

ASSEMBLY BILL

No. 1691

Introduced by Assembly Member Jones-Sawyer

February 13, 2014

An act to add Section 320.6 to the Penal Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 1691, as introduced, Jones-Sawyer. Charitable raffles.

The California Constitution authorizes the Legislature to permit private, nonprofit, eligible organizations to conduct raffles as a funding mechanism to support beneficial and charitable works, if, among other conditions, at least 90% of the gross receipts from the raffle go directly to beneficial or charitable purposes in California. The California Constitution further authorizes the Legislature to amend the percentage of gross receipts required to be dedicated to beneficial or charitable purposes by a statute passed by a 2/3 vote of each house of the Legislature. Existing statutory law implements those provisions and requires the Department of Justice to administer and enforce those provisions.

This bill would authorize a raffle conducted by an eligible organization, as defined, for the purpose of directly supporting specified beneficial or charitable purposes in California, or financially supporting another private, nonprofit, eligible organization, as defined, that performs those purposes if, among other requirements, each ticket sold contains a unique and matching identifier, 50% of the net receipts generated from the sale of raffle tickets are used to benefit or provide support for beneficial or charitable purposes, as defined, and the other 50% is paid to the winner. The bill would authorize a random number generator to be used to select the winning ticket. This bill would define

an eligible organization as a private, nonprofit organization established by, or affiliated with, a team from specified sports organizations that has been qualified to conduct business in California for at least one year prior to conducting a raffle and is exempt from taxation pursuant to specified provisions of federal and California law.

The bill would require, if an eligible organization conducts a raffle for purposes of financially supporting another private, nonprofit, eligible organization, the eligible organization conducting the raffle to distribute to the other eligible organization all proceeds not paid out to the winners within 15 days of conducting the raffle. The bill would require an eligible organization to disclose to all ticket purchasers the designated private, nonprofit organization for which the raffle is being conducted.

This bill would also prohibit an eligible organization from conducting a raffle without first having obtained and thereafter maintained a registration from the Department of Justice, as specified. This bill would authorize the department to issue regulations to enforce these provisions, to assess an annual registration fee of \$10 to be deposited in the General Fund to cover the actual costs of establishing and operating this registration system, and would require the department to maintain a database of registrants, with specified exemptions, and conduct specified proceedings in compliance with the Administrative Procedure Act.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 320.6 is added to the Penal Code, to read:
- 2 320.6. (a) Notwithstanding Section 320.5, this section shall
- 3 apply to an eligible organization, as defined in subdivision (c).
- 4 (b) A raffle conducted by an eligible organization as defined in
- 5 subdivision (c) for the purpose of directly supporting beneficial
- 6 or charitable purposes or financially supporting another private,
- 7 nonprofit eligible organization, as defined in subdivision (c) of
- 8 Section 320.5 that performs beneficial or charitable purposes may
- 9 be conducted in accordance with this section.
- 10 (c) For purposes of this section, “eligible organization” means
- 11 a private, nonprofit organization established by, or affiliated with,
- 12 a team from the Major League Baseball, National Hockey League,
- 13 National Basketball Association, National Football League,
- 14 Women’s National Basketball Association, Professional Golfers

1 Association, Ladies Professional Golfers Association, National
2 Association for Stock Car Auto Racing, or Major League Soccer
3 that has been qualified to conduct business in California for at least
4 one year prior to conducting a raffle, is qualified for an exemption
5 under Section 501(3)(c) of the Internal Revenue Code, and is
6 exempt from taxation pursuant to Section 23701a, 23701b, 23701d,
7 23701e, 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of
8 the Revenue and Taxation Code.

9 (d) For purposes of this section, “raffle” means a scheme for
10 the distribution of prizes by chance among persons who have paid
11 money for paper tickets that provide the opportunity to win these
12 prizes, in which all of the following are true:

13 (1) Each ticket sold contains a unique and matching identifier.

14 (2) Winners of the prizes are determined by draw from tickets
15 described in paragraph (1) that have been sold for entry in the
16 draw. A random number generator may be used to select the
17 winning ticket. The prize paid to the winner is comprised of
18 one-half or 50 percent of the net receipts generated from the sale
19 of raffle tickets for a raffle.

20 (3) The draw is conducted in California under the supervision
21 of a natural person who is 18 years of age or older.

22 (4) (A) Fifty percent of the net receipts generated from the sale
23 of raffle tickets for any given draw are used by the eligible
24 organization conducting the raffle to benefit or provide support
25 for beneficial or charitable purposes, or used to benefit another
26 private, nonprofit organization, provided that an organization
27 receiving these funds is itself an eligible organization as defined
28 in subdivision (c) of Section 320.5. As used in this section,
29 “beneficial purposes” excludes purposes that are intended to benefit
30 officers, directors, or members, as defined by Section 5056 of the
31 Corporations Code, of the eligible organization. Funds raised by
32 raffles conducted pursuant to this section shall not be used to fund
33 any beneficial, charitable, or other purpose outside of California.
34 This section does not preclude an eligible organization from using
35 funds from sources other than the sale of raffle tickets to pay for
36 the administration or other costs of conducting a raffle.

37 (B) An employee of an eligible organization who is a direct
38 seller of raffle tickets shall not be treated as an employee for
39 purposes of workers’ compensation under Section 3351 of the
40 Labor Code if the following conditions are satisfied:

1 (i) Substantially all of the remuneration, whether or not paid in
2 cash, for the performance of the service of selling raffle tickets is
3 directly related to sales rather than to the number of hours worked.

4 (ii) The services performed by the person are performed pursuant
5 to a written contract between the seller and the eligible organization
6 and the contract provides that the person will not be treated as an
7 employee with respect to the selling of raffle tickets for workers'
8 compensation purposes.

9 (C) For purposes of this section, an employee selling raffle
10 tickets shall be deemed to be a direct seller as described in Section
11 650 of the Unemployment Insurance Code as long as he or she
12 meets the requirements of that section.

13 (e) A person who receives compensation in connection with the
14 operation of the raffle shall be an employee of the eligible
15 organization that is conducting the raffle, and in no event may
16 compensation be paid from revenues required to be dedicated to
17 beneficial or charitable purposes.

18 (f) No raffle otherwise permitted under this section may be
19 conducted by means of, or otherwise utilize, any gaming machine
20 that meets the definition of slot machine contained in Section 330a,
21 330b, or 330.1.

22 (g) (1) No raffle otherwise permitted under this section may be
23 conducted, nor may tickets for a raffle be sold, within an operating
24 satellite wagering facility or racetrack inclosure licensed pursuant
25 to the Horse Racing Law (Chapter 4 (commencing with Section
26 19400) of Division 8 of the Business and Professions Code) or
27 within a gambling establishment licensed pursuant to the Gambling
28 Control Act (Chapter 5 (commencing with Section 19800) of
29 Division 8 of the Business and Professions Code).

30 (2) A raffle may not be operated or conducted in any manner
31 over the Internet, nor may raffle tickets be sold, traded, or redeemed
32 over the Internet. For purposes of this paragraph, an eligible
33 organization shall not be deemed to operate or conduct a raffle
34 over the Internet, or sell raffle tickets over the Internet, if the
35 eligible organization advertises its raffle on the Internet or permits
36 others to do so. Information that may be conveyed on an Internet
37 Web site pursuant to this paragraph includes, but is not limited to,
38 all of the following:

39 (A) Lists, descriptions, photographs, or videos of the raffle
40 prizes.

1 (B) Lists of the prize winners.

2 (C) The rules of the raffle.

3 (D) Frequently asked questions and their answers.

4 (E) Raffle entry forms, which may be downloaded from the
5 Internet Web site for manual completion by raffle ticket purchasers,
6 but shall not be submitted to the eligible organization through the
7 Internet.

8 (F) Raffle contact information, including the eligible
9 organization's name, address, telephone number, facsimile number,
10 or e-mail address.

11 (h) No individual, corporation, partnership, or other legal entity
12 shall hold a financial interest in the conduct of a raffle, except the
13 eligible organization that is itself authorized to conduct that raffle,
14 and any private, nonprofit, eligible organizations receiving financial
15 support from that charitable organization pursuant to subdivisions
16 (b) and (d).

17 (i) An eligible organization may conduct no more than one
18 major league sports raffle per home game.

19 (j) An employee may not sell raffle tickets in any seating area
20 designated as a family section.

21 (k) An eligible organization shall disclose to all ticket purchasers
22 the designated private, nonprofit, eligible organization for which
23 the raffle is being conducted.

24 (l) An eligible organization that conducts a raffle to financially
25 support another private, nonprofit eligible organization as defined
26 in subdivision (c) of Section 320.5 shall distribute all proceeds not
27 paid out to the winners of the prizes to the private, nonprofit
28 organization within 15 days of conducting the raffle, in accordance
29 with this section.

30 (m) Any raffle prize remaining unclaimed by a winner at the
31 end of the season for a team with an affiliated eligible organization
32 that conducted a raffle to financially support another private,
33 nonprofit eligible organization as defined in subdivision (c) of
34 Section 320.5 shall be donated within 30 days from the end of the
35 season by the eligible organization to the designated private,
36 nonprofit organization for which the raffle was conducted.

37 (n) (1) An eligible organization may not conduct a raffle
38 authorized under this section, unless it registers annually with the
39 Department of Justice. The department shall furnish a registration
40 form via the Internet or upon request to eligible nonprofit

1 organizations. The department shall, by regulation, collect only
2 the information necessary to carry out the provisions of this section
3 on this form. This information shall include, but is not limited to,
4 the following:

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

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

10 (C) The name and title of a responsible fiduciary of the
11 organization.

12 (2) The department may require an eligible organization to pay
13 an annual registration fee of ten dollars (\$10) to cover the actual
14 costs of the department to administer and enforce this section. The
15 department may, by regulation, adjust the annual registration fee
16 as needed to ensure that revenues will fully offset, but do not
17 exceed, the actual costs incurred by the department pursuant to
18 this section. The fee shall be deposited by the department into the
19 General Fund.

20 (3) The department shall receive moneys for the costs incurred
21 pursuant to this section subject to an appropriation by the
22 Legislature.

23 (4) The department shall adopt regulations necessary to
24 effectuate this section, including emergency regulations, pursuant
25 to the Administrative Procedure Act (Chapter 3.5 (commencing
26 with Section 11340) of Part 1 of Division 3 of Title 2 of the
27 Government Code).

28 (5) The department shall maintain an automated database of all
29 registrants. Each local law enforcement agency shall notify the
30 department of any arrests or investigation that may result in an
31 administrative or criminal action against a registrant. The
32 department may audit the records and other documents of a
33 registrant to ensure compliance with this section.

34 (6) Once registered, an eligible organization must file annually
35 thereafter with the department a report that includes the following:

36 (A) The aggregate net receipts from the operation of raffles.

37 (B) The aggregate direct costs incurred by the eligible
38 organization from the operation of raffles.

39 (C) The charitable or beneficial purposes for which proceeds
40 of the raffles were used, or identify the eligible recipient

1 organization to which proceeds were directed, and the amount of
2 those proceeds.

3 (7) The department shall annually furnish to registrants a form
4 to collect this information.

5 (8) The registration and reporting provisions of this section do
6 not apply to any religious corporation sole or other religious
7 corporation or organization that holds property for religious
8 purposes, to a cemetery corporation regulated under Chapter 19
9 (commencing with Section 9600) of Division 3 of the Business
10 and Professions Code, or to any committee as defined in Section
11 82013 of the Government Code that is required to and does file
12 any statement pursuant to the provisions of Article 2 (commencing
13 with Section 84200) of Chapter 4 of Title 9 of the Government
14 Code, or to a charitable corporation organized and operated
15 primarily as a religious organization, educational institution,
16 hospital, or a health care service plan licensed pursuant to Section
17 1349 of the Health and Safety Code.

18 (o) The department may take legal action against a registrant if
19 it determines that the registrant has violated this section or a
20 regulation adopted pursuant to this section, or that the registrant
21 has engaged in any conduct that is not in the best interests of the
22 public's health, safety, or general welfare. An action taken pursuant
23 to this subdivision does not prohibit the commencement of an
24 administrative or criminal action by the Attorney General, a district
25 attorney, city attorney, or county counsel.

26 (p) An action and hearing conducted to deny, revoke, or suspend
27 a registry, or other administrative action taken against a registrant
28 shall be conducted pursuant to the Administrative Procedure Act
29 (Chapters 4.5 (commencing with Section 11400) and 5
30 (commencing with Section 11500) of Part 1 of Division 3 of Title
31 2 of the Government Code). The department may seek recovery
32 of the costs incurred in investigating or prosecuting an action
33 against a registrant or applicant in accordance with those
34 procedures specified in Section 125.3 of the Business and
35 Professions Code. A proceeding conducted under this subdivision
36 is subject to judicial review pursuant to Section 1094.5 of the Code
37 of Civil Procedure.

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