



BROADENING GAMING'S CHARITABLE REACH:

As you've probably noticed from the "Lottery Tickets Sold Here!" signs at nearly every stop just across Nevada's borders with Arizona and California, Nevada – which is arguably the gaming capital of the world – does not have a state lottery. Indeed, since the state's inception and ratification of its constitution in 1864, "no lottery may be authorized by this State, nor may lottery tickets be sold."¹ But, you may have also noticed lottery-style drawings that are conducted at various sporting events and other events within the state.

Recent Changes to Nevada's Charitable Lottery and Gaming Laws

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These legally permitted carveouts are the result of numerous subsequent legislative changes, the most recent of which occurred in 2021. It is important to understand the current scope of these carveouts for anyone advising clients on charitable lottery and gaming issues.

In 1990, Nevadans voted to amend the state constitution to provide the legislature with the ability to authorize charitable lotteries.² All proceeds of a charitable lottery, less expenses directly related to its operation, "must be used only to benefit charitable or nonprofit activities in this state."³ The Nevada Legislature authorized such laws permitting and regulating charitable

lotteries and charitable gaming through the passage of Assembly Bill No. 449, which was passed into law in 1991. The legislature then amended those laws in 2019 to expand the scope of fundraising activities and to streamline the approval process for certain types of charitable organizations, known in statute as qualified organizations. Still, a qualified organization must register with the chair of the Nevada Gaming Control Board before operating a charitable lottery.⁴

The legislature again amended the statutory framework regulating lotteries and gaming activities conducted by charitable organizations in 2021 through Assembly Bill No. 202 (AB202), which was signed and enacted on June 2, 2021, becoming effective on July 1, 2021. AB202 and newly enacted regulations by the board impart key changes to Nevada's charitable lottery framework.

CONTINUED ON PAGE 18

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Expanding the Scope of Qualified Organizations that may Offer Charitable Lotteries

Under the original legalization, a “qualified organization” was limited to an alumni, charitable, civic, educational, fraternal, patriotic, religious or veterans’ organization, or a state or local bar association certified by the Department of Taxation or the Internal Revenue Service as not operated for profit.⁵ AB202 significantly expanded the scope of qualified organizations to include “any organization or state or local bar association that is registered with the Secretary of State as a charitable organization that solicits charitable contributions.”⁶ Thus, qualifying charitable organizations are no longer restricted to the exact types of organizations listed in Nevada Revised Statute (NRS) 462.125 prior to 2019, and now, any organization that is registered as a charitable organization that solicits charitable contributions in this state is able to register for a charitable lottery.

Limiting the Annual Registration Fee for Qualified Organizations

Since qualified organizations are required to register with the board to conduct charitable lotteries or charitable gaming, the legislature imposed limitations on the fee associated with such registration if the total annual prize value is below \$100,000. Specifically, AB202 amended the existing law to provide that if the total value of the prizes offered by the qualified organization in the same calendar year is less than \$100,000: (1) the qualified organization must register annually with the board; and (2) the regulations adopted by the Nevada Gaming Commission must not impose an annual fee that exceeds \$10 on such a qualified organization.⁷ Particularly with respect to smaller charitable organizations, this amendment helps a qualified organization keep more of the money it collects to use toward its charitable goals, and ensures that such an organization is not priced out of the exception by virtue of the relative burden of associated registration fees.

Confirming the Exclusion of a Charitable Lottery or Charitable Game Through a Video Lottery Terminal

Nevada law prohibits the chair of the board from registering a qualified organization to operate a charitable lottery or charitable game outside of Nevada.⁸ AB202 expanded and clarified this proscription to prohibit the chair of the board from registering a qualified organization to operate a charitable lottery or charitable game through the use of a video lottery terminal or any other mechanical, electromechanical, or electronic device or machine that performs all the functions of a lottery by itself or when networked with other similar devices or machines.⁹ A video lottery terminal (VLT) is an electronic gaming device that may present itself to the player in various forms such as video slots or keno. Unlike Nevada slot machines that use a random number generator for payouts, VLTs are linked to a central network, just like a lottery. In other states, VLTs offer sanctioned games through the authority of a state

lottery; therefore, the legislature’s prohibitive action makes sense because Nevada’s constitution explicitly prohibits such lotteries, with the exception of charitable lotteries. In short, the legislature made clear that charitable lotteries or charitable gaming may not be offered through such devices.

Authorizing Qualified Professional Sports Organizations to Conduct Approved Online Ticket Sales in Conjunction with Charitable Lotteries

To accommodate the increase in revenue qualified organizations affiliated with professional sports teams could generate, the 2019 amendment to Nevada’s charitable gaming laws expanded the total annual value of prizes from \$500,000 to \$2 million for qualified professional sports organizations. These qualified professional sports organizations must be affiliated and co-branded with a professional sports team franchise that is a member of Major League Baseball, Major League Soccer, National Basketball Association, National Hockey League, or National Football League and plays the majority of its home games in Nevada. These charitable raffles, like the Vegas Golden Knights Foundation’s 51/49 raffle offered during Golden Knights home games, are wildly popular.

The amendments in AB202 to the current law now authorize qualified professional sports organizations to conduct approved online ticket sales in conjunction with a charitable lottery when the qualified professional sports organization is playing a home game in Nevada and such online ticket sales are restricted to the use of mobile devices that are located in the arena or stadium of the professional sports team franchise, or on any parcel of land upon which the arena or stadium is situated.¹⁰ In practical terms, this amendment allows qualifying organizations the opportunity to efficiently increase sales by permitting customers at certain professional sporting events in Nevada to use mobile devices to purchase charitable raffle tickets during the event.

In total, the 2021 amendments to Nevada’s charitable lottery and gaming laws expand the scope of charitable gaming and the organizations that can offer charitable lotteries while simultaneously keeping Nevada’s charitable gaming laws in line with the state’s policies related to legalized gaming.

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ENDNOTES:

1. Nevada Constitution Art. 4, § 24(1).
2. "The legislature may authorize persons engaged in charitable activities or activities not for profit to operate a lottery in the form of a raffle or drawing on their own behalf." Nevada Constitution Art. 4, § 24(2).
3. Id.
4. NRS 462.140.
5. NRS 462.125.
6. NRS 462.125(2).
7. NRS 462.160(3).
8. NRS 462.180.
9. NRS 462.180(1).
10. NRS 462.180(3-4).



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