

AMENDED IN SENATE APRIL 28, 2015

SENATE BILL

No. 549

Introduced by Senator Hall

(Coauthor: Senator Stone)

(Coauthors: Assembly Members Gray and Jones-Sawyer)

February 26, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

SB 549, as amended, Hall. 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 $\frac{2}{3}$ 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 gross receipts generated from the sale of raffle tickets are used to benefit or provide

support for beneficial or charitable purposes, as defined, the other 50% is paid to the winner, and the winners of the prizes are determined by a manual draw, as specified. The bill would authorize an electronic device to be used to sell tickets. 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, *and a manufacturer or distributor of raffle-related products or services from conducting business with an eligible organization for purposes of conducting a raffle pursuant to these provisions*, 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~~ *fees, as specified*, to be deposited in the General Fund to cover the reasonable costs of establishing and operating this registration system, and would require the department to maintain a database of ~~registrants, with specified exemptions,~~ *registrants* and conduct specified proceedings in compliance with the Administrative Procedure Act. The bill would repeal its provisions on December 31, 2020.

Vote: $\frac{2}{3}$. 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
- 5 in subdivision (c), for the purpose of directly supporting beneficial

1 or charitable purposes or financially supporting another private,
2 nonprofit eligible organization, as defined in subdivision (c) of
3 Section 320.5, that performs beneficial or charitable purposes may
4 be conducted in accordance with this section.

5 (c) For purposes of this section, “eligible organization” means
6 a private, nonprofit organization established by, or affiliated with,
7 a team from the Major League Baseball, National Hockey League,
8 National Basketball Association, National Football League,
9 Women’s National Basketball Association, or Major League
10 Soccer, or a private, nonprofit organization established by the
11 Professional Golfers Association, Ladies Professional Golfers
12 Association, or National Association for Stock Car Auto Racing
13 that has been qualified to conduct business in California for at least
14 one year prior to conducting a raffle, is qualified for an exemption
15 under Section ~~501(3)(e)~~ 501(c)(3) of the Internal Revenue Code,
16 and is exempt from taxation pursuant to Section 23701a, 23701b,
17 23701d, 23701e, 23701f, 23701g, 23701k, ~~23701h~~, 23701l, 23701t,
18 or 23701w of the Revenue and Taxation Code.

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

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

24 (2) (A) Winners of the prizes are determined by a manual draw
25 from tickets described in paragraph (1) that have been sold for
26 entry in the manual draw.

27 (B) An electronic device may be used to sell tickets. The ticket
28 receipt issued by the electronic device to the purchaser may include
29 more than one unique and matching identifier, representative of
30 and matched to the number of tickets purchased in a single
31 transaction.

32 (C) The prize paid to the winner is comprised of one-half or 50
33 percent of the gross receipts generated from the sale of raffle tickets
34 for a raffle.

35 (3) The manual draw is conducted in California under the
36 supervision of a natural person who ~~is~~ *meets all of the following*
37 *requirements:*

38 (A) *The person is 18 years of age or older.*

39 (B) *The person is affiliated with the eligible organization*
40 *conducting the raffle.*

1 (C) *The person is registered with the Department of Justice*
2 *pursuant to paragraph (4) of subdivision (o).*

3 (4) (A) Fifty percent of the gross receipts generated from the
4 sale of raffle tickets for any given manual draw are used by the
5 eligible organization conducting the raffle to benefit or provide
6 support for beneficial or charitable purposes, or used to benefit
7 another private, nonprofit organization, provided that an
8 organization receiving these funds is itself an eligible organization
9 as defined in subdivision (c) of Section 320.5. As used in this
10 section, “beneficial purposes” excludes purposes that are intended
11 to benefit officers, directors, or members, as defined by Section
12 5056 of the Corporations Code, of the eligible organization. Funds
13 raised by raffles conducted pursuant to this section shall not be
14 used to fund any beneficial, charitable, or other purpose outside
15 of California. This section does not preclude an eligible
16 organization from using funds from sources other than the sale of
17 raffle tickets to pay for the administration or other costs of
18 conducting a raffle.

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

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

26 (ii) The services performed by the person are performed pursuant
27 to a written contract between the seller and the eligible organization
28 and the contract provides that the person will not be treated as an
29 employee with respect to the selling of raffle tickets for workers’
30 compensation purposes.

31 (C) For purposes of this section, an employee selling raffle
32 tickets shall be deemed to be a direct seller as described in Section
33 650 of the Unemployment Insurance Code as long as he or she
34 meets the requirements of that section.

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

1 (f) A raffle ticket shall not be sold in exchange for Bitcoin or
2 any other cryptocurrency.

3 (g) A raffle otherwise permitted under this section shall not be
4 conducted by means of, or otherwise utilize, any gaming machine
5 that meets the definition of slot machine contained in Section 330a,
6 330b, or 330.1.

7 (h) (1) A raffle otherwise permitted under this section shall not
8 be conducted, nor may tickets for a raffle be sold, within an
9 operating satellite wagering facility or racetrack inclosure licensed
10 pursuant to the Horse Racing Law (Chapter 4 (commencing with
11 Section 19400) of Division 8 of the Business and Professions Code)
12 or within a gambling establishment licensed pursuant to the
13 Gambling Control Act (Chapter 5 (commencing with Section
14 19800) of Division 8 of the Business and Professions Code).

15 (2) A raffle shall not be operated or conducted in any manner
16 over the Internet, nor may raffle tickets be sold, traded, or redeemed
17 over the Internet. For purposes of this paragraph, an eligible
18 organization shall not be deemed to operate or conduct a raffle
19 over the Internet, or sell raffle tickets over the Internet, if the
20 eligible organization advertises its raffle on the Internet or permits
21 others to do so. Information that may be conveyed on an Internet
22 Web site pursuant to this paragraph includes, but is not limited to,
23 all of the following:

24 (A) Lists, descriptions, photographs, or videos of the raffle
25 prizes.

26 (B) Lists of the prize winners.

27 (C) The rules of the raffle.

28 (D) Frequently asked questions and their answers.

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

33 (F) Raffle contact information, including the eligible
34 organization's name, address, telephone number, facsimile number,
35 or email address.

36 (i) An individual, corporation, partnership, or other legal entity
37 shall not hold a financial interest in the conduct of a raffle, except
38 the eligible organization that is itself authorized to conduct that
39 raffle, and any private, nonprofit, eligible organizations receiving

1 financial support from that charitable organization pursuant to
 2 subdivisions (b) and (d).

3 (j) An eligible organization shall not conduct more than one
 4 major league sports raffle per home game.

5 (k) An employee shall not sell raffle tickets in any seating area
 6 designated as a family section.

7 (l) An eligible organization shall disclose to all ticket purchasers
 8 the designated private, nonprofit, eligible organization for which
 9 the raffle is being conducted.

10 (m) An eligible organization that conducts a raffle to financially
 11 support another private, nonprofit eligible organization, as defined
 12 in subdivision (c) of Section 320.5, shall distribute all proceeds
 13 not paid out to the winners of the prizes to the private, nonprofit
 14 organization within 15 days of conducting the raffle, in accordance
 15 with this section.

16 (n) Any raffle prize remaining unclaimed by a winner at the end
 17 of the season for a team with an affiliated eligible organization
 18 that conducted a raffle to financially support another private,
 19 nonprofit eligible organization, as defined in subdivision (c) of
 20 Section 320.5, shall be donated within 30 days from the end of the
 21 season by the eligible organization to the designated private,
 22 nonprofit organization for which the raffle was conducted.

23 (o) (1) (A) An eligible organization shall not conduct a raffle
 24 authorized under this section, unless it ~~registers annually with~~ *has*
 25 *a valid registration issued by* the Department of Justice. The
 26 department shall furnish a registration form via the Internet or
 27 upon request to eligible nonprofit organizations. The department
 28 shall, by regulation, collect only the information necessary to carry
 29 out the provisions of this section on this form. This information
 30 shall include, but is not limited to, the following:

31 ~~(A)~~

32 (i) The name and address of the eligible organization.

33 ~~(B)~~

34 (ii) The federal tax identification number, the corporate number
 35 issued by the Secretary of State, the organization number issued
 36 by the Franchise Tax Board, or the California charitable trust
 37 identification number of the eligible organization.

38 ~~(C)~~

39 (iii) The name and title of a responsible fiduciary of the
 40 organization.

1 ~~(2)~~

2 (B) The department may require an eligible organization to pay
3 ~~an a minimum~~ annual registration fee of ~~ten dollars (\$10) two~~
4 ~~thousand five hundred dollars (\$2,500)~~ to cover the reasonable
5 costs of the department to administer and enforce this section. ~~The~~
6 ~~department may, by regulation, adjust the annual registration fee~~
7 ~~as needed to ensure that revenues will fully offset, but do not~~
8 ~~exceed, the reasonable costs incurred by the department pursuant~~
9 ~~to this section. The fee shall be deposited by the department into~~
10 ~~the General Fund.~~

11 (2) (A) *A manufacturer or distributor of raffle-related products*
12 *or services shall not conduct business with an eligible organization*
13 *for purposes of conducting a raffle pursuant to this section unless*
14 *the manufacturer or distributor has a valid annual registration*
15 *issued by the department.*

16 (B) *The department may require a manufacturer or distributor*
17 *of raffle-related products or services to pay a minimum annual*
18 *registration fee of five thousand dollars (\$5,000) to cover the*
19 *reasonable costs of the department to administer and enforce this*
20 *section.*

21 (3) *An eligible organization shall register the equipment used*
22 *in the sale and distribution of raffle tickets, and shall have the*
23 *equipment tested by an independent gaming testing lab.*

24 (4) (A) *A person affiliated with an eligible organization who*
25 *conducts the manual draw shall annually register with the*
26 *department.*

27 (B) *The department may require a person affiliated with an*
28 *eligible organization who conducts the manual draw to pay a*
29 *minimum annual registration fee of ten dollars (\$10) to cover the*
30 *reasonable costs of the department to administer and enforce this*
31 *section.*

32 (5) *The department may, by regulation, adjust the annual*
33 *registration fees described in this section as needed to ensure that*
34 *revenues will fully offset, but not exceed, the reasonable costs*
35 *incurred by the department pursuant to this section. The fees shall*
36 *be deposited by the department into the General Fund.*

37 ~~(3)~~

38 (6) The department shall receive moneys for the costs incurred
39 pursuant to this section subject to an appropriation by the
40 Legislature.

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

7 ~~(5)~~
 8 (8) The department shall maintain an automated database of
 9 all registrants. ~~Each~~

10 (9) A local law enforcement agency shall notify the department
 11 of any arrests or investigation that may result in an administrative
 12 or criminal action against a registrant. ~~The~~

13 (10) *The department may investigate all suspected violations*
 14 *of this section or any regulation adopted pursuant to this section,*
 15 *or any activity that the registrant has engaged in that is not in the*
 16 *best interests of the public’s health, safety, or general welfare as*
 17 *it pertains to charitable raffles.*

18 (11) *The department may audit the records and other documents*
 19 *of a registrant to ensure compliance with this section. section, and*
 20 *may charge a registrant the direct costs associated with an audit*
 21 *conducted pursuant to this paragraph.*

22 ~~(6)~~
 23 (12) (A) Once registered, an eligible organization ~~must shall~~
 24 file annually thereafter with the department a report that includes
 25 the following:

26 ~~(A)~~
 27 (i) The aggregate gross receipts from the operation of raffles.

28 ~~(B)~~
 29 (ii) The aggregate direct costs incurred by the eligible
 30 organization from the operation of raffles.

31 ~~(C)~~
 32 (iii) The charitable or beneficial purposes for which proceeds
 33 of the raffles were used, or identify the eligible recipient
 34 organization to which proceeds were directed, and the amount of
 35 those proceeds.

36 (B) *Failure to submit the annual report to the department as*
 37 *required in this paragraph shall be grounds for denial of an annual*
 38 *registration.*

39 ~~(7)~~

1 (13) The department shall annually furnish to registrants a form
2 to collect this information.

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

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

24 (q) An action and hearing conducted to deny, revoke, or suspend
25 a registry, or other administrative action taken against a registrant,
26 shall be conducted pursuant to the Administrative Procedure Act
27 (Chapters 4.5 (commencing with Section 11400) and 5
28 (commencing with Section 11500) of Part 1 of Division 3 of Title
29 2 of the Government Code). The department *may seek civil*
30 *remedies, including imposing fines, for violations of this section,*
31 *and may seek recovery of the costs incurred in investigating or*
32 *prosecuting an action against a registrant or applicant in accordance*
33 *with those procedures specified in Section 125.3 of the Business*
34 *and Professions Code. A proceeding conducted under this*
35 *subdivision is subject to judicial review pursuant to Section 1094.5*
36 *of the Code of Civil Procedure. A violation of this section shall*
37 *not constitute a crime.*

38 (r) This section shall remain in effect only until December 31,
39 2020, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before December 31, 2020, deletes or extends that
2 date.

O