
SUBSTITUTE SENATE BILL 5671

State of Washington

65th Legislature

2017 Regular Session

By Senate Commerce, Labor & Sports (originally sponsored by Senators Fortunato, Sheldon, Rivers, and Wilson)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to simplifying the process for bona fide
2 charitable and nonprofit organization to engage in activities and
3 social pastimes, and raise funds for their authorized purposes;
4 amending RCW 9.46.0209, 9.46.0321, 9.46.0323, and 9.46.070; and
5 adding a new section to chapter 9.46 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 9.46.0209 and 2009 c 137 s 1 are each amended to
8 read as follows:

9 (1)(a) "Bona fide charitable or nonprofit organization," as used
10 in this chapter, means:

11 (i) Any organization duly existing under the provisions of
12 chapter 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized
13 under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit
14 corporation duly existing under the provisions of chapter 24.03 RCW
15 for charitable, benevolent, eleemosynary, educational, civic,
16 patriotic, political, social, fraternal, athletic or agricultural
17 purposes only, or any nonprofit organization, whether incorporated or
18 otherwise, when found by the commission to be organized and operating
19 for one or more of the aforesaid purposes only, all of which in the
20 opinion of the commission have been organized and are operated

1 primarily for purposes other than the operation of gambling
2 activities authorized under this chapter; or

3 (ii) Any corporation which has been incorporated under Title 36
4 U.S.C. and whose principal purposes are to furnish volunteer aid to
5 members of the armed forces of the United States and also to carry on
6 a system of national and international relief and to apply the same
7 in mitigating the sufferings caused by pestilence, famine, fire,
8 floods, and other national calamities and to devise and carry on
9 measures for preventing the same.

10 (b) An organization defined under (a) of this subsection must:

11 (i) Have been organized and continuously operating for at least
12 twelve calendar months immediately preceding making application for
13 any license to operate a gambling activity, or the operation of any
14 gambling activity authorized by this chapter for which no license is
15 required; and

16 ~~(ii) ((Have not less than fifteen bona fide active members each
17 with the right to an equal vote in the election of the officers, or
18 board members, if any, who determine the policies of the organization
19 in order to receive a gambling license; and~~

20 ~~(iii))~~) Demonstrate to the commission that it has made
21 significant progress toward the accomplishment of the purposes of the
22 organization during the twelve consecutive month period preceding the
23 date of application for a license or license renewal. The fact that
24 contributions to an organization do not qualify for charitable
25 contribution deduction purposes or that the organization is not
26 otherwise exempt from payment of federal income taxes pursuant to the
27 internal revenue code of 1954, as amended, shall constitute prima
28 facie evidence that the organization is not a bona fide charitable or
29 nonprofit organization for the purposes of this section.

30 (c) Any person, association or organization which pays its
31 employees, including members, compensation other than is reasonable
32 therefor under the local prevailing wage scale shall be deemed paying
33 compensation based in part or whole upon receipts relating to
34 gambling activities authorized under this chapter and shall not be a
35 bona fide charitable or nonprofit organization for the purposes of
36 this chapter.

37 (2) For the purposes of RCW 9.46.0315 and 9.46.110, a bona fide
38 nonprofit organization also includes:

39 (a) A credit union organized and operating under state or federal
40 law. All revenue less prizes and expenses received from raffles

1 conducted by credit unions must be devoted to purposes authorized
2 under this section for charitable and nonprofit organizations; and

3 (b) A group of executive branch state employees that:

4 (i) Has requested and received revocable approval from the
5 agency's chief executive official, or such official's designee, to
6 conduct one or more raffles in compliance with this section;

7 (ii) Conducts a raffle solely to raise funds for either the state
8 combined fund drive, created under RCW 41.04.033; an entity approved
9 to receive funds from the state combined fund drive; or a charitable
10 or benevolent entity, including but not limited to a person or family
11 in need, as determined by a majority vote of the approved group of
12 employees. No person or other entity may receive compensation in any
13 form from the group for services rendered in support of this purpose;

14 (iii) Promptly provides such information about the group's
15 receipts, expenditures, and other activities as the agency's chief
16 executive official or designee may periodically require, and
17 otherwise complies with this section and RCW 9.46.0315; and

18 (iv) Limits the participation in the raffle such that raffle
19 tickets are sold only to, and winners are determined only from, the
20 employees of the agency.

21 (3) For the purposes of RCW 9.46.0277, a bona fide nonprofit
22 organization also includes a county, city, or town, provided that all
23 revenue less prizes and expenses from raffles conducted by the
24 county, city, or town must be used for community activities or
25 tourism promotion activities.

26 **Sec. 2.** RCW 9.46.0321 and 1987 c 4 s 28 are each amended to read
27 as follows:

28 Bona fide charitable or bona fide nonprofit organizations
29 organized primarily for purposes other than the conduct of such
30 activities are hereby authorized to conduct bingo, raffles, and
31 amusement games, without obtaining a license to do so from the
32 commission but only when:

33 (1) Such activities are held in accordance with all other
34 requirements of this chapter, other applicable laws, and rules of the
35 commission;

36 (2) Said activities are(~~(, alone or in any combination,)~~)
37 conducted no more than four times each calendar year for raffles and
38 twice each calendar year for bingo and amusement games; and over a
39 period of no more than twelve consecutive days each time,

1 notwithstanding the limitations of RCW 9.46.0205: PROVIDED, That a
2 raffle conducted under this subsection may be conducted for a period
3 longer than twelve days;

4 (3) Only bona fide members of that organization, who are not paid
5 for such services, participate in the management or operation of the
6 activities;

7 (4) Gross revenues to the organization from ~~((all the activities
8 together))~~ raffles do not exceed ten thousand dollars during any
9 calendar year;

10 (5) Gross revenues to the organization from bingo and amusement
11 games do not exceed five thousand dollars during any calendar year;

12 ~~((+5))~~ (6) All revenue therefrom, after deducting the cost of
13 prizes and other expenses of the activity, is devoted solely to the
14 purposes for which the organization qualifies as a bona fide
15 charitable or nonprofit organization;

16 ~~((+6))~~ (7) The organization gives notice at least five days in
17 advance of the conduct of any of the activities to the local police
18 agency of the jurisdiction within which the activities are to be
19 conducted of the organization's intent to conduct the activities, the
20 location of the activities, and the date or dates they will be
21 conducted; and

22 ~~((+7))~~ (8) The organization conducting the activities maintains
23 records for a period of one year from the date of the event which
24 accurately show at a minimum the gross revenue from each activity,
25 details of the expenses of conducting the activities, and details of
26 the uses to which the gross revenue therefrom is put.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.46 RCW
28 to read as follows:

29 Bona fide charitable or bona fide nonprofit organizations
30 authorized to conduct activities under this chapter may offer raffle
31 tickets purchased as part of a multiple ticket package to be
32 purchased at a discount. The organization may offer different levels
33 of discounts based on the volume of tickets sold in the multiple
34 packages.

35 **Sec. 4.** RCW 9.46.0323 and 2016 c 116 s 1 are each amended to
36 read as follows:

37 (1) A bona fide charitable or nonprofit organization, as defined
38 in RCW 9.46.0209, whose primary purpose is serving individuals with

1 intellectual disabilities may conduct enhanced raffles if licensed by
2 the commission.

3 (2) The commission has the authority to approve two enhanced
4 raffles per calendar year for western Washington and two enhanced
5 raffles per calendar year for eastern Washington. Whether the
6 enhanced raffle occurs in western Washington or eastern Washington
7 will be determined by the location where the grand prize winning
8 ticket is to be drawn as stated on the organization's application to
9 the commission. An enhanced raffle is considered approved when voted
10 on by the commission.

11 (3) The commission has the authority to approve enhanced raffles
12 under the following conditions:

13 (a) The value of the grand prize must not exceed five million
14 dollars.

15 (b) Sales may be made in person, by mail, by fax, or by telephone
16 only. Raffle ticket order forms may be printed from the bona fide
17 charitable or nonprofit organization's web site. Obtaining the form
18 in this manner does not constitute a sale.

19 (c) Tickets purchased as part of a multiple ticket package may be
20 purchased at a discount. The organization may offer different levels
21 of discounts based on the volume of tickets sold in the multiple
22 packages.

23 (d) Multiple smaller prizes are authorized during the course of
24 an enhanced raffle for a grand prize including, but not limited to,
25 early bird, refer a friend, and multiple ticket drawings.

26 (e) A purchase contract is not necessary for smaller noncash
27 prizes, but the bona fide charitable or nonprofit organization must
28 be able to demonstrate that such a prize is available and sufficient
29 funds are held in reserve in the event that the winner chooses a
30 noncash prize.

31 (f) All enhanced raffles and associated smaller raffles must be
32 independently audited, as defined by the commission during rule
33 making. The audit results must be reported to the commission.

34 (g) Call centers, when licensed by the commission, are
35 authorized. The bona fide charitable or nonprofit organization may
36 contract with a call center vendor to receive enhanced raffle ticket
37 sales. The vendor may not solicit sales. The vendor may be located
38 outside the state, but the bona fide charitable or nonprofit
39 organization must have a contractual relationship with the vendor

1 stating that the vendor must comply with all applicable Washington
2 state laws and rules.

3 (h) The bona fide charitable or nonprofit organization must be
4 the primary recipient of the funds raised.

5 (i) Sales data may be transmitted electronically from the vendor
6 to the bona fide charitable or nonprofit organization. Credit cards,
7 issued by a state regulated or federally regulated financial
8 institution, may be used for payment to participate in enhanced
9 raffles.

10 (j) Receipts including ticket confirmation numbers may be sent to
11 ticket purchasers either by mail or by email.

12 (k) In the event the bona fide charitable or nonprofit
13 organization determines ticket sales are insufficient to qualify for
14 a complete enhanced raffle to move forward, the enhanced raffle
15 winner must receive fifty percent of the net proceeds in excess of
16 expenses as the grand prize. The enhanced raffle winner will receive
17 a choice between an annuity value equal to fifty percent of the net
18 proceeds in excess of expenses paid by annuity over twenty years, or
19 a one-time cash payment of seventy percent of the annuity value.

20 (l) A bona fide charitable or nonprofit organization is
21 authorized to hire a consultant licensed by the commission to run an
22 enhanced raffle; in addition, the bona fide charitable or nonprofit
23 organization must have a dedicated employee who is responsible for
24 oversight of enhanced raffle operations. The bona fide charitable or
25 nonprofit organization is ultimately responsible for ensuring that an
26 enhanced raffle is conducted in accordance with all applicable state
27 laws and rules.

28 (4) The commission has the authority to set fees for bona fide
29 charitable or nonprofit organizations, call center vendors, and
30 consultants conducting enhanced raffles authorized under this
31 section.

32 (5) The commission has the authority to adopt rules governing the
33 licensing and operation of enhanced raffles.

34 (6) Except as specifically authorized in this section, enhanced
35 raffles must be held in accordance with all other requirements of
36 this chapter, other applicable laws, and rules of the commission.

37 (7) For the purposes of this section:

38 (a) "Enhanced raffle" means a game in which tickets bearing an
39 individual number are sold for not more than two hundred fifty
40 dollars each and in which a grand prize and smaller prizes are

1 awarded on the basis of drawings from the tickets by the person or
2 persons conducting the game. An enhanced raffle may include
3 additional related entries and drawings, such as early bird, refer a
4 friend, and multiple ticket drawings when the bona fide charitable or
5 nonprofit organization establishes the eligibility standards for such
6 entries and drawings before any enhanced raffle tickets are sold. No
7 drawing may occur by using a random number generator or similar
8 means.

9 (b) "Early bird drawing" means a separate drawing for a separate
10 prize held prior to the grand prize drawing. All tickets entered into
11 the early bird drawing, including all early bird winning tickets, are
12 entered into subsequent early bird drawings, and also entered into
13 the drawing for the grand prize.

14 (c) "Refer a friend drawing" means a completely separate drawing,
15 using tickets distinct from those for the enhanced raffle, for a
16 separate prize held at the conclusion of the enhanced raffle for all
17 enhanced raffle ticket purchasers, known as the referring friend, who
18 refer other persons to the enhanced raffle when the other person
19 ultimately purchases an enhanced raffle ticket. The referring friend
20 will receive one ticket for each friend referred specifically for the
21 refer a friend drawing. In addition, each friend referred could also
22 become a referring friend and receive his or her own additional
23 ticket for the refer a friend drawing.

24 (d) "Multiple ticket drawing" means a completely separate
25 drawing, using tickets distinct from those for the enhanced raffle,
26 for a separate prize held at the conclusion of the enhanced raffle
27 for all enhanced raffle ticket purchasers who purchase a specified
28 number of enhanced raffle tickets. For example, a multiple ticket
29 drawing could include persons who purchase three or more enhanced
30 raffle tickets in the same order, using the same payment information,
31 with tickets in the same person's name. For each eligible enhanced
32 raffle ticket purchased, the purchaser also receives a ticket for the
33 multiple ticket drawing prize.

34 (e) "Western Washington" includes those counties west of the
35 Cascade mountains, including Clallam, Clark, Cowlitz, Grays Harbor,
36 Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San
37 Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom.

38 (f) "Eastern Washington" includes those counties east of the
39 Cascade mountains that are not listed in (e) of this subsection.

1 (8) By December 2016, the commission must report back to the
2 appropriate committees of the legislature on enhanced raffles. The
3 report must include results of the raffles, revenue generated by the
4 raffles, and identify any state or federal regulatory actions taken
5 in relation to enhanced raffles in Washington. The report must also
6 make recommendations, if any, for policy changes to the enhanced
7 raffle authority.

8 (9) This section expires June 30, 2022.

9 **Sec. 5.** RCW 9.46.070 and 2012 c 116 s 1 are each amended to read
10 as follows:

11 The commission shall have the following powers and duties:

12 (1) To authorize and issue licenses for a period not to exceed
13 one year to bona fide charitable or nonprofit organizations approved
14 by the commission meeting the requirements of this chapter and any
15 rules and regulations adopted pursuant thereto permitting said
16 organizations to conduct bingo games, raffles, amusement games, and
17 social card games, to utilize punchboards and pull-tabs in accordance
18 with the provisions of this chapter and any rules and regulations
19 adopted pursuant thereto and to revoke or suspend said licenses for
20 violation of any provisions of this chapter or any rules and
21 regulations adopted pursuant thereto: PROVIDED, That the commission
22 shall not deny a license to an otherwise qualified applicant in an
23 effort to limit the number of licenses to be issued: PROVIDED
24 FURTHER, That the commission or director shall not issue, deny,
25 suspend, or revoke any license because of considerations of race,
26 sex, creed, color, or national origin: AND PROVIDED FURTHER, That the
27 commission may authorize the director to temporarily issue or suspend
28 licenses subject to final action by the commission;

29 (2) To authorize and issue licenses for a period not to exceed
30 one year to any person, association, or organization operating a
31 business primarily engaged in the selling of items of food or drink
32 for consumption on the premises, approved by the commission meeting
33 the requirements of this chapter and any rules and regulations
34 adopted pursuant thereto permitting said person, association, or
35 organization to utilize punchboards and pull-tabs and to conduct
36 social card games as a commercial stimulant in accordance with the
37 provisions of this chapter and any rules and regulations adopted
38 pursuant thereto and to revoke or suspend said licenses for violation
39 of any provisions of this chapter and any rules and regulations

1 adopted pursuant thereto: PROVIDED, That the commission shall not
2 deny a license to an otherwise qualified applicant in an effort to
3 limit the number of licenses to be issued: PROVIDED FURTHER, That the
4 commission may authorize the director to temporarily issue or suspend
5 licenses subject to final action by the commission;

6 (3) To authorize and issue licenses for a period not to exceed
7 one year to any person, association, or organization approved by the
8 commission meeting the requirements of this chapter and meeting the
9 requirements of any rules and regulations adopted by the commission
10 pursuant to this chapter as now or hereafter amended, permitting said
11 person, association, or organization to conduct or operate amusement
12 games in such manner and at such locations as the commission may
13 determine. The commission may authorize the director to temporarily
14 issue or suspend licenses subject to final action by the commission;

15 (4) To authorize, require, and issue, for a period not to exceed
16 one year, such licenses as the commission may by rule provide, to any
17 person, association, or organization to engage in the selling,
18 distributing, or otherwise supplying or in the manufacturing of
19 devices for use within this state for those activities authorized by
20 this chapter. The commission may authorize the director to
21 temporarily issue or suspend licenses subject to final action by the
22 commission;

23 (5) To establish a schedule of annual license fees for carrying
24 on specific gambling activities upon the premises, and for such other
25 activities as may be licensed by the commission, which fees shall
26 provide to the commission not less than an amount of money adequate
27 to cover all costs incurred by the commission relative to licensing
28 under this chapter and the enforcement by the commission of the
29 provisions of this chapter and rules and regulations adopted pursuant
30 thereto: PROVIDED, That all licensing fees shall be submitted with an
31 application therefor and such portion of said fee as the commission
32 may determine, based upon its cost of processing and investigation,
33 shall be retained by the commission upon the withdrawal or denial of
34 any such license application as its reasonable expense for processing
35 the application and investigation into the granting thereof: PROVIDED
36 FURTHER, That if in a particular case the basic license fee
37 established by the commission for a particular class of license is
38 less than the commission's actual expenses to investigate that
39 particular application, the commission may at any time charge to that
40 applicant such additional fees as are necessary to pay the commission

1 for those costs. The commission may decline to proceed with its
2 investigation and no license shall be issued until the commission has
3 been fully paid therefor by the applicant: AND PROVIDED FURTHER, That
4 the commission may establish fees for the furnishing by it to
5 licensees of identification stamps to be affixed to such devices and
6 equipment as required by the commission and for such other special
7 services or programs required or offered by the commission, the
8 amount of each of these fees to be not less than is adequate to
9 offset the cost to the commission of the stamps and of administering
10 their dispersal to licensees or the cost of administering such other
11 special services, requirements or programs;

12 (6) To prescribe the manner and method of payment of taxes, fees
13 and penalties to be paid to or collected by the commission;

14 (7) To require that applications for all licenses contain such
15 information as may be required by the commission: PROVIDED, That all
16 persons (a) having a managerial or ownership interest in any gambling
17 activity, or the building in which any gambling activity occurs, or
18 the equipment to be used for any gambling activity, or (b)
19 participating as an employee in the operation of any gambling
20 activity, shall be listed on the application for the license and the
21 applicant shall certify on the application, under oath, that the
22 persons named on the application are all of the persons known to have
23 an interest in any gambling activity, building, or equipment by the
24 person making such application: PROVIDED FURTHER, That the commission
25 shall require fingerprinting and national criminal history background
26 checks on any persons seeking licenses, certifications, or permits
27 under this chapter or of any person holding an interest in any
28 gambling activity, building, or equipment to be used therefor, or of
29 any person participating as an employee in the operation of any
30 gambling activity. All national criminal history background checks
31 shall be conducted using fingerprints submitted to the United States
32 department of justice-federal bureau of investigation. The commission
33 must establish rules to delineate which persons named on the
34 application are subject to national criminal history background
35 checks. In identifying these persons, the commission must take into
36 consideration the nature, character, size, and scope of the gambling
37 activities requested by the persons making such applications;

38 (8) To require that any license holder maintain records as
39 directed by the commission and submit such reports as the commission
40 may deem necessary;

1 (9) To require that all income from bingo games, raffles, and
2 amusement games be recorded and reported as established by rule or
3 regulation of the commission to the extent deemed necessary by
4 considering the scope and character of the gambling activity in such
5 a manner that will disclose gross income from any gambling activity,
6 amounts received from each player, the nature and value of prizes,
7 and the fact of distributions of such prizes to the winners thereof.
8 However, the commission may not require a bona fide charitable or
9 nonprofit organization to keep separate accounts for funds generated
10 from gambling activities;

11 (10) To regulate and establish maximum limitations on income
12 derived from bingo. In establishing limitations pursuant to this
13 subsection the commission shall take into account (a) the nature,
14 character, and scope of the activities of the licensee; (b) the
15 source of all other income of the licensee; and (c) the percentage or
16 extent to which income derived from bingo is used for charitable, as
17 distinguished from nonprofit, purposes. However, the commission's
18 powers and duties granted by this subsection are discretionary and
19 not mandatory;

20 (11) To regulate and establish the type and scope of and manner
21 of conducting the gambling activities authorized by this chapter,
22 including but not limited to, the extent of wager, money, or other
23 thing of value which may be wagered or contributed or won by a player
24 in any such activities;

25 (12) To regulate the collection of and the accounting for the fee
26 which may be imposed by an organization, corporation, or person
27 licensed to conduct a social card game on a person desiring to become
28 a player in a social card game in accordance with RCW 9.46.0282;

29 (13) To cooperate with and secure the cooperation of county,
30 city, and other local or state agencies in investigating any matter
31 within the scope of its duties and responsibilities;

32 (14) In accordance with RCW 9.46.080, to adopt such rules and
33 regulations as are deemed necessary to carry out the purposes and
34 provisions of this chapter. All rules and regulations shall be
35 adopted pursuant to the administrative procedure act, chapter 34.05
36 RCW;

37 (15) To set forth for the perusal of counties, city-counties,
38 cities and towns, model ordinances by which any legislative authority
39 thereof may enter into the taxing of any gambling activity authorized
40 by this chapter;

1 (16)(a) To establish and regulate a maximum limit on salaries or
2 wages which may be paid to persons employed in connection with
3 activities conducted by bona fide charitable or nonprofit
4 organizations and authorized by this chapter, where payment of such
5 persons is allowed, and to regulate and establish maximum limits for
6 other expenses in connection with such authorized activities,
7 including but not limited to rent or lease payments. However, the
8 commissioner's powers and duties granted by this subsection are
9 discretionary and not mandatory.

10 (b) In establishing these maximum limits the commission shall
11 take into account the amount of income received, or expected to be
12 received, from the class of activities to which the limits will apply
13 and the amount of money the games could generate for authorized
14 charitable or nonprofit purposes absent such expenses. The commission
15 may also take into account, in its discretion, other factors,
16 including but not limited to, the local prevailing wage scale and
17 whether charitable purposes are benefited by the activities;

18 (17) To authorize, require, and issue for a period not to exceed
19 one year such licenses or permits, for which the commission may by
20 rule provide, to any person to work for any operator of any gambling
21 activity authorized by this chapter in connection with that activity,
22 or any manufacturer, supplier, or distributor of devices for those
23 activities in connection with such business. The commission may
24 authorize the director to temporarily issue or suspend licenses
25 subject to final action by the commission. The commission shall not
26 require that persons working solely as volunteers in an authorized
27 activity conducted by a bona fide charitable or bona fide nonprofit
28 organization, who receive no compensation of any kind for any purpose
29 from that organization, and who have no managerial or supervisory
30 responsibility in connection with that activity, be licensed to do
31 such work. The commission may require that licensees employing such
32 unlicensed volunteers submit to the commission periodically a list of
33 the names, addresses, and dates of birth of the volunteers. If any
34 volunteer is not approved by the commission, the commission may
35 require that the licensee not allow that person to work in connection
36 with the licensed activity;

37 (18) To publish and make available at the office of the
38 commission or elsewhere to anyone requesting it a list of the
39 commission licensees, including the name, address, type of license,
40 and license number of each licensee;

1 (19) To establish guidelines for determining what constitutes
2 active membership in bona fide nonprofit or charitable organizations
3 for the purposes of this chapter;

4 (20) To renew the license of every person who applies for renewal
5 within six months after being honorably discharged, removed, or
6 released from active military service in the armed forces of the
7 United States upon payment of the renewal fee applicable to the
8 license period, if there is no cause for denial, suspension, or
9 revocation of the license;

10 (21) To issue licenses under subsections (1) through (4) of this
11 section that are valid for a period of up to eighteen months, if it
12 chooses to do so, in order to transition to the use of the business
13 licensing services program through the department of revenue; and

14 (22) To perform all other matters and things necessary to carry
15 out the purposes and provisions of this chapter.

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