S T A T E O F N E W Y O R K

4153

2013-2014 Regular Sessions

I N A S S E M B L Y

February 1, 2013

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Racing and Wagering

AN ACT to amend the general municipal law, in relation to the conducting of games of chance by certain organizations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 4 and 6 of section 186 of the general municipal law, as amended by chapter 574 of the laws of 1978, are amended and two new subdivisions 4-a and 22 are added to read as follows:

4. "Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans [or], volunteer [firemen] FIREFIGHTERS OR VOLUNTEER AMBULANCE WORKERS, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this article, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this article for a period of three years [immediatley] IMMEDIATELY prior to applying for a license under this article.

No organization shall be deemed an authorized organization which is formed primarily for the purpose of conducting games of chance and which does not devote at least seventy-five percent of its activities to other than conducting games of chance. No political party shall be deemed an authorized organization.

4-A. "AUXILIARY MEMBER" SHALL MEAN A BONA FIDE MEMBER OF AN ORGANIZATION OR ASSOCIATION WHICH IS AUXILIARY TO AN AUTHORIZED ORGANIZATION LICENSED PURSUANT TO THIS ARTICLE; OR A BONA FIDE MEMBER OF AN ORGANIZATION OR ASSOCIATION OF WHICH AN AUTHORIZED ORGANIZATION LICENSED PURSUANT TO THIS ARTICLE IS AN AUXILIARY; OR A BONA FIDE MEMBER OF AN ORGANIZATION OR ASSOCIATION WHICH IS AFFILIATED WITH AN AUTHORIZED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ORGANIZATION LICENSED PURSUANT TO THIS ARTICLE BY BEING, WITH IT, AUXILIARY TO ANOTHER ORGANIZATION OR ASSOCIATION.

6. "Net proceeds" shall mean (a) in relation to the gross receipts from one or more license periods of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for CONDUCTING GAMES OF CHANCE INCLUDING, BUT NOT LIMITED TO, supplies and equipment, prizes, security-personnel, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the board, janitorial services and utility supplies if any, license fees, and [the cost of bus transportation] REIMBURSEMENT OF REASONABLE EXPENSES INCURRED BY VOLUNTEERS WHO DONATE THEIR TIME TO HOLD, OPERATE OR CONDUCT, OR ASSIST IN THE CONDUCT OF SUCH GAMES, AND AS AUTHORIZED BY THE BOARD AND if authorized by the clerk or department and (b) in relation to the gross rent received by an authorized games of chance lessor for the use of its premises by a game of chance licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any.

22. "REASONABLE EXPENSES" SHALL INCLUDE, BUT NOT BE LIMITED TO, CHILD CARE EXPENSES, TRANSPORTATION EXPENSES, MEALS AND OTHER EXPENSES, AS DETERMINED AND REGULATED BY THE BOARD.

S 2. Subdivisions 4, 5, 6, 8, 10 and 11 of section 189 of the general municipal law, subdivisions 4, 10 and 11 as amended by chapter 574 of the laws of 1978, subdivisions 5 and 8 as amended by chapter 455 of the laws of 2012 and subdivision 6 as amended by chapter 302 of the laws of 2010, are amended to read as follows:

4. The entire net proceeds of any game of chance shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same and the net proceeds of any rental derived therefrom shall be exclusively devoted to the lawful purposes of the authorized games of chance lessor; PROVIDED, HOWEVER, THAT A PERSON MAY ACCEPT REIMBURSEMENT OF REASONABLE EXPENSES INCURRED TO MANAGE, HOLD, OPERATE OR CONDUCT SUCH GAMES.

5. No single prize awarded by games of chance other than raffle shall exceed the sum or value of [three] FOUR hundred dollars, except that for merchandise wheels, no single prize shall exceed the sum or value of [two] THREE hundred [fifty] dollars. No single prize awarded by raffle shall exceed the sum or value of one hundred thousand dollars. No single wager shall exceed six dollars and for bell jars, coin boards, or merchandise boards, no single prize shall exceed five hundred dollars provided, however, that such limitation shall not apply to the amount of money or value paid by the participant in a raffle in return for a ticket or other receipt. For coin boards and merchandise boards, the value of a prize shall be determined by its costs to the authorized organization or, if donated, its fair market value.

6. No authorized organization shall award a series of prizes consisting of cash or of merchandise with an aggregate value in excess of ten thousand dollars during the successive operations of any one merchandise wheel OR BELL JAR, and three thousand dollars during the successive operations of any [bell jar,] coin board[,] or merchandise board. No series of prizes awarded by raffle shall have an aggregate value in excess of five hundred thousand dollars. For coin boards and merchandise boards, the value of a prize shall be determined by its cost to the authorized organization or, if donated, its fair market value.

8. Except for merchandise wheels and raffles, no series of prizes on any one occasion shall aggregate more than [four] FIVE hundred dollars

when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, raffles and bell jars, no series of prizes on any one occasion shall aggregate more than five hundred dollars when the licensed authorized organization conducts less than five single types of games of chance, exclusive of merchandise wheels, raffles and bell jars, during any one license period. No authorized organization shall award by raffle prizes with an aggregate value in excess of two million dollars during any one license period.

10. No person except a bona fide member of the licensed authorized organization OR AN AUXILIARY MEMBER OF SUCH ORGANIZATION shall participate in the management of such games[; no person except a bona fide member of the licensed authorized organization, its auxiliary or affiliated organization, shall participate in the operation of such game, as set forth in section one hundred ninety-five-c of this article].

11. No person shall receive any remuneration for participating in the management or operation of any such game; PROVIDED, HOWEVER, THAT A PERSON MAY ACCEPT REIMBURSEMENT OF REASONABLE EXPENSES INCURRED TO MANAGE, HOLD, OPERATE OR CONDUCT GAMES OF CHANCE.

S 3. Subparagraph 5 of paragraph (a) of subdivision 1 of section 190 of the general municipal law, as amended by chapter 574 of the laws of 1978, is amended to read as follows:

(5) the purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation[,] OR reward [or recompense] will be paid to any person for conducting such game or games or for assisting therein except as in this article otherwise provided; and such other information as shall be prescribed by such rules and regulations.

S 4. Paragraph (b) of subdivision 1 of section 190 of the general municipal law, as amended by chapter 574 of the laws of 1978, is amended to read as follows:

(b) In each application there shall be designated not less than [four] THREE bona fide members of the applicant organization under whom the game or games of chance will be managed and to the application shall be appended a statement executed by the members so designated, that they will be responsible for the management of such games in accordance with the terms of the license, the rules and regulations of the board, this article and the applicable local laws or ordinances.

S 5. Paragraph (a) of subdivision 2 of section 190-a of the general municipal law, as amended by chapter 400 of the laws of 2005, is amended to read as follows:

(a) For the purposes of this section, "authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans [or], volunteer [firefighter] FIREFIGHTERS OR VOLUNTEER AMBULANCE WORKERS, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this article, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this article for a period of three years immediately prior to being granted the filing requirement exemption contained in subdivision one of this section.

S 6. Subdivision 3 of section 190-a of the general municipal law, as added by chapter 400 of the laws of 2005, is amended to read as follows:

3. No person under the age of eighteen shall be permitted to play[, operate or assist] in any raffle conducted pursuant to this section. NO PERSON UNDER THE AGE OF EIGHTEEN YEARS SHALL BE PERMITTED TO OPERATE OR ASSIST IN ANY RAFFLE CONDUCTED PURSUANT TO THIS SECTION; PROVIDED, HOWEVER, THAT A PERSON UNDER THE AGE OF EIGHTEEN YEARS AND WHO IS SIXTEEN YEARS OF AGE OR OLDER SHALL BE PERMITTED TO ASSIST IN ANY RAFFLE IF ACCOMPANIED BY AN ADULT.

S 7. Paragraph (a) of subdivision 1 of section 191 of the general municipal law, as amended by section 15 of part LL of chapter 56 of the laws of 2010, is amended to read as follows:

(a) Issuance of licenses to conduct games of chance. If such clerk or department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article; that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon, a certificate of good conduct or a certificate of relief from disabilities pursuant to article twenty-three of the correction law, OR, IF CONVICTED, THE MEMBER OR MEMBERS ARE PARTICIPATING IN A REHABILITATION PROGRAM LICENSED OR CERTIFIED BY A STATE AGENCY AND OPERATED BY THE APPLICANT OR AN AUXILIARY THEREOF; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the board and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this article, and if such clerk or department is satisfied that no commission, salary, compensation[,] OR reward [or recompense] whatever will be paid or given to any person managing, operating or assisting therein except as [in this article] otherwise provided IN THIS ARTICLE, INCLUDING REIMBURSEMENT OF REASONABLE EXPENSES INCURRED BY VOLUNTEERS WHO DONATE THEIR TIME TO HOLD, OPERATE OR CONDUCT, OR ASSIST IN THE CONDUCT OF SUCH GAMES; it shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

S 8. Subdivision 3 of section 194 of the general municipal law, as amended by chapter 550 of the laws of 1994, is amended to read as follows:

3. [Service of alcoholic beverages.] Subject to the applicable provisions of the alcoholic beverage control law, beer AND WINE may be offered for sale during the conduct of games of chance on games of chance premises as such premises are defined in subdivision nineteen of section one hundred eighty-six of this article; provided, however, that nothing herein shall be construed to limit the offering for sale of any other alcoholic beverage in areas other than the games of chance premises or the sale of any other alcoholic beverage in premises where only the games of chance known as bell jar or raffles are conducted.

S 9. Section 195 of the general municipal law, as amended by chapter 461 of the laws of 2003, is amended to read as follows:

S 195. Sunday; conduct of games on. Except as provided in section one hundred ninety-five-b of this article, [no] games of chance [shall] MAY be conducted under any license issued under this article on the first day of the week, commonly known and designated as Sunday, unless it shall be otherwise provided in the license issued for the conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of the municipality wherein the license is issued, [authorizing] PROHIBITING the conduct of games of chance under

this article on that day [only between the hours of noon and midnight]. Notwithstanding the foregoing provisions of this section no games of chance shall be conducted on Easter Sunday or Christmas Day.

S 10. Section 195-a of the general municipal law, as amended by chapter 574 of the laws of 1978, is amended to read as follows:

S 195-a. Participation by persons under eighteen. No person under the age of eighteen years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this article. Persons under the age of eighteen years may be permitted to attend games of chance [at the discretion of the games of chance licensee]. No person under the age of eighteen years shall be permitted to operate any game of chance conducted pursuant to any license issued under this article or to assist therein; PROVIDED, HOWEVER, THAT A PERSON UNDER THE AGE OF EIGHTEEN YEARS AND WHO IS SIXTEEN YEARS OF AGE OR OLDER SHALL BE PERMITTED TO ASSIST IN THE OPERATION OF ANY GAME OF CHANCE IF ACCOMPANIED BY A PARENT.

S 11. Section 195-b of the general municipal law, as amended by chapter 252 of the laws of 1998, is amended to read as follows:

S 195-b. Frequency of games. No game or games of chance, shall be conducted under any license issued under this article more often than [twelve] EIGHTEEN times in any calendar year. No particular premises shall be used for the conduct of games of chance on more than twenty-four license periods during any one calendar year. Games shall be conducted only between the hours of noon and midnight on SUNDAY, Monday, Tuesday, Wednesday and Thursday, and only between the hours of noon on Friday and two A.M. Saturday, and only between the hours of noon on Saturday and two A.M. Sunday. The two A.M. closing period shall also apply to a legal holiday. The above restrictions shall not apply when only the games of chance known as bell jar and/or raffle are conducted.

S 12. Section 195-c of the general municipal law, as amended by chapter 252 of the laws of 1998, is amended to read as follows:

S 195-c. [1.] Persons operating games; equipment; expenses; compensation. 1. No person shall operate any game of chance under any license issued under this article except a bona fide member OR AUXILIARY MEMBER of the authorized organization to which the license is issued[, or a bona fide member of an organization or association which is an auxiliary to the licensee or a bona fide member of an organization or association of which such licensee is an auxiliary or a bona fide member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association]. Nothing herein shall be construed to limit the number of games of chance licensees for whom such persons may operate games of chance nor to prevent non-members from assisting the licensee in any activity other than managing or operating games. No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee. However, in no event shall bell jar tickets be transferred from one authorized organization to another, with or without payment of any compensation thereof. The head or heads of the authorized organization shall upon request certify, under oath, that the persons operating any game of chance are bona fide OR AUXILIARY members of such authorized organization, auxiliary or affiliated organization. Upon request by an officer or the department any such person involved in such games of chance shall certify that he or she has no criminal record. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any

license issued under this article except those that are reasonable and are necessarily expended for games of chance supplies and equipment, prizes, security personnel, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the board, janitorial services and utility supplies if any, and license fees, REIMBURSEMENT OF REASONABLE EXPENSES INCURRED BY VOLUNTEERS WHO DONATE THEIR TIME TO OPERATE OR ASSIST IN THE OPERATION OF GAMES OF CHANCE and the cost of bus transportation, if authorized by such clerk or department. No commission, salary, compensation[,] OR reward [or recompense] shall be paid or given to any person for the sale or assisting with the sale of raffle tickets.

2. For the purpose of the sale of tickets for the game of raffle, the term "operate" shall not include the sale of such tickets by persons of lineal or collateral consanguinity to members of an authorized organization licensed to conduct a raffle.

S 13. Section 195-e of the general municipal law, as amended by chapter 94 of the laws of 1981, is amended to read as follows:

S 195-e. Advertising games. A licensee may advertise the conduct of games of chance to the general public by means of newspaper, circular, handbill [and], poster, ELECTRONIC MAIL, ELECTRONIC COMMUNICATIONS AND GOVERNMENT ACCESS TELEVISION BROADCASTS, and by one sign not exceeding sixty square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first aid or rescue squad, OR VOLUNTEER AMBULANCE COMPANY in and throughout the community served by such volunteer fire company or such first aid or rescue squad, OR VOLUNTEER AMBULANCE COMPANY, as the case may be. All advertisements shall be limited to the description of such event as "Games of chance" or "Las Vegas Night", the name of the authorized organization conducting such games, the license number of the authorized organization as assigned by the clerk or department and the date, location and time of the event.

S 14. Subdivision 3 of section 195-f of the general municipal law, as amended by chapter 550 of the laws of 1994, is amended to read as follows:

3. Any authorized organization required to file an annual report with the secretary of state pursuant to article seven-A of the executive law [or the attorney general pursuant to article eight of the estates, powers and trusts law] shall include with such annual report a copy of the statement required to be filed with the clerk or department pursuant to subdivision one or two of this section.

S 15. Subdivision 1 of section 195-n of the general municipal law, as amended by chapter 637 of the laws of 1999, is amended to read as follows:

1. Distribution; manufacturers. For business conducted in this state, manufacturers licensed by the board to sell bell jar tickets shall sell only such tickets to distributors licensed by the board. Manufacturers of bell jar tickets, seal cards, merchandise boards, and coin boards may submit samples, artists' renderings, or color photocopies of proposed bell jar tickets, seal cards, merchandise boards, coin boards, payout cards, and flares for review and approval by the board. Within thirty

days of receipt of such sample or rendering, the board shall approve or deny such bell jar tickets. [Following approval of a rendering of a bell jar ticket, seal card, merchandise board, or coin board by the board] PRIOR TO THE SALE OF A BELL JAR GAME, JAR TICKET, SEAL CARD, MERCHANDISE BOARD OR COIN BOARD TO ANY LICENSED DISTRIBUTOR FOR RESALE IN THIS STATE, the manufacturer shall submit to the board a sample of the printed bell jar ticket, seal card, merchandise board, coin board, payout card, and flare for such game. [Such sample shall be submitted prior to the sale of the game to any licensed distributor for resale in this state.] WITHIN FORTY-FIVE DAYS OF RECEIPT OF SUCH SAMPLE, THE BOARD SHALL APPROVE OR DENY THE BELL JAR TICKET, JAR TICKET, SEAL CARD, MERCHANDISE BOARD OR COIN BOARD. For coin boards and merchandise boards, nothing herein shall require the submittal of actual coins or merchandise as part of the approval process. Any licensed manufacturer who willfully violates the provisions of this section shall: (a) upon such first offense, have their license suspended for a period of thirty days; (b) upon such second offense, participate in a hearing to be conducted by the board, and surrender their license for such period as recommended by the board; and (c) upon such third or subsequent offense, have their license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed manufacturer who violates the provisions of this section shall be guilty of a class E felony.

S 16. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.