



**H.B. 598**  
123rd General Assembly  
(As Introduced)

**Reps. Netzley, Van Vyven, Mottley, Damschroder**

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**BILL SUMMARY**

- Creates a license that authorizes charitable organizations to conduct regular bingo, instant bingo, punch board and seal card games, and raffles.
- Authorizes charitable organizations that hold D-4 and D-5 liquor permits to conduct certain types of bingo and serve beer or intoxicating liquor at the same time.
- Changes the amount that certain charitable organizations may deduct from gross receipts as consideration for the use of premises they own for instant bingo, raffles, or seal card or punch board games not conducted simultaneously with regular bingo games.
- Allows fraternal, civic, and veteran's organizations to use directly for themselves 45% of the net profits generated from instant bingo, raffles, or seal card or punch board games.
- Makes other changes in the Charitable Gambling Law.

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## CONTENT AND OPERATION

### *The conduct of bingo: in general*

#### *Scheme of chance prohibition and exemption*

Current law prohibits any person from establishing, promoting, operating, or knowingly engaging in conduct that facilitates *any scheme or game of chance* conducted for profit (sec. 2915.02(A)(2)).<sup>1</sup> This prohibition, however, does not apply to a scheme of chance conducted for profit by a *charitable organization*, as this term is defined in the Charitable Gambling Law (see **COMMENT**), if the organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code (see **COMMENT**) and if all of the money or assets received from the scheme of chance after the deduction only of prizes paid out during the conduct of the scheme of chance are used by, or are given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), (a)(2), or (a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax-exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code. Also, the scheme of chance cannot be conducted during, or within ten hours of, a bingo game conducted for amusement purposes only. (Sec. 2915.02(D)(1).) Although certain charitable organizations, such as veteran's organizations and fraternal organizations, qualify as charitable organizations under the Charitable Gambling Law and can receive a bingo license, they cannot conduct schemes of chance

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<sup>1</sup> *A violation of this prohibition constitutes the offense of gambling, which is either a misdemeanor of the first degree or a felony of the fifth degree (sec. 2915.02(F)).*

under the exemption described above since they are not described in subsection 501(c)(3) of the Internal Revenue Code.

The bill removes the exemption for schemes of chance described in the preceding paragraph but authorizes the Attorney General to issue a license that allows *any charitable organization* to conduct regular bingo, instant bingo, raffles, seal card games, and punch board games. In addition, the bill specifies that the conduct of bingo by a charitable organization so licensed does not constitute the offense of gambling. (Secs. 2915.01(R) and (S)(1) and (2), 2915.02(D)(1) and (3), and 2915.08.)

**New meaning of bingo; other related new definitions; and the expanded offense of cheating**

The bill defines "bingo" as the conduct of regular bingo, instant bingo, raffles, seal cards, and punch boards (see definitions below), specifies that bingo is not a scheme or game of chance, and specifically includes bingo within the scope of the criminal offense of cheating.<sup>2</sup> (Secs. 2915.01(C), (D), (E), and (S) and 2915.05(A)(4).) The bill defines "instant bingo" as a form of bingo that uses a folded or banded ticket or a paper card with a perforated break-open tab, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners (sec. 2915.01(FF)). Under the bill, "raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffles are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. (Sec. 2915.01(HH).)

The bill defines "seal card" as a ticket used in conjunction with instant bingo tickets or cards that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols (sec. 2915.01(GG)). Under the bill, "punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a

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<sup>2</sup> *In this regard, cheating would be committed if a person, with purpose to defraud or knowing that the person is facilitating a fraud, engages in conduct designed to corrupt the outcome of bingo. Cheating is either a misdemeanor of the first degree or a felony of the fifth degree.*

winning number or, if the punch board includes the use of a seal card, a potential winning number. (Sec. 2915.01(II).)

**Meaning of "net profit"; related terms**

The bill defines "net profit" as gross profit minus expenses. "Gross profit" is defined as gross receipts minus the amount actually expended for the payment of prize awards. Under the bill, "expenses" means the reasonable amount of gross profit actually expended for all of the following: (1) the purchase of bingo supplies (see below), (2) the annual license to conduct bingo fee required to be paid under existing law, (3) bank fees and service charges for the bingo account, (4) audits and accounting services, (5) safes, (6) cash registers, and (7) any other product or service directly related to the conduct of bingo that is authorized in rules governing the conduct of bingo that are adopted by the Attorney General. "Bingo supplies" are defined by the bill to mean (1) bingo cards or sheets, (2) instant bingo tickets or cards, (3) raffle tickets, (4) punch boards, (5) seal card tickets, and (6) devices for selecting, dispensing, or displaying bingo numbers, instant bingo tickets or cards, raffle tickets, or seal card tickets. These items are not "gambling devices" as defined in the Charitable Gambling Law if sold and used in accordance with that law. (Sec. 2915.01(F)(5), (EE), (JJ), (KK), and (LL).)

**Changes in definitions of various other terms used in the Charitable Gambling Law; use of "net profit"**

**Charitable purpose.** Current law defines various charitable purposes for which a charitable organization may use the *proceeds* of (1) a regular bingo game or (2) schemes of chance, such as instant bingo, raffles, and seal card and punch board games (secs. 2915.01(Z) and 2915.02(D)(1)). Currently, organizations described in subsection 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code (civic, fraternal, and veteran's organizations) generally cannot conduct schemes of chance or use directly for themselves the net profit derived from the proceeds of regular bingo games.

The bill defines "charitable purpose," in addition to the meaning generally as given to it in current law in connection with regular bingo games, as meaning that the *net profit* of instant bingo, raffles, and seal card and punch board games, whether or not played in conjunction with regular bingo games, is used, or is given, donated, or otherwise transferred, in the following manner in the percentages indicated: (1) not less than 55% of the net profit is used for one or more of the charitable purposes listed in current law for the use of the net profit of regular bingo games and (2) not more than 45% of the net profit is used by, or is given, donated, or otherwise transferred to, a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection

501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code (sec. 2915.01(Z)(1) and (2)).<sup>3</sup>

One of the charitable purposes for which the proceeds of regular bingo games may be used, or to which they may be given, donated, or otherwise transferred, under existing law is use by or transfer to a fraternal organization *that has been in continuous existence in Ohio for 15 years* for use exclusively for religious, charitable, scientific, literary, or educational purposes, etc. The bill repeals the qualification of 15 years continuous existence in Ohio, so that the net profit of a regular bingo game may be used by or transferred to *any* fraternal organization that uses the net profit exclusively for the latter purposes. (Sec. 2915.01(Z)(1)(c).)

**Educational organization.** Current law defines "educational organization" as any organization within Ohio that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction, and that operates or contributes to the support of a school, academy, college, or university. The bill redefines "educational organization" as any organization within Ohio that is not organized for profit and that is organized for educational purposes. Relatedly, "educational purposes" is defined by the bill to mean to *provide scholarships*, to educate and develop the capabilities of individuals through instruction, or to operate or contribute to the support of a school, academy, college, or university. (Sec. 2915.01(J).)

**Fraternal organization.** Current law defines "fraternal organization" as any society, order, or association within Ohio, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in Ohio for a *period of five years*. The bill reduces this period of continuous existence to a *period of two years*, and relatedly defines "national or state organization" as an organization that has been in continuous existence as such for a period of at least five years and that has a national or state dues-paying membership, as applicable. (Secs. 2915.01(M) and 2915.08(A)(2).)

**Veteran's organization.** Under current law, a "veteran's organization" must be an individual post, or an auxiliary unit of an individual post, of a national veteran's association, and a "national veteran's association" must have been in

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<sup>3</sup> *The charitable purposes listed in current law relate to the use of the "proceeds," or the giving, donation, or other transfer of the "proceeds," of regular bingo games. The bill substitutes "net profit" for "proceeds" in these regular bingo game provisions. (Sec. 2915.01(Z)(1).)*

continuous existence as such for a period of *at least ten years*. The bill reduces this time period to *at least five years*. (Sec. 2915.01(K).)

**Bingo game operator.** The bill adds the following acts to the examples of acts that, under current law, a bingo game operator may perform at the site of a regular bingo game: (1) selling instant bingo tickets or cards, including instant bingo tickets used in conjunction with a seal card, (2) supervising the operation of a punch board, (3) selling raffle tickets, and (4) selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle (sec. 2915.01(U)). These additional acts reflect the bill's expanded meaning of "bingo."

**Gross receipts.** Current law specifies that "gross receipts" from a bingo session do not include any money directly taken in from the sale of food or beverages by a charitable organization conducting a bingo session, or by a bona fide auxiliary unit or society of a charitable organization, if all of the following apply: (1) the auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to the session, (2) the person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage, (3) the food and beverages are sold at customary and reasonable prices, and (4) no person preparing, selling, or serving the food or beverages at the site of the bingo game receives directly or indirectly any form of compensation for the preparation, sale, or service of the food or beverages (sec. 2915.01(W)).

The bill repeals the restriction described in item (4) above, but the restrictions described in items (1) to (3) above still apply (sec. 2915.01(X)(4)).

**Interpretation letters from the Attorney General to a charitable organization**

Under the bill, a charitable organization that has been issued a license to conduct bingo as redefined by the bill may request the Attorney General to provide it with a written interpretation of a particular provision of the Charitable Bingo Law, the Liquor Control Law, or the Liquor Permit Law that affects its operation under its license. The charitable organization must make the request in writing and send it to the Attorney General by certified mail, return receipt requested. If the Attorney General receives a request for an interpretation, the Attorney General must provide the interpretation in writing and in easily understandable language to the charitable organization that requested it within 14 days after receiving the request. (Sec. 2915.08(H).)

**Consideration for use of a premises that a charitable organization owns and uses for its own bingo games**

Current law requires that a charitable organization that conducts bingo use all of the gross receipts from regular bingo games for specified purposes. One of these purposes is for renting premises in which to conduct bingo games, except that, if the building in which the games are conducted is owned by the charitable organization conducting the games, the charitable organization may deduct from the total amount of the gross receipts from each bingo session *a sum equal to the lesser of \$600 or 45% of the gross receipts from the session as consideration for use of the premises.*

The bill maintains the latter provision if a charitable organization conducts a bingo session that includes regular bingo games, but provides that, if that charitable organization conducts instant bingo, a raffle, or a seal card or punch board game *not simultaneously* with regular bingo games, it may deduct a sum of *no more than 5% of the gross receipts* as consideration for the use of the premises. (Sec. 2915.09(A)(2).)

**Maximum rate allowed for rental of a premises**

Current law allows a charitable organization to conduct regular bingo games on various types of premises, including premises owned by another charitable organization and leased from that organization for a rental rate not in excess of \$450 per bingo session. The bill increases this maximum rental rate to the lesser of \$600 per bingo session *or 45% of the gross receipts* of the bingo session. (Sec. 2915.09(B)(1).)

**Compensation of bingo game operators**

Current law prohibits a bingo game operator from receiving or accepting any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of source, for operating a regular bingo game or providing other work or labor at the site of a regular bingo game. The bill retains this prohibition, and in addition forbids a *charitable organization* from providing to a bingo game operator and forbids a bingo game operator from receiving or accepting the types of compensation described in the immediately preceding sentence for conducting bingo as redefined by the bill or providing other work or labor at the site of bingo as redefined by the bill. The bill also provides that these prohibitions do not prevent an employee of a fraternal or veteran's organization from selling instant bingo tickets to the organization's members, as long as no portion of the employee's compensation is paid from any bingo receipts. (Sec. 2915.09(D).)

### **Frequency of issuance of amended bingo licenses**

Current law allows a charitable organization to apply *only once in each calendar year* for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its bingo license. The bill allows a charitable organization to apply for an amended license *twice in each calendar year*. (Sec. 2915.09(C)(6).)

### **Liquor law changes**

Current law prohibits any rule or order of the Liquor Control Commission, or of the Division of Liquor Control within the Department of Commerce, from prohibiting a charitable organization that holds a D-4 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion of its premises is used at other times for the conduct of a regular charitable bingo game. A charitable organization, however, must not sell or serve beer or intoxicating liquor, or permit beer or intoxicating liquor to be consumed or seen, in the same location in its premises where a charitable bingo game is being conducted while the game is being conducted. (Secs. 4301.03(B) and 4303.17.)

The bill removes the provisions described in the immediately preceding paragraph and instead prohibits any rule or order of the Commission or Division from prohibiting a charitable organization that holds a D-4 (private club) or D-5 (night club) permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion is used to conduct instant bingo, raffles, or seal card or punch board games. (Secs. 4301.03(B) and 4303.17.)

### **Maintenance of records**

#### **Gross receipts, prize awards, inventories**

Under current law, a charitable organization that conducts a bingo session or a scheme or game of chance is required to maintain for at least three years itemized lists of the gross receipts of, and all prizes awarded at, each bingo session or scheme or game of chance. Under the bill, the *gross receipts* itemized list also must be maintained for each raffle and each instant bingo, punch board, and seal card game a charitable organization conducts. In addition, the *all prizes awarded* list must be maintained for each raffle and each punch board and seal card game a charitable organization conducts. The bill requires that a list also be maintained of the *total prizes awarded* from each game of instant bingo. Finally, the bill requires each charitable organization to conduct and record an *inventory* of all of its bingo supplies as of November 1 of each year. (Sec. 2915.10(A)(1) and (3) and (C).)

### **Expenses**

Under current law, a charitable organization that conducts a bingo session is required to maintain for at least three years (1) an itemized list of all expenses other than prizes that are incurred in conducting the bingo session, the name of each person to whom the expenses are paid, and a receipt for all of the expenses and (2) an itemized list of all expenses incurred at the bingo session *in the sale of food and beverages* by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses. The bill requires that both of these itemized lists include expenses incurred in conducting regular bingo, raffles, instant bingo, and punch board and seal card games. (Sec. 2915.10(A)(2) and (7).)

### **Net profit charitable recipients**

Current law requires that charitable organizations maintain for three years an itemized list of the charitable recipients of the *proceeds* of a bingo session or scheme or game of chance, including the name and address of each recipient to whom the money is distributed, and, if the organization uses the proceeds of a bingo session, or the money or assets received from a scheme or game of chance, for a charitable purpose, a list of each purpose and an itemized list of each expenditure for each purpose. The bill instead requires these charitable organizations to maintain an itemized list of the charitable recipients of the *net profit* of bingo as redefined by the bill or a game of chance, and, if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable purpose, a list showing each purpose and an itemized list showing each expenditure for each purpose. (Sec. 2915.10(A)(4).)

### **Checking accounts**

Under the bill, the gross profit from each instant bingo game, bingo session, punch board or seal card game, or raffle must be deposited into a checking account devoted exclusively to the instant bingo game, bingo session, punch board or seal card game, or raffle. Payments for allowable expenses incurred in conducting the bingo session or game and payments to charitable recipients of some or all of the net profit of the bingo session or game must be made only by checks drawn on the bingo session or game account. (Sec. 2915.10(B).)

### **Rules**

The bill authorizes the Attorney General, in accordance with the Administrative Procedure Act, to adopt rules establishing standards of accounting, record-keeping, and reporting to ensure that charitable receipts from bingo as

redefined by the bill or games of chance are properly accounted for (sec. 2915.10(D)).

### **Inspections and investigations**

Current law allows the Attorney General or any local law enforcement agency to investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization, to examine the accounts and records of the organization, to conduct inspections, audits, and observations of regular bingo games or schemes or games of chance while they are in session, and to conduct inspections of premises where they are conducted. The bill permits these investigations and other activities to be carried out by the Attorney General or any local law enforcement agency with regard to any type of bingo or games of chance. (Sec. 2915.10(E).)

### **Conforming changes**

The bill amends several Revised Code sections to make conforming changes that reflect substantive changes made in other parts of the bill (secs. 173.121(B), 1531.01(TT), 2915.01(H), (T), (V), (W), (X), and (CC), 2915.07, 2915.08(A)(6), 2915.12(A)(4)(b) and (B)(6)(b), and 3763.01(B)).

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## **COMMENT**

Under the Charitable Bingo Law, "charitable organization" means any tax-exempt religious, educational, veteran's, fraternal, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, amateur athletic, youth athletic, or youth athletic park organization (sec. 2915.01(H)).

The following are descriptions of subsections of the Internal Revenue Code referred to by the bill:

Subsection 501(c)(3) concerns corporations, and any community chest, fund, or foundation, that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes or for the prevention of cruelty to children or animals.

Subsection 501(c)(4) describes civic leagues composed of employees of a municipality that devote their net earnings exclusively to charitable, recreational, or educational purposes. Subsection 501(c)(8) describes fraternal organizations that provide payment of life, sick, accident, or other benefits to their members, and subsection 501(c)(10) describes domestic fraternal organizations that devote earnings exclusively to religious, charitable, scientific, educational, and fraternal purposes other than the payment of life, sick, accident, or other benefits to their

members. Subsection 501(c)(19) describes certain war veteran organizations and their auxiliaries.

Subsections 509(a)(1), (a)(2), and (a)(3) generally refer to political subdivisions, subsection 501(c)(3) organizations that are not private foundations, and organizations to which a contribution is tax-deductible on an individual's federal income tax return.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>	<b>JOURNAL ENTRY</b>
Introduced	03-07-00	p. 1638

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