

Proponent Testimony for HB 282
Ohio Senate Government Oversight and Reform Committee
December 2020

Chairman Coley, Vice Chairman Huffman, Ranking Member Craig and members of the Committee:

My name is Rodger Eckelberry. I am an attorney and a partner in the Columbus office of Baker & Hostetler. I am a nine-year veteran of the United States Navy, and a Life Member of the Veterans of Foreign Wars of the United States - currently a member of VFW Post 9857 here in Columbus. I am also the Executive Officer of the Combat Veterans Motorcycle Association, Chapter 12-1. But I speak today in my personal capacity.

Neither I nor my firm have any financial interest in the passage of HB 282, current or prospective, directly or indirectly. While I do provide legal representation to the VFW Department of Ohio, I do so on a pro bono basis.

In urging the Committee to send HB 282 to the full Senate for a vote I offer two areas of testimony. First, I will address concerns and certain statements of fact made by the Chairman in the prior proponent hearing. Secondly, I will address, from personal experience, the charitable work of Ohio veterans organizations that passage of HB 282 will assist in continuing.

During questioning of the bill's sponsors on November 18th, the Chairman made several comments regarding litigation pending in Ohio related to electronic raffle machines being operated in many veterans posts in Ohio. He said these machines are "slot machines" being operated by one or two entities, and that we do not know who is collecting the money. He clarified after a question that by "operator" he was referring to the manufacturer, who builds the machines and designs the computer code, and not the Posts in which the machines are located.

In fact, the money is collected from the machines by the local posts. The manufacturer does remove money from the machines, and play on the machines is limited to cash only – they do not accept credit, debit, or any other electronic or digital form of payment.

Referring to litigation over electronic raffle machines, the Chairman stated that the "organization operating the machines has lost at every stage. . . ." The Chairman was referring to a case originally filed in the Franklin County Court of Common Pleas, appealed to the Ohio Tenth District Court of Appeals, and currently before the Ohio Supreme Court on a discretionary appeal.

However, no manufacturer of raffle machines is, or has ever been, a party to that litigation. That litigation was commenced in 2013 by The Ohio Veterans & Fraternal Charitable Coalition, Veterans of Foreign Wars of Ohio Charities, American Legion Department of Ohio Charities, Inc., and VFW Post 5713, as Plaintiffs, with the Attorney General and Ohio Liquor Control Commission as Defendants. In 2014, the Ohio Liquor Control Commission was dismissed with prejudice based upon a settlement agreement, submitted to the trial court, under which the OLCC agreed "not to hold any hearings or move forward with any cases involving the [Electronic Raffle Machines] until a final decision was reached in [the] case, all appeals exhausted, and the TRO dismissed." *The Ohio Veterans & Fraternal Charitable Coalition, et al., v. DeWine*, 2018-Ohio-4679, ¶ 5. So OLCC is no longer a party. But no manufacturer of Electronic Raffle Machines has ever been a party to that case. In fact, the Attorney General's office moved the trial court for an

order joining a manufacturer of the Electronic Raffle Machines as a party but the court denied that motion – holding the manufacturer was not a necessary party to the case.

The comment was made that the litigation currently pending before the Ohio Supreme Court “involves *these* machines.” That is not correct. The litigation involves Electronic Raffle Machines, not Electronic Instant Bingo.

The Chairman further stated that the Ohio Supreme Court is “getting ready to issue a decision” and the “upshot of that is these people are going to lose, these machines are going to be found to be slot machines”, and the urgency is to pass this legislation before the Ohio Supreme Court orders the manufacturer to return the tens of millions of dollars it has made. Again, no manufacturer is a party to the case, so the Supreme Court will not be ordering any manufacturer to do anything. Secondly, HB 282 applies to Electronic Instant Bingo, and it will operate prospectively only. In addition, what is presently before the Ohio Supreme Court is not the appeal of the merits itself but, rather, a motion for the Court to accept the appeal. If that is granted only then will the Court decide the merits of the appeal. If the motion is not granted then the decision of the Court of Appeals will stand. Passage of HB 282 will not apply to the Electronic Raffle Machines that have been in use for many years and will have no legal affect on the pending litigation. Admittedly, it would likely have a practical effect as Ohio’s veterans and fraternal organizations could switch to Electronic Instant Bingo machines and would no longer have incentive to continue the litigation; but passage of the Bill would have no legal effect on the existing Electronic Raffle Machines or the pending litigation.

I would next like to address the practical effect of passage of HB 282, based upon my own, personal experiences.

- My VFW Post is open 365 days per year (with the exception of mandatory closing because of COVID). It provides a place not only for veterans to gather, but a focal point for veterans to seek help and assistance with personal, VA, and benefits problems and issues. Veterans know that if a VFW Post does not have an answer to a problem, they will know how to find the answer, or connect the veteran with someone who can. And they know they can always have the company of fellow veterans if needed around the holidays – which can be particularly difficult for many and a time of increased risk of suicides due to depression.
- No member of the Post receives *any* financial benefit from instant bingo or Electronic Raffle Machines. Bartenders are paid set hourly wages from liquor and food sales. Post officers are all unpaid volunteers, with the exception of the Post Quartermaster, who is responsible for all bookkeeping, the paying of bills, and all financial aspects of running the Post. In our Post the Quartermaster is paid just \$400 per month, and those funds come from member dues, hall rentals and food and liquor sales.
- Last Thursday, me and some other volunteers prepared and served more than 60 Thanksgiving dinners to veterans and their immediate family members – and this number does not include the ‘take-out’ orders we filled for those avoiding in-person dining based upon COVID. This food was paid for from the Post charities account, which is audited by the Ohio Attorney General’s office and funded from instant bingo and Electronic Raffle Machines.

- Our Thanksgiving meal was not an anomaly. Every Veterans Day, Thanksgiving, Christmas, New Year, Easter and Memorial Day we provide free, home-cooked meals to *any* veteran and her or his immediate family. They need not be a member of the VFW. This food is paid for from our charities account.
- Before COVID, every month I and other members of my Post took free, home-cooked meals to a ward of 40 patients at the Chillicothe VA Hospital, and at Christmas provides them each new clothing. We also take and leave extra, sugar-free sodas, because most of these patients have no money and the soda machines in the hospital charge our veterans \$1.50 per can of soda. Most of these patients we know by name because they have been residents for several years, and many will never leave. When COVID restrictions are lifted we plan to continue this work. This food, along with the expense of the Post van used to transport it, is paid for from our charities account.
- My Post maintains a storage facility on-site containing wheelchairs, crutches, walkers, handicap toilet equipment, and even adjustable hospital beds, that we loan any veteran who needs them, free of charge. This is equipment is paid for and maintained from our charities account.
- I am a member of my Post's Color Guard, which provides Honor Guards for veterans' funerals – rendering a 21 gun salute and the playing of taps. The rifles are owned by, and loaned to us from, the U.S. Army through a program to provide them to veterans organizations for just this purpose because the U.S. military does not have sufficient personnel to provide this earned honor. But the rounds for the rifles, and the uniforms we wear, are paid for from our charities account.
- I have helped to fold the flags that drape our veterans' caskets, knelt down on my right knee, and presented the burial flag to the next of kin on behalf of the VFW and a grateful nation for their loved ones' faithful service. Those flags are paid for from our charities account.
- We do not provide cash to any person, but we have provided groceries, purchased prescription medication, and directly paid or assisted with payment of utility bills and rent for veterans in need. This money comes from our charities account.
- I mentioned that I am the Executive Office of the Combat Veterans Motorcycle Association, Chapter 12-1. The official motto of the CVMA is "Vets Helping Vets." In just the last 4 years alone my Chapter has donated more than \$170,000 to the Dayton Fisher House, which provides free lodging for families of veterans receiving in-patient care at the Dayton VA hospital. We are just one of nine Chapters in Ohio, each supporting a veterans charity. Our most consistent and often largest donors are VFW, American Legion, and AmVets Posts.
- The CVMA has no "posts" or physical locations. We hold our meetings and fundraisers at VFW, American Legion, and AmVets Posts, who allow us to use their halls free of charge in support of our charitable work on behalf of veterans.

We are all volunteers. In addition to our time, many of us donate financially as well. But not all are in a position to do so. And it is an unfortunate reality that the need among Ohio's veterans outstrips the capacity of our members' personal donations. Without modernization of the existing instant bingo law we will not be able to provide the services that we provide today.

These things we do for our brothers and sisters we do not for thanks, and certainly not for money. We do them because they need doing, and we feel a moral obligation to see that they are done. We do not ask anyone to do them for us – not the federal, state, or local governments, whom we must assume would do so if they could. All we ask is that we be allowed to modernize the means already granted us to generate the funds needed to fulfill our mission.

Thank you.