



Sub. S.B. 333*

123rd General Assembly

(As Reported by H. Criminal Justice)

Sens. Kearns, Blessing, Gardner, Mumper, Herington, Drake, Prentiss

Reps. Willamowski, Ferderber

BILL SUMMARY

- Requires a charitable organization applying for a bingo license to include with its application its registration and financial reporting status under the Charitable Trust Act or Ohio Charitable Solicitation Act.
- Grants the Attorney General authority to refuse to issue a bingo license to, or revoke or suspend the bingo license of, any organization that fails to comply with certain registration and annual reporting requirements that exist under the Charitable Trust Act or the Ohio Charitable Solicitation Act.
- Exempts certain public schools that solicit contributions and booster clubs from the Ohio Charitable Solicitation Act's registration statement requirement.

CONTENT AND OPERATION

The Charitable Gambling Law--in general

Ohio's Charitable Gambling Law prohibits any person, except a "charitable organization" that has obtained a bingo license, from conducting or advertising a bingo game. Whoever violates this prohibition is guilty of conducting an illegal bingo game, a felony of the fourth degree. (R.C. 2915.07.) Charitable organizations that may apply for a bingo license must be religious, educational, veteran's, fraternal,

** This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

service, nonprofit medical, volunteer rescue service, volunteer fire fighter's, senior citizen's, youth athletic, amateur athletic, or youth athletic park organizations that are tax exempt, and, the organization must use the bingo game profits for charitable purposes (R.C. 2915.01(H) and 2915.08(A)(6)). An organization is tax exempt if it is, and has received from the Internal Revenue Service (IRS) a current determination letter stating that the organization is, exempt from federal income taxation under 501(a) of the Internal Revenue Code and is one of the following (R.C. 2915.01(H)):

(1) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals;

(2) A nonprofit civic league or organization operated exclusively for the promotion of social welfare, or certain local associations of employees, the net earnings of which are devoted exclusively to charitable, recreational, or educational purposes;

(3) A beneficiary society, order, or association that operates under the lodge system and provides payment of life, sick, accident, or other benefits to its members;

(4) A domestic fraternal society, order, or association operating under the lodge system that devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes **other than** the payment of life, sick, accident, or other benefits to its members;

(5) A post or organization of past or present United States Armed Forces members, or its auxiliary.

A charitable organization that desires to conduct a bingo game must file an application with the Attorney General before January 1 each year and pay a \$100 license fee, or a reduced fee the Attorney General may establish for bingo games conducted fewer than 26 weeks a year. (R.C. 2915.08(A) and (G).)

Information to be included in the bingo application

Under continuing law, the bingo game application must contain various information, including a statement of the applicant's previous history that is sufficient to establish that it is a charitable organization, and a copy of a determination letter issued by the IRS that states that the organization is tax-exempt under federal law and is an entity described in (1) through (5), above (R.C. 2915.08(A)).

The bill requires that if the applicant is a "charitable trust" under the Charitable Trust Act (R.C. §§ 109.23 to 109.33), or a "charitable organization" under the Ohio Charitable Solicitation Act (Chapter 1716.), it also must file with the bingo application a statement as to whether it has filed certain documents with the Attorney General (R.C. 2915.08(A)(8) and (9)).

Application information from charitable trusts

Under the bill, if an applicant for a bingo license is a charitable trust under the Charitable Trust Act, it must file a statement as to whether it has registered with the Attorney General or filed its reports described below, and, if it is not required to do either, it must indicate which of the following exemptions from registering or exemptions from filing annual reports apply to it (R.C. 2915.08(A)(8)).

A "charitable trust" is any fiduciary relationship with respect to property arising under Ohio law or of another jurisdiction as a result of a manifestation of intention to create it, and subjecting the person by whom the property is held to fiduciary duties to deal with the property within Ohio for any charitable, religious, or educational purpose. Under the Charitable Trust Act, a charitable trust must register with the Attorney General unless it is one of the following: (1) a charitable remainder trust created after July 31, 1969, gifts to which are deductible for federal income, gift, or estate tax purposes, (2) a charitable trust in which all charitable interests are contingent and will vest only upon conditions that have not occurred, (3) a decedent's estate, or (4) a class of charitable trusts exempted by rule of the Attorney General. (R.C. 109.23(A) and 109.26, not in the bill.)

A charitable trust that is required to register with the Attorney General also must file annual reports containing financial information on forms prescribed by the Attorney General, or, in lieu of those reports, copies of all annual federal returns filed with the Internal Revenue Service, along with all schedules, attachments, and reports due with the return (R.C. 109.31). But a charitable trust that is required to register is not required to file annual reports if it is exempted by rule of the Attorney General, or if any of the following apply (R.C. 109.31):

- (1) It is organized and operated exclusively for religious purposes;
- (2) It is an educational institution with a regular faculty, curriculum, and a regularly organized body of pupils in attendance at the place where its educational activities are regularly carried on;
- (3) It has gross receipts of less than \$5,000 and gross assets of less than \$15,000 for a taxable year.

Application information from charitable organizations

Under the bill, if the applicant for a bingo license is a charitable organization under the Ohio Charitable Solicitation Act, it must file a statement as to whether it has filed with the Attorney General a registration statement and a financial report, and, if it is not required to do both, it must indicate which one of the seven exemptions described below applies to it (R.C. 2915.08(A)(9)).

Under the Ohio Charitable Solicitation Act, a charitable organization (which is similar to a "charitable organization" defined above in "**The Charitable Gambling Law--in general**") that intends to solicit contributions in Ohio, or have contributions solicited for it, must file an annual registration statement (R.C. 1716.02) and annual financial report (R.C. 1716.04) with the Attorney General. But these requirements do not apply to the following entities (R.C. 1716.03):

(1) Any religious agencies, organizations, and charities operated, controlled, or supervised by a religious organization;

(2) Any charitable organization that has been in continuous existence in Ohio for two years, received a federal tax exemption determination letter, registered with the Attorney General as a charitable trust, and filed an annual report under the charitable trust law;

(3) Any educational institution, when solicitation of contributions is confined to alumni, faculty, trustees, or the student membership and their families;

(4) Every person (excluding an individual) when solicitation for a charitable purpose or on behalf of a charitable organization is confined to its existing membership, employees, or trustees;

(5) Any charitable organization that does not receive gross revenue in excess of \$25,000, if the organization does not compensate any person primarily to solicit contributions.

The bill adds two exemptions to this list (R.C. 1716.03(E) and (F)):

(6) Any public primary or secondary school, when solicitation of contributions is confined to alumni, faculty, or the general population of the local school district;

(7) Any booster club that is organized and operated in conjunction with and for the benefit of students of public primary or secondary schools.

Expansion of the Attorney General's authority regarding bingo licenses

Under continuing law, the Attorney General may refuse to issue a bingo license to, or revoke or suspend the bingo license of, any organization that does not meet specific statutory requirements, including if the organization fails or has failed to comply with the Bingo Laws.

The bill provides that the Attorney General also may refuse to issue, or revoke or suspend, a bingo license, if the organization fails or has failed to comply with the Charitable Trust Act's registration requirement or annual reports requirement, or the Ohio Charitable Solicitation Act's annual registration statement and financial report requirement. (R.C. 2915.08(B)(2)(a).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-12-00	p. 2052
Reported, S. Ways and Means	11-15-00	p. 2223
Passed Senate (33-0)	11-15-00	pp. 2240-2241
Reported, H. Criminal Justice	---	---

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