial report, the office shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the office determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the office shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. 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 office; and
  - (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the office shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the office 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 office 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. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:
    1. Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph (c) of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and
    2. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with paragraph (d) of this subsection;
  - (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 office, 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 office 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 Office of Charitable Gaming; 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. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing **or a charity fundraising event, including special limited charity fundraising events**, in a Kentucky county other than that in which the organization's office or place of business is located. **For raffles, the organization shall notify**~~if the organization notifies~~ the Office of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the office, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the office shall be received prior to the conduct of the raffle drawing at the new location. 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 fundraising 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 office; and
  - (l) Any other information the office 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 office 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) The office 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 office in writing that it desires to place its license in escrow; and
  2. The license is in good standing and the office 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 KRS 238.536.
- (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 office.

Section 8. KRS 238.540 is amended to read as follows:

- (1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. ***The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The office shall process this request and issue or deny a license within ten (10) days.*** ~~[A license holder shall notify the office at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the office 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 office, 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 KRS 238.545(1).

Section 9. KRS 238.505 is amended to read as follows:

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

- (1) "Office" means the Office of Charitable Gaming within the Environmental and Public Protection 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 ~~an~~<sup>a</sup> fundraising activity of limited duration at which games of chance approved by the office 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 fairs, festivals, carnivals, *licensed charitable gaming organization conventions*, and bazaars;
- (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 office.

- (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 office;
- (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, excluding 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;
- (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 Environmental and Public Protection Cabinet;
- (23) "Executive director" means the executive director of the Office of Charitable Gaming within the Department of Public Protection;
- (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 KRS 238.535(9)(g);
- (25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), 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.