

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 28, 2015

**SENATE BILL**

**No. 549**

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**Introduced by Senator Hall**

**(Coauthor: Senator Stone)**

(Coauthors: Assembly Members Gray and Jones-Sawyer)

February 26, 2015

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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 annual registration 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 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, Golfers’ Association of America,~~  
12 ~~Ladies Professional Golfers Golf Association,~~ or National  
13 Association for Stock Car Auto Racing that has been qualified to  
14 conduct business in California for at least one year prior to  
15 conducting a raffle, is qualified for an exemption under Section  
16 501(c)(3) of the Internal Revenue Code, and is exempt from  
17 taxation pursuant to Section 23701a, 23701b, 23701d, 23701e,  
18 23701f, 23701g, 23701k, 23701l, 23701t, or 23701w of the  
19 Revenue and Taxation Code.

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

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

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

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

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

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

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

1 (B) The person is affiliated with the eligible organization  
2 conducting the raffle.

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

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

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

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

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

33 (C) For purposes of this section, an employee selling raffle  
34 tickets shall be deemed to be a direct seller as described in Section  
35 650 of the Unemployment Insurance Code as long as he or she  
36 meets the requirements of that section.

37 (e) A person who receives compensation in connection with the  
38 operation of the raffle shall be an employee of the eligible  
39 organization that is conducting the raffle, and in no event may

1 compensation be paid from revenues required to be dedicated to  
2 beneficial or charitable purposes.

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

5 (g) A raffle otherwise permitted under this section shall not be  
6 conducted by means of, or otherwise utilize, any gaming machine  
7 that meets the definition of slot machine contained in Section 330a,  
8 330b, or 330.1.

9 (h) (1) A raffle otherwise permitted under this section shall not  
10 be conducted, nor may tickets for a raffle be sold, within an  
11 operating satellite wagering facility or racetrack inclosure licensed  
12 pursuant to the Horse Racing Law (Chapter 4 (commencing with  
13 Section 19400) of Division 8 of the Business and Professions Code)  
14 or within a gambling establishment licensed pursuant to the  
15 Gambling Control Act (Chapter 5 (commencing with Section  
16 19800) of Division 8 of the Business and Professions Code).

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

26 (A) Lists, descriptions, photographs, or videos of the raffle  
27 prizes.

28 (B) Lists of the prize winners.

29 (C) The rules of the raffle.

30 (D) Frequently asked questions and their answers.

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

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

38 (i) An individual, corporation, partnership, or other legal entity  
39 shall not hold a financial interest in the conduct of a raffle, except  
40 the eligible organization that is itself authorized to conduct that

1 raffle, and any private, nonprofit, eligible organizations receiving  
2 financial support from that charitable organization pursuant to  
3 subdivisions (b) and (d).

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

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

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

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

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

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

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

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

37 (iii) The name and title of a responsible fiduciary of the  
38 organization.

39 (B) (i) The department may require an eligible organization to  
40 pay a minimum annual registration fee of ~~two thousand five~~

1 ~~hundred dollars (\$2,500)~~ *five thousand dollars (\$5,000)* to cover  
2 the reasonable costs of the department to administer and enforce  
3 this section.

4 *(ii) An eligible organization shall pay, in addition to the annual*  
5 *registration application fee, one hundred dollars (\$100) for every*  
6 *individual raffle conducted at an eligible location to cover the*  
7 *reasonable costs of the department to administer and enforce this*  
8 *section. This fee shall be submitted in conjunction with the annual*  
9 *registration form.*

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

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

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

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

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

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

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

39 (7) The department shall adopt regulations necessary to  
40 effectuate this section, including emergency regulations, pursuant

1 to the Administrative Procedure Act (Chapter 3.5 (commencing  
2 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
3 Government Code).

4 (8) The department shall maintain an automated database of all  
5 registrants.

6 (9) A local law enforcement agency shall notify the department  
7 of any arrests or investigation that may result in an administrative  
8 or criminal action against a registrant.

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

14 (11) The department may audit the records and other documents  
15 of a registrant to ensure compliance with this section, and may  
16 charge a registrant the direct costs associated with an audit  
17 conducted pursuant to this paragraph.

18 (12) (A) Once registered, an eligible organization shall file  
19 annually thereafter with the department a report that includes the  
20 following:

21 (i) The aggregate gross receipts from the operation of raffles.

22 (ii) The aggregate direct costs incurred by the eligible  
23 organization from the operation of raffles.

24 (iii) The charitable or beneficial purposes for which proceeds  
25 of the raffles were used, or identify the eligible recipient  
26 organization to which proceeds were directed, and the amount of  
27 those proceeds.

28 (B) Failure to submit the annual report to the department as  
29 required in this paragraph shall be grounds for denial of an annual  
30 registration.

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

33 (p) The department may take legal action against a registrant if  
34 it determines that the registrant has violated this section or a  
35 regulation adopted pursuant to this section, or that the registrant  
36 has engaged in any conduct that is not in the best interests of the  
37 public's health, safety, or general welfare. An action taken pursuant  
38 to this subdivision does not prohibit the commencement of an  
39 administrative or criminal action by the Attorney General, a district  
40 attorney, city attorney, or county counsel.

1 (q) An action and hearing conducted to deny, revoke, or suspend  
2 a registry, or other administrative action taken against a registrant,  
3 shall be conducted pursuant to the Administrative Procedure Act  
4 (Chapters 4.5 (commencing with Section 11400) and 5  
5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
6 2 of the Government Code). The department may seek civil  
7 remedies, including imposing fines, for violations of this section,  
8 and may seek recovery of the costs incurred in investigating or  
9 prosecuting an action against a registrant or applicant in accordance  
10 with those procedures specified in Section 125.3 of the Business  
11 and Professions Code. A proceeding conducted under this  
12 subdivision is subject to judicial review pursuant to Section 1094.5  
13 of the Code of Civil Procedure. A violation of this section shall  
14 not constitute a crime.

15 (r) This section shall remain in effect only until December 31,  
16 2020, and as of that date is repealed, unless a later enacted statute,  
17 that is enacted before December 31, 2020, deletes or extends that  
18 date.

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