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BREAK OPEN TICKETS

* * * Games of Chance * * *

Sec. 3. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a) Notwithstanding the provisions of this chapter, a nonprofit organization, as defined in ~~32 V.S.A. § 10201(5)~~ 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated. Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be utilized under authority of this section.

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(d) Casino events shall be limited as follows:

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(2) A location that is owned by a nonprofit, as defined in ~~32 V.S.A. § 10201(5)~~ 31 V.S.A. § 1201(5), may be the site of no more than three casino events in any calendar quarter and no more than 12 casino events in any calendar year as long as there are at least 15 days between each event.

1 (D) Agricultural fairs qualified to receive a State stipend pursuant
2 to 31 V.S.A. § 617 may organize and execute games of chance for not more
3 than 12 consecutive days during the fair once each calendar year.

4 (E) A nonprofit organization may organize and execute games of
5 chance at a location used by another nonprofit organization which results in the
6 location being used on more than two days a week if all the nonprofit
7 organizations using the location were in existence as of January 1, 1994, and
8 are not affiliated with each other or under common control.

9 * * *

10 Sec. 4. 31 V.S.A. chapter 23 is added to read:

11 CHAPTER 23. GAMES OF CHANCE

12 § 1201. DEFINITIONS

13 As used in this chapter:

14 (1) “Break-open ticket” means a lottery utilizing a card or ticket of the
15 so-called pickle card, jar ticket, or break-open variety commonly bearing the
16 name “Lucky 7,” “Nevada Club,” “Victory Bar,” “Texas Poker,” “Triple
17 Bingo,” or any other name.

18 (2) “Commissioner” means the Commissioner of Liquor Control.

19 (3)(A) “Distributor” means a person that purchases break-open tickets
20 from a manufacturer and sells or distributes break-open tickets at wholesale in
21 Vermont. “Distributor” shall include any officer, employee, or agent of a

1 corporation or dissolved corporation that has a duty to act for the corporation
2 in complying with the requirements of this chapter.

3 (B) “Distributor” shall not include a person who distributes only
4 jar tickets that are used only for merchandise prizes.

5 (4) “Manufacturer” means a person that designs, assembles, fabricates,
6 produces, constructs, or who otherwise prepares a break-open ticket for sale to
7 a distributor.

8 (5) “Nonprofit organization” means a nonprofit corporation that is
9 qualified for tax exempt status under I.R.C. § 501(c), as amended, and that has
10 engaged, in good faith, in charitable, religious, educational, or civic activities
11 in Vermont on a regular basis during the preceding year. “Nonprofit
12 organization” also includes churches, schools, fire departments, municipalities,
13 fraternal organizations, and organizations that operate agricultural fairs or field
14 days, and that have engaged, in good faith, in charitable, religious, educational,
15 or civic activities in Vermont on a regular basis during the preceding year.

16 § 1202. LICENSE REQUIRED

17 (a) Manufacture. Break-open tickets sold in Vermont shall be
18 manufactured only by a person licensed by the Commissioner. A licensed
19 manufacturer shall sell break-open tickets only to distributors licensed under
20 this chapter. A distributor licensed under this chapter shall purchase
21 break-open tickets only from a manufacturer licensed under this chapter.

1 (b) Distribution. A distributor who sells or distributes break-open tickets
2 for resale in Vermont shall be licensed by the Commissioner, and shall also be:

3 (1) a natural person who is a resident of Vermont;

4 (2) a partnership in which the majority of partners are residents of
5 Vermont;

6 (3) a corporation incorporated under the laws of Vermont, provided
7 that a majority of the ownership interest is held by residents of Vermont; or

8 (4) a person who is not a resident of Vermont and whose state of
9 residence allows residents or corporations of Vermont to distribute break-open
10 tickets in that state under similar terms and conditions as provided under this
11 chapter.

12 § 1203. DISTRIBUTION; RETAIL PURCHASE AND SALE

13 (a) Only nonprofit organizations may purchase break-open tickets from a
14 distributor licensed under this chapter.

15 (b) No person, other than a licensed distributor or a nonprofit organization
16 under subsection (f) of this section, shall distribute a box of break-open tickets.

17 No person shall distribute a box of break-open tickets unless the box bears
18 indicia as required by the Commissioner. No person shall distribute or sell a
19 break-open ticket at retail unless the ticket bears a unique serial number.

20 (c) A distributor licensed under this chapter may sell break-open tickets
21 only to nonprofit organizations as defined in subdivision 1201(5) of this

1 chapter, except that a person other than a licensed distributor may sell such
2 tickets to a licensed distributor upon written approval of the Commissioner.

3 (d) Only nonprofit organizations may sell break-open tickets at retail.

4 (e) Break-open tickets shall not be sold at premises licensed to sell
5 alcoholic beverages except:

6 (1) at clubs as defined in 7 V.S.A. § 2(7); or

7 (2) a nonprofit organization may sell break-open tickets at premises
8 licensed to sell alcoholic beverages if, notwithstanding 13 V.S.A. § 2143(e) of
9 this chapter, all proceeds from the sale of break-open tickets are used by the
10 nonprofit organization exclusively for charitable, religious, educational, and
11 civic undertakings, with only the following costs deducted from the proceeds:

12 (A) actual cost of the break-open tickets;

13 (B) the prizes awarded;

14 (C) reasonable legal fees necessary to organize the nonprofit
15 organization and to ensure compliance with all legal requirements; and

16 (D) reasonable accounting fees necessary to account for the proceeds
17 from the sale of break-open tickets.

18 (f) A nonprofit organization selling break-open tickets at a premises
19 licensed to sell alcoholic beverages under subdivision (e)(2) must purchase the
20 break-open tickets directly from a distributor, and then deliver the break-open
21 tickets to the premises where alcohol is served. The nonprofit organization

1 shall report to the Department of Liquor Control on a quarterly basis the
2 number of tickets purchased and distributed at premises that serve alcohol, the
3 amount of revenue realized by the nonprofit organization, and the amounts
4 accounted for under subdivisions (e)(2)(A)–(D) of this section. If the
5 Department of Liquor Control determines that a nonprofit organization has
6 failed to comply with the requirements of this subsection, the Department of
7 Liquor Control shall notify licensed distributors of this failure, and any
8 licensed distributor that continues to sell break-open tickets to that nonprofit
9 organization, after notice, shall be considered in violation of the requirements
10 of this chapter.

11 (g) The provisions of this chapter regarding sales and purchases of
12 break-open tickets also apply to transfers of break-open tickets for no charge.

13 § 1204. LICENSE REQUIREMENTS; FEES

14 (a) Upon application and payment of the fee, the Commissioner may issue
15 the following licenses to qualified applicants:

16 (1) Manufacturer annual license: \$3,000.00

17 (2) Distributor annual license: \$2,000.00

18 (b) A license shall not be granted to an individual who has been convicted
19 of a felony within five years of the license application nor to an entity in which
20 any partner, officer, or director has been convicted of a felony within five years
21 of the application.

1 (c) Licenses issued under this section may be renewed annually on
2 October 1, upon reapplication and payment of the licensing fee.

3 (d) All fees collected pursuant to this section shall be deposited into the
4 General Fund.

5 § 1205. RECORDS; REPORT

6 (a) Each distributor and manufacturer licensed under this chapter shall
7 maintain records and books relating to the distribution and sale of break-open
8 tickets and to any other expenditure required by the Commissioner. A licensee
9 shall make its records and books available to the Commissioner for auditing.

10 (b) Each licensed distributor shall file with the Commissioner on the same
11 schedule as the distributor files sales tax returns the following information for
12 the preceding reporting period:

13 (1) The names of organizations to which boxes of break-open tickets
14 were sold.

15 (2) The number of boxes of break-open tickets sold to each
16 organization.

17 (3) The ticket denomination and serial numbers of tickets for each box.

18 (c) Records and reports filed under this section shall be designated
19 confidential unless, under State or federal law or regulation, the record or
20 information may be disclosed to specifically designated persons.

1 (d) Notwithstanding subsection (c) of this section, the Commissioner of
2 Liquor Control shall provide the records and reports filed under this section to
3 the Attorney General, upon request.

4 § 1206. ENFORCEMENT

5 (a) Any person who intentionally violates section 1203 of this chapter
6 shall be fined not more than \$500.00.

7 (b) Any person who intentionally violates section 1202, 1204, or 1205 of
8 this title shall be fined not more than \$10,000.00 for the first offense and fined
9 not more than \$20,000.00 or imprisoned not more than one year, or both, for
10 each subsequent offense.

11 (c) In addition to the criminal penalties provided under subsections (a) and
12 (b) of this section, any person who violates a provision of this chapter shall be
13 subject to one or more of the following penalties:

14 (1) Revocation or suspension by the Commissioner of a license granted
15 pursuant to this chapter.

16 (2) Confiscation of break-open tickets or confiscation of the revenues
17 derived from the sale of those tickets, or both.

18 § 1207. APPEALS

19 Any licensee aggrieved by an action taken under subsection 1206(c) of this
20 chapter and any person aggrieved by the Commissioner's refusal to issue or
21 renew a license under this chapter may appeal in writing to the Commissioner

1 for review of such action. The Commissioner shall thereafter grant a hearing
2 subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the
3 aggrieved person in writing of his or her determination. The Commissioner's
4 determination may be appealed within 30 days to the Washington Superior
5 Court or the Superior Court of the county in which the taxpayer resides or has
6 a place of business.

7 § 1208. RULEMAKING

8 The Department of Liquor Control may regulate the licensing and reporting
9 requirements of manufacturers and distributors of break-open tickets under this
10 chapter. The Commissioner of Liquor Control may adopt rules for licensure
11 and indicia for boxes of break-open tickets, for record keeping relating to the
12 distribution and sale of break-open tickets, and the remittance of net proceeds
13 from sales of break-open tickets to the intended eligible charitable recipients.
14 The rules shall permit no proceeds to be retained by the operators of for-profit
15 bars, except for:

16 (1) the actual cost of the break-open tickets;

17 (2) the prizes awarded; and

18 (3) any sales tax due on the sale of break-open tickets under 32 V.S.A.

19 chapter 233.

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