

1 AN ACT relating to charitable gaming.

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

3 ➔Section 1. KRS 238.505 is amended to read as follows:

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

- 5 (1) "Department" means the Department of Charitable Gaming within the Public
6 Protection Cabinet;
- 7 (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity
8 fundraising events conducted for fundraising purposes by charitable organizations
9 licensed and regulated under the provisions of this chapter. "Charitable gaming" shall
10 not include slot machines, electronic video gaming devices, wagering on live
11 sporting events, or simulcast broadcasts of horse races;
- 12 (3) "Charitable organization" means a nonprofit entity organized for charitable,
13 religious, educational, literary, civic, fraternal, ***recreational***, or patriotic purposes;
- 14 (4) "Bingo" means a specific game of chance in which participants use cards or paper
15 sheets, or card-minding device representations thereof, divided into horizontal and
16 vertical spaces, each of which is designated by a letter and a number, and prizes are
17 awarded on the basis of the letters and numbers on the card conforming to a
18 predetermined and preannounced configuration of letters and numbers selected at
19 random;
- 20 (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket,
21 or a paper card with perforated break-open tabs, or electronic pulltab device
22 representations thereof, the face of which is covered or otherwise hidden from view
23 to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of
24 which have been designated in advance as prize winners and shall include charity
25 game tickets that utilize a seal card. "Charity game ticket" shall include pulltabs,
26 both paper and electronic representations thereof;
- 27 (6) "Seal card" means a board or placard used in conjunction with charity game tickets,

1 that contains a seal or seals which, when removed or opened, reveal predesignated
2 winning numbers, letters, or symbols;

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

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

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

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

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

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

- 1 (a) A resident printer who prints raffle tickets at the request of a licensed
2 charitable organization; and
- 3 (b) A licensed charitable organization that affects a one-time donation of charitable
4 gaming supplies or equipment to another licensed charitable organization if the
5 donation is first approved by the department.
- 6 (11) "Charitable gaming facility" means a person, including a licensed charitable
7 organization, that owns or is a lessee of premises which are leased or otherwise
8 made available to two (2) or more licensed charitable organizations, other than itself,
9 during a one (1) year period for the conduct of charitable gaming;
- 10 (12) "Gross receipts" means all moneys collected or received from the conduct of
11 charitable gaming;
- 12 (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount
13 paid for merchandise prizes purchased;
- 14 (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and
15 deductions authorized under this chapter;
- 16 (15) "Charitable gaming supplies and equipment" means any material, device, apparatus,
17 or paraphernalia customarily used in the conduct of charitable gaming, including
18 bingo cards and paper, charity game tickets, and other apparatus or paraphernalia
19 used in conducting games of chance at charity fundraising events subject to
20 regulation under this chapter. The term shall not include any material, device,
21 apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing
22 cards, or other supplies that may be purchased from normal sources of supply;
- 23 (16) "Door prize" means a prize awarded to a person based solely upon the person's
24 attendance at an event or the purchase of a ticket to attend an event;
- 25 (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money
26 wheel; baccarat; pusher-type games; any dice game where the player competes
27 against the house; and any other game of chance as identified, defined, and approved

- 1 by administrative regulation of the department;
- 2 (18) "Special limited charity fundraising event" means any type of charity fundraising
3 event, commonly known as and operated as a "casino night," "Las Vegas night," or
4 "Monte Carlo night," at which the predominant number or types of games offered
5 for play are special limited charitable games;
- 6 (19) "Session" or "bingo session" means a single gathering at which a bingo game or
7 series of successive bingo games are played, excluding bingo played at a charity
8 fundraising event;
- 9 (20) "Immediate family" means:
- 10 (a) Spouse and parents-in-law;
- 11 (b) Parents and grandparents;
- 12 (c) Children and their spouses; and
- 13 (d) Siblings and their spouses;
- 14 (21) "Affiliate" means any corporation, partnership, association, or other business or
15 professional entity or any natural person that directly or indirectly, through one or
16 more intermediaries, controls, or is controlled by, or is under common control with a
17 licensed manufacturer, distributor, or charitable gaming facility;
- 18 (22) "Secretary" means the secretary of the Public Protection Cabinet;
- 19 (23) "Commissioner" means the commissioner of the Department of Charitable Gaming
20 within the Public Protection Cabinet;
- 21 (24) "Chairperson" means the chief executive officer and any officer, member, or
22 employee of a licensed charitable organization who will be involved in the
23 management and supervision of charitable gaming as designated in the organization's
24 charitable gaming license application under KRS 238.535(13)(g);
- 25 (25) "Year" means calendar year except as used in subsection (11) of this section and
26 KRS 238.535(11), 238.545(4), 238.547(1), and 238.555(7), when "year" means the
27 licensee's license year; and

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

8 (27) "Electronic pulltab device" means an electronic device used only for charitable
9 gaming to facilitate the play of an electronic pulltab. An electronic pulltab device
10 shall be a tablet or other personal computing device, other than a mobile phone or
11 similar handheld device, as approved by the department. An electronic pulltab device
12 may only operate on a closed network or intranet that is confined to the licensee's
13 premises, and shall not be Internet accessible by patrons, but shall be connected to a
14 central server system solely for the purposes of monitoring, reporting, accounting,
15 and software maintenance. An electronic pulltab device shall not be designed and
16 manufactured to resemble any electronic gaming device that utilizes a video display
17 monitor, such as a video lottery terminal, video slot machine, video poker machine,
18 or any similar video gaming device; and

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

24 ➔Section 2. KRS 238.535 is amended to read as follows:

25 (1) Any charitable organization conducting charitable gaming in the Commonwealth of
26 Kentucky shall be licensed by the department. A charitable organization qualifying
27 under subsection (12) of this section but not exceeding the limitations provided in

1 this subsection shall be exempt from the licensure requirements when conducting the
2 following charitable gaming activities:

- 3 (a) Bingo in which the gross receipts do not exceed a total of twenty-five
4 thousand dollars (\$25,000) per year;
- 5 (b) A raffle or raffles for which the gross receipts do not exceed twenty-five
6 thousand dollars (\$25,000) per year; and
- 7 (c) A charity fundraising event or events that do not involve special limited
8 charitable games and the gross gaming receipts for which do not exceed
9 twenty-five thousand dollars (\$25,000) per year.

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

12 (2) (a) Any charitable organization exempt from the process of applying for a license
13 under subsection (1) of this section, shall notify the department in writing, on a
14 simple form issued by the department, of its intent to engage in exempt
15 charitable gaming and the address at which the gaming is to occur. Any
16 charitable organization exempt from the process of applying for a license under
17 subsection (1) of this section, shall comply with all other provisions of this
18 chapter relating to the conduct of charitable gaming, except:

- 19 1. Payment of the fee imposed under the provisions of KRS 238.570; and
20 2. The quarterly reporting requirements imposed under the provisions of
21 KRS 238.550(7), unless the exempt charitable organization obtains a
22 retroactive license pursuant to subsection (9) of this section.

23 (b) Before January 31 of the year immediately following the year of exemption, a
24 charitable organization exempt from licensure under the provisions of
25 subsection (1) of this section shall file a financial report with the department,
26 on a form issued by the department, that contains the following information:

- 27 1. The type of gaming activity in which it engaged during that year;

- 1 2. The total gross receipts derived from gaming;
 - 2 3. The amount of charitable gaming expenses paid;
 - 3 4. The amount of net receipts derived; and
 - 4 5. The disposition of those net receipts.
- 5 (3) An exemption that has been granted to a charitable organization for the preceding
6 calendar year shall be automatically renewed on January 1 of the following year.
- 7 (4) If upon receipt of the financial report the department determines that the information
8 appearing on the financial report renders the charitable organization ineligible to
9 possess an exemption, the department shall notify the charitable organization that its
10 exemption is rescinded. The organization may request an appeal of this rescission
11 pursuant to KRS 238.565.
- 12 (5) If the annual financial report is not received by January 31, the exemption is
13 automatically rescinded unless an extension of no more than thirty (30) days is
14 granted by the department. The organization may request an appeal of this rescission
15 pursuant to KRS 238.565.
- 16 (6) If an exemption is revoked because an organization has exceeded the limit imposed
17 in subsection (1) of this section, the organization shall apply for a retroactive license
18 in accordance with subsection (7) of this section.
- 19 (7) If an organization exceeds the limit imposed by any subsection of this section it shall:
20 (a) Report the amount to the department; and
21 (b) Apply for a retroactive charitable gaming license.
- 22 (8) Upon receipt of a report and application for a retroactive charitable gaming license,
23 the department shall investigate to determine if the organization is otherwise
24 qualified to hold the license.
- 25 (9) If the department determines that the applicant is qualified, it shall issue a charitable
26 gaming license retroactive to the date on which the exemption limit was exceeded.
27 The retroactive charitable gaming license shall be issued in the same manner as

1 regular charitable gaming licenses.

2 (10) If the department determines that the applicant is not qualified it shall deny the
3 license and take enforcement action, if appropriate.

4 (11) Once a retroactive or regular gaming license is issued to an organization, that
5 organization shall not be eligible for exempt status in the future and shall maintain a
6 charitable gaming license if it intends to continue charitable gaming activities, unless
7 the charitable organization has not exceeded the exemption limitations of subsection
8 (1) of this section for a period of two (2) years prior to its exemption request.

9 (12) (a) In order to qualify for licensure, a charitable organization shall:

10 1. a. Possess a tax exempt status under 26 U.S.C. ~~sec.~~ 501(c)(3),
11 ~~{501(e)}(4)~~, (7), ~~{501(e)}(8)~~, ~~{501(e)}(10)~~, or ~~{501(e)}(19)~~, or be
12 covered under a group ruling issued by the Internal Revenue
13 Service under authority of those sections. *A 26 U.S.C. sec.*
14 *501(c)(7) organization qualifying under this subdivision shall*
15 *also be required to donate at least seventy-five percent (75%) of*
16 *its net receipts to a 26 U.S.C. sec. 501(c)(3) organization in order*
17 *to remain eligible for licensure under this chapter and shall be*
18 *exempt from any requirements regarding length of time in*
19 *operation imposed by this subsection*; or

20 b. Be organized within the Commonwealth of Kentucky as a common
21 school as defined in KRS 158.030, as an institution of higher
22 education as defined in KRS 164A.305, or as a state college or
23 university as provided for in KRS 164.290; *or*

24 2. Have been established and continuously operating within the
25 Commonwealth of Kentucky for charitable purposes, other than the
26 conduct of charitable gaming, for a period of three (3) years prior to
27 application for licensure. For purposes of this paragraph, an applicant

1 shall demonstrate establishment and continuous operation in Kentucky by
2 its conduct of charitable activities from an office physically located within
3 Kentucky both during the three (3) years immediately preceding its
4 application for licensure and at all times during which it possesses a
5 charitable gaming license. However, a charitable organization that
6 operates for charitable purposes in more than ten (10) states and whose
7 principal place of business is physically located in a state other than
8 Kentucky may satisfy the requirements of this paragraph if it can
9 document that it has:

10 a. Been actively engaged in charitable activities and has made
11 reasonable progress, as defined in subparagraph 3. of this
12 paragraph, in the conduct of charitable activities or the expenditure
13 of funds within Kentucky for a period of three (3) years prior to
14 application for licensure; and

15 b. Operated for charitable purposes from an office or place of
16 business in the Kentucky county where it proposes to conduct
17 charitable gaming for at least one (1) year prior to application for
18 licensure, in accordance with subparagraph 4. of this paragraph and
19 paragraph (c) of this subsection;

20 3. Have been actively engaged in charitable activities during the three (3)
21 years immediately prior to application for licensure and be able to
22 demonstrate, to the satisfaction of the department, reasonable progress in
23 accomplishing its charitable purposes during this period. As used in this
24 paragraph, "reasonable progress in accomplishing its charitable purposes"
25 means the regular and uninterrupted conduct of activities within the
26 Commonwealth or the expenditure of funds within the Commonwealth to
27 accomplish relief of poverty, advancement of education, protection of

1 health, relief from disease, relief from suffering or distress, protection of
2 the environment, conservation of wildlife, advancement of civic,
3 governmental, or municipal purposes, or advancement of those purposes
4 delineated in KRS 238.505(3). In order to demonstrate reasonable
5 progress in accomplishing its charitable purposes when applying to renew
6 an existing license, a licensed charitable organization shall additionally
7 provide to the department a detailed accounting regarding its expenditure
8 of charitable gaming net receipts for the purposes described in this
9 paragraph; and

- 10 4. Have maintained an office or place of business, other than for the
11 conduct of charitable gaming, for at least one (1) year in the county in
12 which charitable gaming is to be conducted. The office or place of
13 business shall be a separate and distinct address and location from that of
14 any other licensee of the Department of Charitable Gaming; except that
15 up to three (3) licensed charitable organizations may have the same
16 address if they legitimately share office space.

- 17 (b) 1. A charitable organization that has established and maintained an office or
18 place of business in the county for a period of at least one (1) year may
19 hold a raffle drawing or a charity fundraising event, including special
20 limited charity fundraising events, in a Kentucky county other than that in
21 which the organization's office or place of business is located.

- 22 2. For raffles, the organization shall notify the Department of Charitable
23 Gaming in writing of the organization's intent to change the drawing's
24 location at least thirty (30) days before the drawing takes place. This
25 written notification:

- 26 a. May be transmitted in any commercially reasonable means,
27 authorized by the department, including facsimile and electronic

1 mail; and

2 b. Shall set out the place and the county in which the drawing will
3 take place.

4 Approval by the department shall be received prior to the conduct of the
5 raffle drawing at the new location.

6 (c) Any charitable organization that was registered with the county clerk to
7 conduct charitable gaming in a county on or before March 31, 1992, shall
8 satisfy the requirement contained in paragraph (a)4. of this subsection if it
9 maintained a place of business or operation, other than for the conduct of
10 charitable gaming, for one (1) year prior to application in a Kentucky county
11 adjoining the county in which they were registered.

12 (13) In applying for a license, the information to be submitted shall include but not be
13 limited to the following:

14 (a) The name and address of the charitable organization;

15 (b) The date of the charitable organization's establishment in the Commonwealth
16 of Kentucky and the date of establishment in the county or counties in which
17 charitable gaming is to be conducted;

18 (c) A statement of the charitable purpose or purposes for which the organization
19 was organized. If the charitable organization is incorporated, a copy of the
20 articles of incorporation shall satisfy this requirement;

21 (d) A statement explaining the organizational structure and management of the
22 organization. For incorporated entities, a copy of the organizations' bylaws
23 shall satisfy this requirement;

24 (e) A detailed accounting of the charitable activities in which the charitable
25 organization has been engaged for the three (3) years preceding application for
26 licensure;

27 (f) The names, addresses, dates of birth, and Social Security numbers of all

- 1 officers of the organization;
- 2 (g) The names, addresses, dates of birth, and Social Security numbers of all
3 employees and members of the charitable organization who will be involved in
4 the management and supervision of charitable gaming. No fewer than two (2)
5 employees or members of the charitable organization who are involved in the
6 management and supervision of charitable gaming, along with the chief
7 executive officer or the director of the applicant organization, shall be
8 designated as chairpersons;
- 9 (h) The address of the location at which charitable gaming will be conducted and
10 the name and address of the owner of the property, if it is owned by a person
11 other than the charitable organization;
- 12 (i) A copy of the letter or other legal document issued by the Internal Revenue
13 Service to grant tax-exempt status;
- 14 (j) A statement signed by the presiding or other responsible officer of the
15 charitable organization attesting that the information submitted in the
16 application is true and correct and that the organization agrees to comply with
17 all applicable laws and administrative regulations regarding charitable gaming;
- 18 (k) An agreement that the charitable organization's records may be released by the
19 Federal Internal Revenue Service to the department; and
- 20 (l) Any other information the department deems appropriate.
- 21 (14) An organization or a group of individuals that does not meet the licensing
22 requirements of subsection (12) of this section may hold a raffle if the gross receipts
23 do not exceed one hundred fifty dollars (\$150) and all proceeds from the raffle are
24 distributed to a charitable organization. The organization or group of individuals
25 may hold up to three (3) raffles each year, and shall be exempt from complying with
26 the notification, application, and reporting requirements of subsections (2) and (13)
27 of this section.

- 1 (15) The department may issue a license for a specified period of time, based on the type
2 of charitable gaming involved and the desired duration of the activity.
- 3 (16) The department shall charge a fee for each license issued and renewed, not to exceed
4 three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a
5 graduated scale promulgated by administrative regulations and based on type of
6 license, type of charitable gaming, actual or projected gross receipts, or other
7 applicable factors, or combination of factors.
- 8 (17) (a) A licensed charitable organization may place its charitable gaming license in
9 escrow if:
- 10 1. The licensee notifies the department in writing that it desires to place its
11 license in escrow; and
 - 12 2. The license is in good standing and the department has not initiated
13 disciplinary action against the licensee.
- 14 (b) During the escrow period, the licensee shall not engage in charitable gaming,
15 and the escrow period shall not be included in calculating the licensee's
16 retention rate under KRS 238.536.
- 17 (c) A charitable organization may apply for reinstatement of its active license and
18 the license shall be reinstated provided:
- 19 1. The charitable organization continues to qualify for licensure;
 - 20 2. The charitable organization has not engaged in charitable gaming during
21 the escrow period; and
 - 22 3. The charitable organization pays a reinstatement fee established by the
23 department.