

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JUNE 16, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 457

Introduced by Assembly Member Torrico

February 15, 2005

~~An act to add Article 17 (commencing with Section 19985) to Chapter 5 of Division 8 of the Business and Professions Code, relating to gambling. An act relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 457, as amended, Torrico. ~~Gambling.~~*Vehicles: trains: collisions: investigation.*

Existing law requires the Commissioner of the California Highway Patrol to enforce all laws regulating the operation of vehicles and the use of the highways.

This bill would set forth the intent of the Legislature relating to investigation of collisions between trains and pedestrians and between trains and motor vehicles.

~~The Gambling Control Act provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the enforcement of those activities by the Division of Gambling Control within the Department of Justice.~~

~~This bill would revise that act to permit a nonprofit organization to conduct fundraisers using controlled games as a funding mechanism to provide support for its own or another private, nonprofit organization's beneficial and charitable works. The bill would prohibit a nonprofit organization holding a fundraiser from conducting more~~

~~than 2 fundraisers per calendar year, require that each fundraiser be limited to no more than 5 consecutive hours, and would prohibit a nonprofit organization from conducting more than one fundraiser per day. The bill would also prohibit cash prizes from being awarded to participants, but would allow winners of controlled games to receive noncash prizes from those donated, subject to certain cash value limitations. The bill would also require at least 90% of revenue from fundraisers to go directly to a nonprofit organization's beneficial and charitable works.~~

~~This bill would further prohibit an eligible nonprofit organization from conducting a fundraiser using controlled games unless it registers annually with the Department of Justice. The bill would require the Department of Justice to furnish registration forms to nonprofit organizations, as specified, collect certain information from nonprofit organizations conducting fundraisers, and adopt regulations in accordance with those provisions.~~

~~The bill would also require each nonprofit organization to pay a minimum \$30 administrative fee for each event to the Department of Justice Division of Gambling Control for administrative costs. The bill would authorize the department to increase the fee to an amount not to exceed \$50 if the costs of administering the program exceed the revenue collected.~~

~~Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) *The Legislature finds all of the following:*
- 2 (1) *Trains struck and killed 110 California pedestrians in*
- 3 *2003, which is greater than any other state during that year.*
- 4 (2) *Trains struck and injured 30 California pedestrians in*
- 5 *2003.*
- 6 (3) *Under current state law, when a train strikes and kills or*
- 7 *injures a pedestrian, or collides with a motor vehicle and kills or*
- 8 *injures the occupants, neither the Department of the California*
- 9 *Highway Patrol nor local law enforcement is required to*
- 10 *investigate unless a crime is suspected.*
- 11 (4) *The vast majority of incidents involving collisions between*
- 12 *trains and pedestrians or motor vehicles are routinely classified*

1 *as cases of trespass on railroad property and, consequently, are*
2 *investigated only by the railroad companies.*

3 *(b) The Legislature declares that the Department of the*
4 *California Highway Patrol, or local law enforcement agencies,*
5 *or both, as appropriate, should investigate all collisions between*
6 *trains and pedestrians and collisions between trains and motor*
7 *vehicles to determine whether proper safety procedures were*
8 *followed by all of those involved in the collision.*

9 SECTION 1. Article 17 (commencing with Section 19985) is
10 added to Chapter 5 of Division 8 of the Business and Professions
11 Code, to read:

12
13 ~~Article 17. Nonprofit Organization Fundraisers~~

14
15 ~~19985. (a) Notwithstanding any other provision of law, a~~
16 ~~nonprofit organization may conduct a fundraiser using controlled~~
17 ~~games as a funding mechanism to provide support for its own or~~
18 ~~another private, nonprofit organization's beneficial and charitable~~
19 ~~works.~~

20 ~~(b) A nonprofit organization holding a fundraiser pursuant to~~
21 ~~subdivision (a) shall not conduct more than two fundraisers per~~
22 ~~calendar year. A single location may not be used for the conduct~~
23 ~~of more than 12 fundraisers per calendar year. Each fundraiser~~
24 ~~shall not exceed five consecutive hours, and no more than one~~
25 ~~controlled game fundraiser shall be conducted per day.~~

26 ~~(c) No cash prizes may be awarded to participants; however,~~
27 ~~the winner of each controlled game may be entitled to a noncash~~
28 ~~prize from those donated to the fundraiser. An individual prize~~
29 ~~awarded to each winner shall not exceed a cash value of five~~
30 ~~hundred dollars (\$500). For each event, the total cash value of~~
31 ~~prizes awarded shall not exceed five thousand dollars (\$5,000).~~

32 ~~(d) At least 90 percent of the gross revenue from the~~
33 ~~fundraiser shall go directly to a nonprofit organization's~~
34 ~~beneficial and charitable works.~~

35 ~~(e) (1) An eligible nonprofit organization shall not conduct a~~
36 ~~fundraiser authorized by this section, unless it registers annually~~
37 ~~with the Department of Justice. The department shall furnish a~~
38 ~~registration form on its Web site or, upon request, to eligible~~
39 ~~nonprofit organizations. The department shall, by regulation,~~
40 ~~collect only the information necessary pursuant to this section on~~

1 this form. This information shall include, but is not limited to, the
2 following:

3 (A) The name and address of the eligible organization.

4 (B) The federal tax identification number, the corporate
5 number issued by the Secretary of State, the organization number
6 issued by the Franchise Tax Board, or the California charitable
7 trust identification number of the eligible organization.

8 (C) The name and title of a responsible fiduciary of the
9 organization.

10 (2) Each nonprofit organization shall pay an administrative fee
11 of at least thirty dollars (\$30) to the Department of Justice
12 Division of Gambling Control for each fundraising event. The
13 fee shall be used to offset any costs incurred by the Department
14 of Justice associated with this article. If the costs of
15 administering the program exceed revenue collected from the
16 fees, this fee may be increased to an amount not to exceed fifty
17 dollars (\$50).

18 (f) The department shall adopt regulations necessary to
19 effectuate this section, including emergency regulations, pursuant
20 to the Administrative Procedure Act (Chapter 3.5 (commencing
21 with Section 11340) of Part 1 of Division 3 of Title 2 of the
22 Government Code).

23 (g) The nonprofit organization shall maintain records for each
24 fundraiser using controlled games, which shall include:

25 (1) An itemized list of gross receipts for each game.

26 (2) An itemized list of recipients of the net profit of the game,
27 including the name, address, and charitable purpose for which
28 game proceeds are to be used.

29 (3) The number of persons who participated in the game.

30 (h) As used in this article, “nonprofit organization” means an
31 organization described in Section 501(c)(3) of the Internal
32 Revenue Code of 1954, which is exempt from taxation under
33 Section 501(a) of that code.

34 (i) Nothing in this section shall be construed to authorize the
35 possession or use of a slot machine in violation of Section 330b
36 of the Penal Code.