

SUBJECT: Allowing wildlife conservation associations to sell raffle tickets online

COMMITTEE: Licensing & Administrative Procedures — favorable, without amendment

VOTE: 9 ayes — K. King, Walle, Goldman, Harless, Hernandez, Herrero, T. King, Patterson, S. Thompson

2 nays — Schaefer, Shaheen

WITNESSES: For — Shane Bonnot, Coastal Conservation Association; Kirby Brown, Scott Grant, Ducks Unlimited; Joe Betar, Houston Safari Club Foundation (*Registered, but did not testify*: Carrie Simmons, Texas Chapter of the Wildlife Society; Joey Park, Texas Wildlife Association)

Against — Rob Kohler, Christian Life Commission of the Baptist General Convention of Texas (*Registered, but did not testify*: Dan Mays, Kickapoo Traditional Tribe of Texas)

BACKGROUND: Under Occupations Code sec. 2002.003, an organization incorporated or holding a certificate of authority under the Texas Non-Profit Corporation Act is defined as a qualified nonprofit organization if the organization:

- does not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services;
- has existed for the three preceding years;
- does not devote a substantial part of its activities to attempting to influence legislation and does not participate or intervene in any political campaign on behalf of any candidate for public office in any manner, including by publishing or distributing statements or making campaign contributions;
- qualifies for and has obtained a certain exemption from federal income tax from the Internal Revenue Service under 501(c); and
- does not have or recognize any local chapter, affiliate, unit, or subsidiary organization in this state.

Under Occupations Code sec. 2002.054(a)(3), an organization may not sell or offer to sell tickets for a raffle statewide.

DIGEST: HB 2138 would provide an exception to Occupations Code sec. 2002.054(a)(3) for a nonprofit wildlife conservation association, including each local chapter, affiliate, wildlife cooperative, or unit that was a qualified nonprofit organization under Occupations Code sec. 2002.003. These nonprofits would be allowed to use the organization's website to sell or offer tickets for a raffle to previously identified supporters of the organization.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023

SUPPORTERS SAY: HB 2138 would provide additional, more streamlined opportunities for previously established supporters and members of wildlife associations to support Texas conservation projects. By allowing for the online sale of charitable raffle tickets, which already can be sold in-person, nonprofit wildlife conservation associations could provide safer platforms for transactions. Currently, these groups can call members interested in purchasing raffle tickets and write a member's name and credit card information down on a piece of paper, leaving that member's personal information at risk of exposure. HB 2138 would allow for safer and easier options that would discourage this practice. Organizations could use secure online platforms and verify the identity of their raffle winners. Additionally, nonprofit wildlife conservation associations can already advertise their charitable raffles online but cannot sell tickets online, leaving an interested market unable to safely participate.

HB 2138 would enhance fundraising opportunities for preestablished supporters of nonprofit wildlife conservation associations. For times when in-person events were not possible, as was common during the COVID-19 pandemic, these organizations would still be able to raise money for important causes. This is not an uncommon circumstance, as only a small

portion of organization members can typically attend in-person raffles. The bill would provide more opportunities for members to support the causes they cared about and allow organizations to capitalize on available funding. HB 2138 also would support Texas conservation projects and could funnel millions of dollars into the Texas economy. Wildlife organizations in several other states, including those that prohibit gambling, already have the ability to sell charitable raffle tickets online, and Texans are buying those tickets. This bill would keep funding in Texas and support Texas wildlife.

The online raffles described in HB 2138 would not qualify as online gambling, as the wildlife conservation associations would not receive a portion of the winnings. Additionally, the bill would only allow the online purchase of raffle tickets by existing supporters and members of these organizations, which would not include the general public. For individuals who had concerns about a risk of problem gambling, the state would have resources for support.

CRITICS
SAY:

HB 2138 could pose a cybersecurity risk for Texas consumers who purchased raffle tickets using online platforms. The bill also does not define a "previously identified supporter," which could create enforcement difficulties for the state. The lack of restrictions on how organizations identified or defined these supporters and the absence of voluntary self-exclusion measures or other support programs for problem gamblers could harm Texans affected by gambling addiction.

Additionally, online payment for raffle tickets could be interpreted as class III gaming, which is not currently allowed in Texas. Under the federal Indian Gaming Regulatory Act, class III gaming includes gambling formats such as an electronic game of chance. In order to maintain the current balance between federal, state, and tribal interests, the bill should avoid language that could interfere with current gaming compacts.