

Assembly Bill No. 839

CHAPTER 707

An act to add Article 17 (commencing with Section 19985) to Chapter 5 of Division 8 of the Business and Professions Code, relating to gambling.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 839, Torrico. Gambling Control Act: nonprofit organization fundraisers.

The Gambling Control Act provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the enforcement of those activities by the Division of Gambling Control within the Department of Justice. The act also requires all fees and revenues collected under the act to be deposited in the Gambling Control Fund, which funds are available, upon legislative appropriation, for the division and commission in carrying out their duties under the act.

This bill would revise that act to permit a nonprofit organization to conduct fundraisers using controlled games as a funding mechanism to further the purposes and mission of the nonprofit organization. The bill would prohibit a nonprofit organization holding a fundraiser from conducting more than one fundraiser per calendar year, except as specified, and would require that each fundraiser be limited to no more than 5 consecutive hours. The bill would also prohibit cash prizes or wagers from being awarded to participants, but would allow winners of controlled games to receive prizes from those donated, subject to certain cash value limitations. The bill would also require at least 90% of revenue from fundraisers to go directly to the nonprofit organization and would prohibit more than 10% of the gross receipts of a fundraiser from being paid as compensation to the entity or persons conducting the fundraiser for the nonprofit organization, excluding facility rental fees, as specified. The bill would define "nonprofit organization" to include various organizations qualified to conduct business in California for at least 3 years prior to conducting a controlled game that are exempt from taxation pursuant to specified provisions of the Revenue and Taxation Code.

This bill would further prohibit an eligible nonprofit organization from conducting a fundraiser using controlled games unless it has been in existence and operation for at least 3 years and registers annually with the Division of Gambling Control. The bill would require the division to furnish registration forms to nonprofit organizations, as specified, collect certain information from nonprofit organizations conducting fundraisers,

and adopt regulations in accordance with those provisions. The bill would additionally permit the division to charge eligible organizations an annual registration fee to cover the costs of administration and enforcement and would specify that those fees be deposited into the Gambling Control Fund.

The bill would also authorize the division to require specified suppliers of equipment used in the playing of controlled games by a nonprofit organization, to register with the division.

The people of the State of California do enact as follows:

SECTION 1. Article 17 (commencing with Section 19985) is added to Chapter 5 of Division 8 of the Business and Professions Code, to read:

Article 17. Nonprofit Organization Fundraisers

19985. The Legislature finds and declares the following:

(a) Nonprofit organizations provide important and necessary services to the people of the State of California with respect to educational and social services and there is a need to provide methods of fundraising to nonprofit organizations so as to enable them to meet their stated purposes.

(b) The playing of controlled games for the purpose of raising funds by nonprofit organizations is in the public interest.

(c) Uniform regulation for the conduct of controlled games is in the best interests of nonprofit organizations and the people of this state.

19986. (a) Notwithstanding any other provision of state law a nonprofit organization may conduct a fundraiser using controlled games as a funding mechanism to further the purposes and mission of the nonprofit organization.

(b) A nonprofit organization holding a fundraiser pursuant to subdivision (a) shall not conduct more than one fundraiser per calendar year, and each fundraiser shall not exceed five consecutive hours. Each fundraiser shall be preapproved by the Division of Gambling Control. Eligible nonprofit organizations that have multiple chapters may hold one fundraiser per chapter per calendar year.

(c) No cash prizes or wagers may be awarded to participants, however, the winner of each controlled game may be entitled to a prize from those donated to the fundraiser. An individual prize awarded to each winner shall not exceed a cash value of five hundred dollars (\$500). For each event, the total cash value of prizes awarded shall not exceed five thousand dollars (\$5,000).

(d) At least 90 percent of the gross revenue from the fundraiser shall go directly to a nonprofit organization. Compensation shall not be paid from revenues required to go directly to the nonprofit organization for the benefit of which the fundraiser is conducted, and no more than 10 percent of the gross receipts of a fundraiser may be paid as compensation to the

entity or persons conducting the fundraiser for the nonprofit organization. If an eligible nonprofit organization does not own a facility in which to conduct a fundraiser and is required to pay the entity or person conducting the fundraiser a rental fee for the facility, the fair market rental value of the facility shall not be included when determining the compensation payable to the entity or person for purposes of this section. This section does not preclude an eligible organization from using funds from sources other than the gross revenue of the fundraiser to pay for the administration or other costs of conducting the fundraiser.

(e) An eligible nonprofit organization shall not conduct a fundraiser authorized by this section, unless it has been in existence and operation for at least three years and registers annually with the Division of Gambling Control. The division shall furnish a registration form on its Internet Web site or, upon request, to eligible nonprofit organizations. The division shall, by regulation, collect only the information necessary pursuant to this section on this form. This information shall include, but is not limited to, the following:

(1) The name and address of the eligible organization.

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

(3) The name and title of a responsible fiduciary of the organization.

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

(g) The nonprofit organization shall maintain records for each fundraiser using controlled games, which shall include:

(1) An itemized list of gross receipts for the fundraiser.

(2) An itemized list of recipients of the net profit of the fundraiser, including the name, address, and purpose for which fundraiser proceeds are to be used.

(3) The number of persons who participated in the fundraiser.

(4) An itemized list of the direct cost incurred for each fundraiser.

(5) A list of all prizes awarded during each fundraiser.

(6) The date, hours, and location for each fundraiser held.

(h) As used in this article, “nonprofit organization” means an organization that has been qualified to conduct business in California for at least three years prior to conducting controlled games and is exempt from taxation pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(i) The division may take legal action against a registrant if it determines that the registrant has violated this section or any regulation adopted pursuant to this section, or that the registrant has engaged in any conduct that is not in the best interest of the public’s health, safety, or

general welfare. Any action taken pursuant to this subdivision does not prohibit the commencement of an administrative or criminal action by the Attorney General, a district attorney, or county counsel.

(j) The division may require an eligible organization to pay an annual registration fee of up to one hundred dollars (\$100) per year to cover the actual costs of the division to administer and enforce this section. The annual registration fees shall be deposited by the division into the Gambling Control Fund.

(k) No fundraiser permitted under this section may be conducted by means of, or otherwise utilize, any gaming machine, apparatus, or device that meets the definition of a slot machine contained in Section 330b or 330.1 of the Penal Code.

(l) No more than four fundraisers at the same location, even if sponsored by different nonprofit organizations, shall be permitted in any calendar year, except in rural areas where preapproved by the Division of Gambling Control. For purposes of this section, “rural” shall mean any county with an urban influence code, as established by the latest publication of the Economic Research Service of the United States Department of Agriculture, of “3” or more.

(m) The authority to conduct a fundraiser, as well as the type of controlled games, may be governed by local ordinance.

(n) No person shall be permitted to participate in the fundraiser unless that person is at least 21 years of age.

(o) No fundraiser permitted under this section may be operated or conducted over the Internet.

19987. (a) The division, by regulation or order, may require any person or entity set forth in subdivision (b), to register with the division.

(b) “Person or entity” means one who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise provides, supplies, devices, or other equipment designed for use in the playing of controlled games by any nonprofit organization registered to conduct controlled games.