

By Senator Evers

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1 A bill to be entitled
2 An act relating to charitable organizations and
3 educational institutions that conduct drawings by
4 chance; amending s. 849.0935, F.S.; defining the term
5 "charitable organization"; providing an exemption for
6 a charitable organization or educational institution
7 if conducting a raffle that splits evenly the proceeds
8 between the charitable organization or institution and
9 the winner or if awarding a nonmonetary prize to the
10 winner, with all proceeds accruing to the educational
11 institution or charitable organization; amending s.
12 496.404, F.S.; revising the definition of the term
13 "solicitation"; providing that a charitable
14 organization or an educational institution that
15 conducts a specified raffle does not constitute a
16 solicitation; amending s. 496.415, F.S.; providing
17 that it is not unlawful for a charitable organization
18 or an educational institution to provide a specified
19 notification in certain circumstances; providing an
20 effective date.

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22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 849.0935, Florida Statutes, is amended
25 to read:

26 849.0935 Charitable, nonprofit organizations; educational
27 institutions; drawings by chance; required disclosures; unlawful
28 acts and practices; penalties.—

29 (1) As used in this section, the term:

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30 (a) "Drawing by chance," "drawing," or "raffle" means an
31 enterprise in which, from the entries submitted by the public to
32 the organization conducting the drawing, one or more entries are
33 selected by chance to win a prize. The term "drawing" does not
34 include those enterprises, commonly known as "game promotions,"
35 as defined by s. 849.094, "matching," "instant winner," or
36 "preselected sweepstakes," which involve the distribution of
37 winning numbers, previously designated as such, to the public.

38 (b) "Organization" means an organization that ~~which~~ is
39 exempt from federal income taxation pursuant to 26 U.S.C. s.
40 501(c)(3), (4), (7), (8), (10), or (19), and which has a current
41 determination letter from the Internal Revenue Service, and its
42 bona fide members or officers.

43 (c) "Charitable organization" means an organization, which
44 is established for a benevolent, educational, philanthropic,
45 humane, scientific, artistic, patriotic, social welfare or
46 advocacy, public health, environmental conservation, civic, or
47 other eleemosynary purpose, or an organization that in any
48 manner employs a charitable appeal as the basis for any
49 solicitation.

50
51 The term includes a chapter, branch, area office, or similar
52 affiliate soliciting contributions within the state for an
53 organization that has its principal place of business outside
54 the state.

55 (2) Section 849.09 does not prohibit an organization from
56 conducting drawings by chance pursuant to the authority granted
57 by this section, if the organization has complied with all
58 applicable provisions of chapter 496 and this section.

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59 (3) All brochures, advertisements, notices, tickets, or
60 entry blanks used in connection with a drawing by chance shall
61 conspicuously disclose:

62 (a) The rules governing the conduct and operation of the
63 drawing.

64 (b) The full name of the organization and its principal
65 place of business.

66 (c) The source of the funds used to award cash prizes or to
67 purchase prizes.

68 (d) The date, hour, and place where the winner will be
69 chosen and the prizes will be awarded, unless the brochures,
70 advertisements, notices, tickets, or entry blanks are not
71 offered to the public more than 3 days prior to the drawing.

72 (e) That no purchase or contribution is necessary.

73 (4) It is unlawful for any organization that, pursuant to
74 the authority granted by this section, promotes, operates, or
75 conducts a drawing by chance:

76 (a) To design, engage in, promote, or conduct any drawing
77 in which the winner is predetermined by means of matching,
78 instant win, or preselected sweepstakes or otherwise or in which
79 the selection of the winners is in any way rigged;

80 (b) To require an entry fee, donation, substantial
81 consideration, payment, proof of purchase, or contribution as a
82 condition of entering the drawing or of being selected to win a
83 prize. However, this paragraph does not prohibit an organization
84 from suggesting a minimum donation or from including a statement
85 of such suggested minimum donation on any printed material used
86 in connection with the fundraising event or drawing;

87 (c) To condition the drawing on a minimum number of tickets

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88 having been disbursed to contributors or on a minimum amount of
89 contributions having been received;

90 (d) To arbitrarily remove, disqualify, disallow, or reject
91 any entry or to discriminate in any manner between entrants who
92 gave contributions to the organization and those who did not
93 give such contributions;

94 (e) To fail to promptly notify, at the address set forth on
95 the entry blank, any person whose entry is selected to win of
96 the fact that he or she won;

97 (f) To fail to award all prizes offered;

98 (g) To print, publish, or circulate literature or
99 advertising material used in connection with the drawing which
100 is false, deceptive, or misleading;

101 (h) To cancel a drawing; or

102 (i) To condition the acquisition or giveaway of any prize
103 upon the receipt of voluntary donations or contributions.

104 (5) The organization conducting the drawing may limit the
105 number of tickets distributed to each drawing entrant.

106 (6) A violation of this section is a deceptive and unfair
107 trade practice.

108 (7) Any organization that engages in any act or practice in
109 violation of this section commits a misdemeanor of the second
110 degree, punishable as provided in s. 775.082 or s. 775.083. Any
111 organization or other person who sells or offers for sale in
112 this state a ticket or entry blank for a raffle or other drawing
113 by chance, without complying with the requirements of paragraph

114 (3) (d), commits a misdemeanor of the second degree, punishable
115 by fine only as provided in s. 775.083.

116 (8) This section does not apply to the state lottery

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117 operated pursuant to chapter 24.

118 (9) An educational institution as defined in s. 496.404 or
119 a charitable organization is exempt from complying with
120 paragraph (3) (a) and paragraphs (4) (b)-(d) and (i) if conducting
121 a raffle that:

122 (a) Splits evenly the proceeds of the required entry fee,
123 donation, substantial consideration, payment, or contribution
124 between the educational institution or charitable organization
125 and the winner; or

126 (b) Awards a nonmonetary prize to the winner, with all
127 proceeds from the required entry fee, donation, substantial
128 consideration, payment, or contribution accruing to the
129 educational institution or charitable organization.

130 Section 2. Subsection (24) of section 496.404, Florida
131 Statutes, is amended to read:

132 496.404 Definitions.—As used in ss. 496.401-496.424, the
133 term:

134 (24) "Solicitation" means a request, directly or
135 indirectly, for money, property, financial assistance, or any
136 other thing of value on the plea or representation that such
137 money, property, financial assistance, or other thing of value
138 or a portion of it will be used for a charitable or sponsor
139 purpose or will benefit a charitable organization or sponsor.
140 The term includes, but is not limited to, the following methods
141 of requesting or securing the promise, pledge, or grant of
142 money, property, financial assistance, or any other thing of
143 value:

144 (a) Making any oral or written request;

145 (b) Making any announcement to the press, on radio or

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146 television, by telephone or telegraph, or by any other
147 communication device concerning an appeal or campaign by or for
148 any charitable organization or sponsor or for any charitable or
149 sponsor purpose;

150 (c) Distributing, circulating, posting, or publishing any
151 handbill, written advertisement, or other publication that
152 directly or by implication seeks to obtain any contribution; or

153 (d) Selling or offering or attempting to sell any
154 advertisement, advertising space, book, card, coupon, chance,
155 device, magazine, membership, merchandise, subscription,
156 sponsorship, flower, admission, ticket, food, or other service
157 or tangible good, item, or thing of value, or any right of any
158 description in connection with which any appeal is made for any
159 charitable organization or sponsor or charitable or sponsor
160 purpose, or when the name of any charitable organization or
161 sponsor is used or referred to in any such appeal as an
162 inducement or reason for making the sale or when, in connection
163 with the sale or offer or attempt to sell, any statement is made
164 that all or part of the proceeds from the sale will be used for
165 any charitable or sponsor purpose or will benefit any charitable
166 organization or sponsor.

167
168 A solicitation is considered as having taken place regardless of
169 whether the person making the solicitation receives any
170 contribution. A solicitation does not occur when a person
171 applies for a grant or an award to the government or to an
172 organization that is exempt from federal income taxation under
173 s. 501(a) of the Internal Revenue Code and described in s.
174 501(c) of the Internal Revenue Code and is duly registered with

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175 the department, or if a charitable organization or an
176 educational institution conducts a raffle pursuant to s.
177 849.0935(9).

178 Section 3. Subsection (14) of section 496.415, Florida
179 Statutes, is amended to read:

180 496.415 Prohibited acts.—It is unlawful for any person in
181 connection with the planning, conduct, or execution of any
182 solicitation or charitable or sponsor sales promotion to:

183 (14) Notify any other person by any means, as part of an
184 advertising scheme or plan, that the other person has won a
185 prize, received an award, or has been selected or is eligible to
186 receive anything of value if the other person is required to
187 purchase goods or services, pay any money to participate in, or
188 submit to a promotion effort unless a charitable organization or
189 an educational institution provides the notification as part of
190 a raffle conducted pursuant to s. 849.0935(9).

191 Section 4. This act shall take effect July 1, 2015.