

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
iga.in.gov

**FISCAL IMPACT STATEMENT**

**LS 7278**

**BILL NUMBER: SB 245**

**NOTE PREPARED: Apr 12, 2021**

**BILL AMENDED: Apr 12, 2021**

**SUBJECT:** Type II Gaming and Charity Gaming.

**FIRST AUTHOR:** Sen. Alting

**FIRST SPONSOR:** Rep. Smaltz

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Charity Gaming Proceeds & Prize:* The bill provides that net proceeds from an allowable activity and related activities may be used only for the lawful purposes of the qualified organization, including the: (1) repair; (2) maintenance; or (3) improvement; of owned real property used for the lawful purposes of the qualified organization. It provides that a qualified organization must abide by the rules and regulations of the Internal Revenue Service regarding reporting and withholding rules for charitable prizes paid. It increases the single prize limit for a progressive or carryover pull tab game in charity gaming to \$15,000. It also increases the total prize limit for one pull tab, punchboard, or tip board game in charity gaming to \$15,000.

*Type II Gaming Proceeds & Prize:* The bill provides that a Type II Gambling Game includes raffles, progressive or carry over pull tab games, and sports-themed tip board and pull tab games. It provides that for a raffle drawing, a retailer may not retain more than 20% of the proceeds, a retailer must establish and publish house rules, and the maximum amount of prizes in a raffle game is limited to \$30,000. It provides that the total prizes for one Type II Gambling Game, except for a raffle game, may not exceed \$10,000. It provides that a single prize award for a winning ticket on a seal card game may not exceed \$1,000. It provides that a single prize on a progressive or carryover pull tab game in a Type II Gambling Game may not exceed \$5,000.

*Other Charity Gaming & Type II Gaming Provisions:* The bill specifies the end date for a licensed entity's accounting period. It modifies the definition of "jumbo boat" by removing the requirement that the vessel be approved by the United States Coast Guard. It provides that a holder of a: (1) boat beer permit who operates a jumbo boat may sell beer for carryout; (2) boat liquor permit who operates a jumbo boat may sell liquor for carryout; and (3) boat wine permit who operates a jumbo boat may sell wine for carryout. It

provides that unless specifically granted authority by a statute passed by the General Assembly, the state Lottery Commission and Indiana Gaming Commission (commission) shall not, independently or by public private partnership, operate or authorize the use or operation of the following: (1) A lottery game operated through a video lottery terminal. (2) A video lottery game. (3) A gambling game played on an electronic device. (4) The sale of lottery tickets over the internet.

The bill also makes the following amendments to IC 4-32.3:

- (1) It replaces "annual casino night license" with "annual activity license".
- (2) It specifies that the commission may issue to a qualified organization an annual activity license to conduct a gambling activity approved by the commission, if certain requirements are met.
- (3) It modifies restrictions applicable to a festival license.
- (4) It modifies the restrictions applicable to a worker at a raffle conducted by a qualified organization.
- (5) It removes a provision that allows the commission to authorize two bingo events each year at which the total prizes may not exceed \$10,000.
- (6) It provides that the commission may authorize a qualified organization to conduct a bingo event at which the total prizes exceed \$6,000, and specifies that such a bingo may event may be conducted at a festival.
- (7) It provides that a person less than 18 years of age may sell tickets or chances for a raffle.
- (8) It modifies a provision relating to the license fee for a three year charity gaming license issued to a qualified organization that is a bona fide veterans organization.

The bill also makes technical corrections and conforming amendments.

**Effective Date:** Upon passage; July 1, 2021.

**Explanation of State Expenditures:** *Indiana Gaming Commission (IGC):* The provisions in the bill could increase the administrative workload for the IGC. However, any additional cost to the IGC due to this bill would be paid with revenue from the charity gaming excise tax and the charity gaming license fee.

*Alcohol and Tobacco Commission (ATC):* The ATC would incur some administrative expenses relating to the revision of forms, instructions, and computer programs to allow retailers to report the amount of profits they retain from raffles, progressive pull tabs games, and sports-themed pull tab and tip board games. The ATC would also incur some administrative expenses relating to allowing a qualified jumbo boat to get endorsement to conduct Type II Gambling Games. The provisions in the bill could increase the administrative workload for the ATC. The ATC's current level of resources should be sufficient to implement these changes.

*Department of State Revenue (DOR):* The DOR will incur additional expenses to revise forms, update instructions, and modify the existing tax processing system to implement this bill. The DOR will also incur additional expenses to account for the impact on Type II Gambling Game Excise Tax. The DOR's current level of funding and resources should be sufficient to administer this tax deduction. The DOR's current level of funding and resources should be sufficient to administer this tax deduction.

*Restrictions on Certain Gaming Activity:* The provisions in the bill restricting the Lottery Commission and the Indiana Gaming Commission from allowing certain type of gaming activities will not have any impact to the extent that these types of gaming are currently not allowed under Indiana law.

**Explanation of State Revenues:** *Charity Gaming Prizes:* Increasing the maximum allowable prize for pull tab, punchboard, and tip board events could lead to increased participation and increased adjusted gross

revenue earned by charity gaming organizations. This could increase revenues from charity gaming license fees which are based on the level of prior year adjusted gross revenues. Since this provision is effective July 1, 2021, any impact on licensee fee revenue could begin in FY 2023. Any impact on the volume of charity gaming from the changes in the bill will impact the amount of charity gaming excise tax collected on the sale of charity gaming supplies by licensed distributors or manufacturers. Any fiscal impact on excise tax revenue could begin in FY 2022. Charity gaming license fee and charity gaming excise tax are deposited in the Charity Gaming Enforcement Fund. Any fiscal impact is indeterminable.

*Type II Gambling Game:* The bill will potentially result in additional gambling operations in an establishment with the endorsement to conduct Type II Gambling Games. Conducting these additional games and increasing the maximum prizes for certain games will likely result in additional adjusted gross revenues generated by Type II Gambling Games retailers. Since prior year's adjusted gross revenue is the basis of calculating the renewal license fee, it would increase the license fees paid by the retailers. The license fee revenue is deposited in the ATC's Enforcement and Administration Fund. Any fiscal impact is indeterminable. Since the bill is effective July 1, 2021, any impact on licensee fee revenue could begin in FY 2023.

Additional gambling operations in Type II Gambling Game establishments would increase revenue from the Type II Gambling Game Excise Tax imposed on purchases of gambling supplies and equipment. The excise tax is deposited in the state General Fund. Any fiscal impact on excise tax revenue could begin in FY 2022.

*(Revised) Accounting Period:* The provision in the bill requiring the accounting period of a charity gaming license that is being renewed by the licensee to end two months before the licensee's license expires will not impact charitable gaming license fees or excise taxes assuming that the provision does not impact licensed entities' number of charitable gaming activities.

*Type II Gambling Game on Jumbo Boat :* The bill will allow a qualified jumbo boat to acquire the endorsement to conduct Type II Gambling Games. The bill redefines the term "jumbo boat" as a vessel having a length of at least 135 feet and a width of at least 35 feet. The term does not include a riverboat. Allowing Type II games at these additional locations will result in additional license fees generated by Type II Gambling Games retailers. The license fee revenue is deposited in the ATC's Enforcement and Administration Fund. Any fiscal impact is indeterminable. Since the bill is effective upon passage, any impact on licensee fee revenue could begin in FY 2021.

Gambling operations at a jumbo boat Type II Gambling Game establishment would also increase revenue from the Type II Gambling Game Excise Tax imposed on purchases of gambling supplies and equipment. The excise tax is deposited in the state General Fund. Any fiscal impact on excise tax revenue could begin in FY 2021.

*Alcoholic Beverage Sales:* Current law allows boat permit holders that operate a jumbo boat to serve alcoholic beverages during the times when retailers are normally permitted to serve alcohol, if approved by the local board of each county where the jumbo boat docks. All other boat permit holders may only serve alcohol in the course of a run and one hour before the boat embarks on the run. The bill could increase the number of permittees that qualify as a jumbo boat. The bill also allows a jumbo boat to sell alcohol for carryout. These provisions could increase the availability of alcohol to patrons of these establishments. To the extent that total alcohol consumption increases as a result of this change, revenue from Alcoholic Beverage Taxes and Sales Tax could potentially increase. However, any increase would likely be minimal.

*Other Charity Gaming Provisions:* The bill provides that net proceeds from an allowable activity and related activities may be used only for the lawful purposes of the qualified organization, including the: (1) repair; (2) maintenance; or (3) improvement; of owned real property used for the lawful purposes of the qualified organization. It replaces ‘annual casino night license’ with ‘annual activity license’. It modifies certain restrictions applicable to festival licenses. It also modifies the restrictions put on a worker at a raffle conducted at a qualified event. It changes the allowable threshold for prizes at certain qualified bingo game events. It provides that a person less than 18 years of age may sell tickets or chances for a raffle. It clarifies a provision relating to the license fee for a three year charity gaming license issued to a qualified organization that is a bona fide veterans organization. These modifications and calcifications could have a minimal impact on Charity Gaming License Fee or Charity Gaming Excise Tax revenue.

*Additional Information: Charity Gaming License Fee:* The IGC administers and enforces charity gaming. In FY 2020, more than 3,000 charity gaming licences were issued to qualified organizations. This generated \$3.9 M in charity gaming license fees. The initial license fee is \$50. However, annual renewal fees range from \$50 to \$41,000 depending on the adjusted gross revenue earned by an organization from charity gaming in the prior year. Adjusted gross revenue is the total gross revenue minus deductions for the cost of prizes, licensed supplies, license fees, advertising expenses, and up to \$200 per day for facility rent. The charity gaming license fee is deposited in the Charity Gaming Enforcement Fund.

*Charity Gaming Excise Tax:* The tax is imposed at the rate of 10% on the sale of pull tabs, punchboards, and tip boards by licensed distributors or manufacturers. Any impact on the volume of charity gaming from the changes in the bill will impact the amount of charity gaming excise tax deposited in the Charity Gaming Enforcement Fund. The tax generated about \$1 M in FY 2020.

*Charity Gaming Enforcement Fund:* Charity gaming administration is funded by the money deposited in the fund. Under current law, the fund receives revenues from the: (1) charity gaming excise tax; (2) charity gaming license fees; and (3) penalties under the charity gaming statutes. After the costs of charity gaming administration are subtracted and distributions are made to the License Control Division and the Gaming Control Division, revenue remaining in the Charity Gaming Enforcement Fund is distributed to the Lottery Surplus Fund.

*Type II Gambling Game License Fee:* The fee is paid by a person who is licensed to sell alcoholic beverages and has an endorsement to conduct Type II Gambling Games. The first year fee is \$250. The renewal fee is based on a schedule based on adjusted gross revenue from Type II Gambling Games operations in the preceding year. Under current law, “Type II Gambling Game” means a pull tab, punchboard, or tip board game. The bill also allows conducting raffles, progressive or carry over pull tab games, and sports-themed tip board and pull tab games and includes the revenue and expenditure from these games in the calculation of adjusted gross revenue. As reported by the ATC, there are about 1,600 approved alcoholic beverage license holders with an endorsement to conduct Type II Gambling Games. This generated \$0.25 M in license fees in FY 2020. The revenue is deposited in ATC’s Enforcement and Administration Fund.

*Type II Gambling Game Excise Tax:* The Type II Gambling Game Excise Tax is paid by licensed distributors or manufacturers of pull tabs, punchboards, and tip boards. The tax is equal to 10% of the price paid by all approved alcoholic beverage license holders with an endorsement allowing on-premises sale of pull tabs, punchboards, and tip boards. The bill will add additional supplies which will be included in calculating the 10% excise tax. There are 23 licensed distributors and about 10 licensed manufacturers of Type II Gambling Games. The tax generated about \$0.5 M in FY 2020. The revenue is deposited in the state General Fund.

*Alcoholic Beverage Tax Revenue:* The revenue is distributed in varying amounts to the following funds: General Fund, State Construction Fund, Enforcement and Administration Fund, Pension Relief Fund, Addiction Services Fund, and Wine Grape Market Development Fund. Fifty percent of the General Fund distribution is allocated to cities and towns according to a formula based on population.

*Sales Tax Revenue:* The revenue is deposited in the General Fund (99.838%), Commuter Rail Service Fund (0.131%), and Industrial Rail Service Fund (0.031%).

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Alcoholic Beverage Sales:* To the extent that Alcoholic Beverage Taxes increase, revenue distributed to cities and towns could increase. However, any impact on local revenues would be small. (See *Explanation of State Revenues.*)

**State Agencies Affected:** Indiana Gaming Commission; Alcohol and Tobacco Commission; Department of State Revenue.

**Local Agencies Affected:** Cities and towns.

**Information Sources:** Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations*, FY 2020. <https://iga.in.gov/legislative/2021/publications/handbooks/>

**Fiscal Analyst:** Randhir Jha, 317-232-9556; Lauren Tanselle, 317-232-9586.