**South Carolina General Assembly**

118th Session, 2009-2010

**H. 4267**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Merrill, Daning, Long, Wylie, Kirsh and Hutto

Document Path: l:\council\bills\nbd\20778sd10.docx

Introduced in the House on January 12, 2010

Currently residing in the House Committee on **Ways and Means**

Summary: Charitable organizations

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2009 House Prefiled

12/15/2009 House Referred to Committee on **Ways and Means**

1/12/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑51

1/12/2010 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2010\01-12-10.docx)‑51

**VERSIONS OF THIS BILL**

[12/15/2009](file:///p:\pprever\2009-10\4267_20091215.docx)

**A** **BILL**

TO AMEND CHAPTER 19, TITLE 16, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GAMBLING AND LOTTERIES, SO AS TO AMEND EXISTING LAWS ON UNLAWFUL LOTTERIES AND GAMBLING BY ORGANIZING EXISTING LAWS INTO ARTICLE 1, AND TO ADD DEFINITIONS; TO INCREASE AND MAKE UNIFORM PENALTIES FOR UNLAWFUL LOTTERIES AND GAMBLING; TO PROVIDE THAT SOCIAL GAMBLING IS NOT UNLAWFUL, AND TO CLARIFY THAT GAMES OF SKILL OR CHANCE IN WHICH NO BETTING OCCURS ARE NOT UNLAWFUL; BY ADDING ARTICLE 3, SO AS TO ALLOW CHARITABLE ORGANIZATIONS TO CONDUCT RAFFLES AND SPECIAL LIMITED CHARITY FUNDRAISING EVENTS; TO DEFINE THESE EVENTS; TO DEFINE THE TYPE OF ORGANIZATION ALLOWED TO CONDUCT THESE EVENTS; TO PROVIDE STANDARDS FOR THE MANAGEMENT AND CONDUCT OF THESE EVENTS; TO PROVIDE PENALTIES FOR VIOLATIONS; AND TO PROVIDE FOR THE MANNER IN WHICH THESE PROVISIONS SHALL TAKE EFFECT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 19, Title 16 of the 1976 Code is amended to read:

“~~Section 16‑19‑10. Whoever shall publicly or privately erect, set up, or expose to be played or drawn at or shall cause or procure to be erected, set up, or exposed to be played, drawn, or thrown at any lottery under the denomination of sales of houses, lands, plate, jewels, goods, wares, merchandise, or other things whatsoever or for money or by any undertaking whatsoever, in the nature of a lottery, by way of chances, either by dice, lots, cards, balls, numbers, figures, or tickets or who shall make, write, print or publish, or cause to be made, written, or published any scheme or proposal for any of the purposes aforesaid is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars and imprisoned for one year. One third of the fine imposed shall be paid to the person, if any, who informed law enforcement officials or other appropriate authorities about the violation which led to the conviction. Each violation constitutes a separate offense.~~

~~Section 16‑19‑20.~~ ~~Whoever shall be adventurer in or shall pay any moneys or other consideration or shall in any way contribute unto or upon account of any sales or lotteries shall forfeit for every such offense the sum of one hundred dollars to be recovered with costs of suit, by action or indictment in any court of competent jurisdiction in this State, one moiety thereof to and for the use of the State and the other moiety thereof to the person who shall inform and sue for the same.~~

~~Section 16‑19‑30.~~ ~~It shall be unlawful to offer for sale any lottery tickets or to open or keep any office for the sale of lottery tickets, and if any person shall offend against any of the provisions of this section he shall, on conviction thereof, forfeit and pay to the State a sum not exceeding ten thousand dollars. The county treasurer of the county in which such offense occurs shall prosecute the offender.~~

~~Section 16‑19‑40.~~ ~~If any person shall play at any tavern, inn, store for the retailing of spirituous liquors or in any house used as a place of gaming, barn, kitchen, stable or other outhouse, street, highway, open wood, race field or open place at (a) any game with cards or dice, (b) any gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (c) any roley poley table, (d) rouge et noir, (e) any faro bank (f) any other table or bank of the same or the like kind under any denomination whatsoever or (g) any machine or device licensed pursuant to Section 12 21 2720 and used for gambling purposes, except the games of billiards, bowls, backgammon, chess, draughts, or whist when there is no betting on any such game of billiards, bowls, backgammon, chess, draughts, or whist or shall bet on the sides or hands of such as do game, upon being convicted thereof, before any magistrate, shall be imprisoned for a period of not over thirty days or fined not over one hundred dollars, and every person so keeping such tavern, inn, retail store, public place, or house used as a place for gaming or such other house shall, upon being convicted thereof, upon indictment, be imprisoned for a period not exceeding twelve months and forfeit a sum not exceeding two thousand dollars, for each and every offense.~~

~~Section 16‑19‑50.~~ ~~Any person who shall set up, keep, or use any (a) gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (b) roley poley table, (c) table to play at rouge et noir, (d) faro bank (e) any other gaming table or bank of the like kind or of any other kind for the purpose of gaming, or (f) any machine or device licensed pursuant to Section 12 21 2720 and used for gambling purposes except the games of billiards, bowls, chess, draughts, and backgammon, upon being convicted thereof, upon indictment, shall forfeit a sum not exceeding five hundred dollars and not less than two hundred dollars.~~

~~Section 16‑19‑70.~~ ~~Whoever shall keep or suffer to be kept any gaming table or permit any game or games to be played in his house on the Sabbath day, on conviction thereof before any court having jurisdiction, shall be fined in the sum of fifty dollars, to be sued for on behalf of, and to be recovered for the use of, the State~~.

~~Section 16‑19‑80.~~ ~~All and every sum or sums of money staked, betted or pending on the event of any such game or games as aforesaid are hereby declared to be forfeited.~~

~~Section 16‑19‑90.~~ ~~Any person who shall make any bet or wager of money or wager of any other thing of value or shall have any share or part in any bet or wager of money or wager of any other thing of value upon any election in this State shall be guilty of a misdemeanor and, upon conviction, shall be fined in a sum not exceeding five hundred dollars and be imprisoned not exceeding one month.~~

~~Section 16‑19‑100.~~ ~~Upon conviction of any person under any of the provisions of Sections 16 19 40, 16 19 50 or 16 19 90, the court before whom such conviction shall take place shall commit such offender to the common jail of the county in which such conviction shall happen for a period not exceeding the time for which such offender has been sentenced, unless such offender shall sooner pay the fine or fines herein imposed, together with the cost of prosecution.~~

~~Section 16‑19‑110.~~ ~~Any person who might be subject or liable to the fines and penalties imposed herein, either for gaming at or keeping a gaming table or tables, shall, upon being permitted by the circuit solicitor to become evidence in behalf of the State, be freed and exonerated from the same~~.

~~Section 16‑19‑120.~~ ~~All officers of the law in whose care, possession or keeping may be placed any gambling or gaming machine or device of any kind whatsoever or any gambling or gaming punchboard of any kind or description whatsoever which has been confiscated for violation of any criminal law or laws of this State shall immediately~~ ~~after conviction of the violator of the law destroy the same.~~

~~Section 16‑19‑130.~~ ~~Any person within this State who:~~

~~(1)~~ ~~Engages in betting at any race track, pool selling or bookmaking, with or without writing, at any time or place;~~

~~(2)~~ ~~Keeps or occupies any room, shed, tenement, booth, building, float or vessel, or any part thereof, or occupies any place or stand of any kind upon any public or private grounds within this State with books, papers, apparatus or paraphernalia for the purpose of recording or registering bets or wagers or of selling pools;~~

~~(3)~~ ~~Records or registers bets or wagers or sells pools or makes books, with or without writing, upon the result of any (a) trial or contest of skill, speed or power of endurance of man or beast, (b) political nomination, appointment or election or (c) lot, chance, casualty, unknown or contingent event whatsoever;~~

~~(4)~~ ~~Receives, registers, records or forwards or purports or pretends to receive, register, record or forward, in any manner whatsoever, any money, thing or consideration of value bet or wagered or offered for the purpose of being bet or wagered by or for any other person or sells pools upon any such result;~~

~~(5)~~ ~~Being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float or vessel, or part thereof, or of any grounds within this State knowingly permits the same to be used or occupied for any of these purposes or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers or the selling of such pools or becomes the custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged or to be wagered or pledged upon any such result; or~~

~~(6)~~ ~~Aids, assists or abets in any manner in any of the aforesaid acts, which are hereby forbidden;~~

~~Shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or both fine and imprisonment, in the discretion of the court.~~

~~Section 16‑19‑140.~~ ~~The violation of any of the provisions of Section 16 19 130 shall be deemed a common nuisance.~~

~~Section 16‑19‑150.~~ ~~Notwithstanding the provisions of Sections 16 19 130 and 16 19 140, wherever the offense is covered by Section 16 19 40, the punishment there provided shall be imposed, it being the intention to leave the jurisdiction of such gambling as is there specifically prohibited in the courts now having jurisdiction of the same.~~

~~Section 16‑19‑160.~~ ~~It shall be unlawful for any person to use or offer for use any punchboards or other kinds of boards with numbers concealed thereon for the purpose of gaming or chance in this State. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than twenty five dollars or imprisoned not less than five days nor more than thirty days, or both, at the discretion of the court; provided, that for the second or third offense hereunder the fine shall not be less than twenty five dollars nor more than one hundred dollars or imprisonment on the public works of the county for a period not exceeding three months.~~

Article 1

Prohibition of Lotteries and Other Gambling

Section 16‑19‑100. For purposes of this chapter:

(1) ‘Contest of chance’ means a contest, game, gaming scheme, or gaming device in which the outcome, though skill may be a factor, is predominantly determined by chance.

(2) ‘Gamble’, ‘gambling activity’, or ‘gambling purpose’ means a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person’s control or influence, based upon an agreement or understanding that the player will receive something of value in the event of a certain outcome. Gambling, gambling activity, or gambling purpose does not include:

(a) bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries;

(b) bona fide business transactions that are valid under the law of contracts;

(c) games of skill or chance, played between live individuals, where machine or devices are not used or operated, there is no betting of something of value, and there are no awards for cash, prizes, or additional play; or

(d) other acts now or hereafter expressly authorized by law.

(3) ‘Gambling tables’ means a gaming table that is used or usable in the playing phases of any gambling activity and includes, but is not limited to, ones commonly called a roulette table, a roley poley table, a rouge et noir table, a faro bank, or other table or bank of the same or similar kind labeled under any denomination.

(4) ‘Gambling device’ or ‘gambling machine’ means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether such activity consists of gambling between persons or gambling by a person involving the playing of a machine. Notwithstanding the foregoing, lottery tickets authorized pursuant to the Education Lottery Act are not gambling devices.

(5) ‘Gambling place’ means a public or private place, building, establishment, boat, or location, in or on a street, highway, open wood, race field, open place, or water within the jurisdiction of the state, which is used for gambling activities or gambling purposes. This does not apply to gambling vessels authorized pursuant to Chapter 11, Title 3.

(6) ‘Lottery’ means an unlawful gambling scheme in which there exists: (1) the giving of a prize or something of value, (2) by a method of chance, (3) for a consideration paid by the player, contestant, or participant.

(7) ‘Operate,’ ‘operated,’ or ‘operating’ means the direction, supervision, management, operation, control, conducting, or guidance of an activity.

(8) ‘Person’ means a natural person, partnership, association, company, corporation, or organization or a manager, agent, servant, officer, or employee thereof.

(9) ‘Social game’ or ‘social gambling’ means gambling by live persons in a private place, used primarily as a residence, where no house player, house bank, or house odds exist and where there is no house income from the operation of the game.

(10) ‘Something of value’ means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

Section 16‑19‑110. (A) A lottery or raffle of any type whatsoever is unlawful unless it is authorized by the following:

(1) Chapter 150, Title 59 of the Code Laws of South Carolina ;

(2) Article 3, Chapter 19, Title 16 of the Code of Laws of South Carolina.

(B) The penalties for operating an unlawful lottery or raffle are provided pursuant to this chapter. Each violation is a separate offense.

Section 16‑19‑120. A person who sets up, operates, or promotes an unlawful lottery, electronically or otherwise, is guilty of:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both; and

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑130. A person who prints, writes, advertises, issues, or delivers a ticket, paper, document, or other article or material that represents or appears to represent the existence or a chance or interest in scheme or proposal that is an unlawful lottery is guilty of:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both; or

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑140. A person who knowingly participates in, pays something of value or other consideration, or contributes in any way to an unlawful lottery is guilty of:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both; or

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑150. (A) A person who sells, offers to sell, opens, or keeps an office for the sale of tickets to an unlawful lottery is guilty of:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both; or

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

(B) Ownership or possession in this state of a lottery ticket originating from another state in which a lottery is lawful, if the ticket is not owned or possessed for the purpose of resale, is not a violation of this chapter.

(C) Nothing in this section shall be construed as preventing the sale of lottery tickets or shares under the authority of the South Carolina Education Lottery Corporation, or the sale of tickets, shares, chances, or similar records for a charitable event pursuant to the provisions of Article 3, Chapter 19, Title 16.

Section 16‑19‑160. (A) It is unlawful for a person to gamble at a gambling place with any of the following:

(1) a game with cards or dice;

(2) a gaming table;

(3) a gambling machine or device licensed pursuant to Section 12‑21‑2720 and used for gambling purposes.

(B) A person who is guilty of a violation of this section shall:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than three years, or both.

(C) Social gambling is not unlawful under this chapter.

Section 16‑19‑170. It is unlawful for a person to place bets, or to bet on the side or on the play of anyone who plays for gambling purposes pursuant to the provisions of this section. A person guilty of violating this subsection shall, upon conviction:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both;

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑180. It is unlawful for a person to own, operate, or use a gambling place. A person guilty of violating this subsection shall, upon conviction:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both;

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑190. It is unlawful for a person to set up, promote, operate, or use a gaming table or a gambling device for gambling purposes, and shall, upon conviction, be guilty of:

(1) for a first offense; a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense; a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both;

(3) for a third or subsequent offense; a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑200. (A) It is unlawful for a person to, electronically or in person, do any of the following:

(1) engage in betting at a race track, pool selling, or bookmaking, with or without writing, at any time or place;

(2) keep or occupy in a public or private place, room, shed, tenement, booth, building, float, boat, or vessel, or any part thereof, or occupies a place or stand of any kind upon any public or private grounds within this state with books, papers, apparatus or paraphernalia for the purpose of recording or registering bets or wagers or of selling pools;

(3) record or register bets or wagers, or sell pools, or make books, with or without writing, upon the result of a:

(a) trial or contest of skill, speed or power of endurance of man or animal;

(b) political nomination, appointment, or election; or

(c) lot, chance, casualty, unknown or contingent event whatsoever;

(4) receive, register, record, forward, or appear or pretend to receive, register, record, or forward, in any manner whatsoever, any money, thing or something of value bet or wagered or offered for the purpose of being bet or wagered by or for any other person, or sell pools upon any such result;

(5) be the owner, lessee or occupant of a room, shed, tenement, tent, booth, building, float, boat, or vessel, or part thereof, or of any grounds within this state who knowingly permits the same to be used or occupied for any of these purposes in this section or who keeps, exhibits, or employs any device or apparatus for the purpose of recording or registering these bets or wagers or the selling of these pools, or becomes the custodian or depository for gain, hire, or reward of any money, property or something of value staked, wagered or pledged or to be wagered or pledged upon any such result; or

(6) aid, assist, or abet in any manner in any of the aforesaid acts.

(B) A person who is guilty of a violation of this section shall, upon conviction, be found guilty of:

(1) for a first offense, a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense, a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both;

(3) for a third or subsequent offense, a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑210. (A) It is unlawful, electronically or in person, for a person knowingly to bet or wager something of value or knowingly to share, promise or be promised to share, in a bet or wager upon an election in this state.

(B) A person who is guilty of a violation of this section shall, upon conviction, be found guilty of:

(1) for a first offense, a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars or imprisoned for not more than thirty days, or both;

(2) for a second offense, a misdemeanor, and upon conviction, shall be fined not more than three thousand dollars or imprisoned for not more than one year, or both;

(3) for a third or subsequent offense, a felony, and upon conviction, shall be fined not more than ten thousand dollars or imprisoned for not more than five years, or both.

Section 16‑19‑220. (A) It is unlawful for a person to use or offer for use any punchboards or other kinds of boards with numbers concealed thereon for the purpose of gaming or chance in this State.

(B) A person who violates this section shall, upon conviction:

(1) for a first offense, be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned not less than five days nor more than thirty days, or both;

(2) for a second or subsequent offense, be fined not be less than five hundred nor more than one thousand dollars or imprisoned for not less than three months nor more than one year, or both.

Section 16‑19‑230. Each and every sum or sums of money or something of value staked, betted, or pending on the event of any action or activity described as unlawful in this chapter are forfeited.

Section 16‑19‑240. A law enforcement agency or officer of the law enforcement agency in whose care, possession, or keeping is placed any gambling table, gambling machine, or gambling device of any kind whatsoever, or any gambling or gaming punchboard of any kind or description whatsoever that has been confiscated for violation of any criminal law or laws of this state shall immediately, upon conviction of the violator of the law, destroy the same.

Section 16‑19‑250. Any premises where violations pursuant to the provisions of this chapter have occurred are considered common public nuisances and may be proceeded against as such. Any premises finally adjudged a common public nuisance shall have all licenses, permits, or certificates issued by an agency of the state or any subdivision that authorizes the service of food, beer, wine, or alcoholic liquor declared as void upon judgment and shall be canceled immediately by the agency of the state or subdivision, and shall not be reissued for a period of one year after the final judgment of common public nuisance.

Article 3

Charitable raffles and gaming

Section 16‑19‑300. (A) It is the intention of the General Assembly that only tax‑exempt religious, fraternal, and civic organizations, schools, or other charitable groups shall be allowed to operate raffles or special limited charity fundraising events.

(B) For purposes of this article:

(1) ‘Adjusted gross receipts’ mean gross receipts less all cash prizes and the amount paid for merchandise prizes purchased.

(2) ‘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 article. 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.

(3) ‘Charitable organization’ means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes.

(4) ‘Gross receipts’ mean all monies collected or received from the conduct of charitable gaming.

(5) ‘Net receipts’ mean adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter.

(6) ‘Operate’, ‘operated’, or ‘operating’ means the conduct, direction, supervision, management, operation, control, or guidance or activity.

(7) ‘Person’ means a natural person, partnership, association, company, corporation, or organization, or a manager, agent, servant, officer, or employee thereof.

(8) ‘Raffle’ means a game of chance in which a participant is required to pay something of value for a ticket for a chance to win a prize, with the winner to be determined by a random drawing or similar process whereby all entries have an equal chance of winning.

(9) ‘Special limited charity game’ means games involving live individuals playing roulette, blackjack, poker, baccarat, or other card games, dice games and must not include events with any electronic device or machine, slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races.

(10) ‘Special limited charity fundraising event’ means any type of charity fundraising event, such as rubber duck races, hole‑in‑one golf or basketball shooting, and a ‘casino night’, ‘Las Vegas night’, or ‘Monte Carlo night’, at which the predominate number or types of games offered for play are special limited charity games.

(11) ‘Year’ means calendar year.

Section 16‑19‑310. (A) A charitable organization is allowed to conduct raffles or special limited charity fundraising events in accordance with the provisions of this article if the charitable organization:

(1) is recognized by the South Carolina Department of Revenue and the United States Internal Revenue Service as exempt from federal and state income taxation;

(2) has been in continuous existence and operation in the state for a period of not less than one year from the date of the first raffle or special limited charity fundraising event; and

(3) is registered with the Secretary of State pursuant to the requirements of Chapter 56, Title 33. In the event that the charitable organization is unable to provide the Secretary of State with documents that are required by such chapter, the charitable organization must provide sufficient evidence concerning the structure and operation of the organization to enable the agency to determine whether the applicant meets the charitable, religious, or fraternal criteria. Sufficient evidence includes submission of a document attesting to the stated purpose of the organization, names of board members or organizers of the organization, and the formation date of the organization.

(B) The requirement to register for the purpose of conducting raffles and special limited charity fundraising events with the Secretary of State shall apply to any and all charitable organizations that intend to conduct a raffle or special limited charity fundraising event in this State, including those organizations that are exempt or not required to follow the registration requirements of Chapter 56, Title 33, unless the raffle is held by a charitable organization where a prize is donated by a member of the charitable organization, the total value of the prize is less than five hundred dollars, and each raffle ticket is sold for not more than five dollars.

(C) Registrations for raffles and special limited charity fundraising events shall expire twelve months from the date of issuance. Organizations that meet the requirements of Section 16‑19‑300(3) shall submit an annual raffle and special limited charity fundraising event form along with a fee of fifty dollars to the Office of the Secretary of State. This registration form and fee shall cover all allowable raffles and special limited charity fundraising events for the year. Proceeds from the fees shall be retained by the Secretary of State for enforcement of these provisions.

(D) Charitable organizations registering with the Secretary of State shall be subject to investigation and other actions by the Secretary of State, and subject to all penalties contained in Chapter 56, Title 33. The Office of the Secretary of State shall refer violations to law enforcement for criminal prosecution pursuant to the provisions of this article.

(E) Charitable organizations may advertise raffles or special limited charity fundraising events.

(F) Charitable organizations are limited to four raffles per year, and two special limited charity fundraising events per year. Each affiliate or subsidiary of a charitable organization that otherwise qualifies pursuant to the requirements of this article and shares a Federal Employer’s identification Number (EIN) with the parent charitable organization shall be entitled to hold four raffles per year and two special limited charity fundraising events per year. This restriction does not apply to raffles held by charitable organizations where a prize is donated by a member of the charitable organization, and the total value of the prize is less than five hundred dollars, and each raffle ticket is sold for not more than five dollars.

Section 16‑19‑320. (A) No less than ninety percent of the net receipts of a raffle or special limited charity fundraising event authorized pursuant to this article must be used for the charitable, religious, or philanthropic purposes of the charitable organization. No gross receipts, expenses, or net receipts of a raffle or special limited charity fundraising event shall be used to influence the outcome of a political office or to influence the outcome of an issue pending before a political body.

(B) No charitable organization shall enter into a contract with any person to have that person operate raffles or special limited charity fundraising events on behalf of the charitable organization.

(C) A charitable organization shall not lend its name nor allow its identity to be used by any person in the operating or advertising of a raffle or special limited charity fundraising event in which the charitable organization is not directly and solely operating the raffle or special limited charity fundraising event. Nothing in this section, however, shall prohibit two or more charitable organizations from participating together to run a raffle or special limited charity fundraising event.

(D) A raffle or special limited charity fundraising event shall be conducted only by an authorized charitable organization through its bona fide officers and members who volunteer their time and receive no compensation for their services. Food and beverages served to and consumed by volunteers during a raffle or special limited charity fundraising event is not compensation.

(E) A charitable organization shall not conduct raffles or special limited charity fundraising events through any agent or third party, and shall not pay consulting fees or something of value to any person for any services performed in relation to the operation or conduct of a raffle or special limited charity fundraising event. Rental of raffle or special limited charity game equipment is not considered conducting a raffle or special limited charity fundraising event.

(F) The provisions of this article are not intended and shall not be construed to allow the play of raffles or special limited charity games through any electronic device or machine.

Section 16‑19‑330. Expenses that are reasonable and necessary to raffles or special limited charity fundraising events as authorized by this article are allowable and include expenses incurred for:

(A) advertising, including the cost of printing raffle and special limited charity fundraising event gift certificates;

(B) food and beverage costs;

(C) rental of equipment and hiring a person to operate the equipment during the limited time period allowed for raffles or special limited charity fundraising games;

(D) repairs to premises and equipment;

(E) door prizes or prizes;

(F) stated rental or insurance expenses; and

(G) bookkeeping or accounting services.

Section 16‑19‑340. A charitable organization may conduct or participate in a special limited charity fundraising event that does not exceed two events a year per organization and at which each event does not continue for more than six consecutive hours. Special limited charity fundraising events may include special limited charity games, if the following requirements are met:

(A) the charitable organization must meet all of the requirements of Section 16‑19‑310;

(B) no merchandise prize shall be purchased or offered or cash prize offered that exceeds the gross receipts collected by the applicant exclusive of any potential prize amounts secured by a policy of insurance, and no individual cash prize not so insured shall exceed twenty‑five thousand dollars; and

(C) no less than ninety per cent of the net receipts must be applied to the charitable, religious, fraternal, or nonprofit purposes of the applicant, and all of the restrictions in this chapter shall apply to any expenses, charges, fees or deductions to manufacturers, distributors, or persons conducting the special limited charity fundraising event.

Section 16‑19‑350. (A) Each charitable organization conducting a raffle or special limited charity fundraising event shall keep records of its gross receipts, expenses, adjusted gross receipts, and net receipts for each single raffle or special limited charity fundraising event at which winning chances are determined. All deductions from gross receipts for each single raffle or special limited charity fundraising event shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net receipts shall be itemized as to payee, purpose, amount and date of payment.

(B) Each charitable organization conducting raffles or special limited charity fundraising events shall report promptly after the conclusion of each raffle or special limited charity fundraising event to its membership, its gross receipts, expenses and net proceeds from raffles and special limited charity fundraising events and the distribution of net proceeds itemized as required in this section.

(C) Records required by this section shall be preserved for three years, and organizations shall make available their records relating to operation of raffles and special limited charity fundraising events for public inspection at reasonable times and places.

Section 16‑19‑360. No person under the age of eighteen years may promote, conduct, operate, or work at a special limited charity fundraising event, and no person under the age of sixteen years may sell or promote the sale of any special limited charity fundraising event tickets, nor shall any sponsoring organization permit any person under the age of eighteen to promote, conduct, or operate any special limited charity fundraising event or any person under the age of sixteen to sell or promote the sale of such tickets. This restriction does not apply to the promotion, sale, conduct, or operation of a raffle.

Section 16‑19‑370. (A) Each of the officers or directors of a charitable organization who violate the provisions of this article shall, upon conviction, be fined not less than two thousand dollars and not more than five thousand dollars, or imprisoned for not more than thirty days, or both. Further, a charitable organization convicted of a violation pursuant to this section shall be prohibited from applying for a special limited charity fundraising event until not less than twenty‑four months after the date of the conviction.

(B) Other persons who violate the provisions of this article shall be guilty of, upon conviction:

(1) for a first offense; a misdemeanor and shall be fined not more than one thousand dollars or imprisoned not more than thirty days in jail, or both;

(2) for a second offense; a misdemeanor and shall be fined not more than three thousand dollars or imprisoned not more than one year in jail, or both;

(3) for a third or subsequent offense; a felony and shall be fined not more than then thousand dollars or imprisoned for not more than five years in jail, or both.”

SECTION 2. The repeal or amendment by the provisions of this act or any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act becomes effective upon approval by the Governor and ninety days after ratification of an amendment to Section 7, Article XVII of the Constitution of this State allowing its terms as proposed to the qualified electors of this State at the 2010 General Election.

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