



**H.B. 512**  
124th General Assembly  
(As Introduced)

**Reps. Husted, Faber, Setzer, Collier, Latta, Williams, Webster, Britton**

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**BILL SUMMARY**

- Defines "bingo" to include bingo, instant bingo, seal cards, punch boards, and raffles.
- Creates a license that authorizes charitable organizations to conduct regular bingo, instant bingo, punch board and seal card games, and raffles.
- Requires the licensing of manufacturers and distributors of bingo supplies.
- 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.
- Regulates the conduct of instant bingo and raffles.
- Changes the amount that certain charitable organizations may deduct from gross receipts as consideration for the use of premises they own.
- 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

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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)).

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 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 cards, and punch boards. 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).) "Instant bingo" is defined as a form of bingo that uses folded or banded tickets or paper cards with perforated break-open tabs, 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

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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.*

advance as prize winners; "instant bingo" does not include any device activated by the insertion of a coin, currency, or an equivalent that contains as a component a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations (sec. 2915.01(FF)). A "raffle" is 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 a "seal card" as a ticket or card 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)). "Punch board" is defined as 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 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. And, "expenses" means the reasonable amount of gross profit actually expended for all of the following: (1) the purchase or lease of bingo supplies (see below), (2) the annual bingo license fee required to be paid under the bill (see below), (3) bank fees and service charges for a bingo session or game account, (4) audits and accounting services, (5) safes, (6) cash registers, (7) hiring security personnel, (8) advertising bingo, (9) renting premises in which to conduct bingo, and (10) any other product or service directly related to the conduct of bingo that is authorized in rules 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 cards, (6) instant bingo ticket dispensers, and (7) devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. These items are not "gambling devices" as defined in the Charitable Gambling Law if sold or otherwise provided, and used, in accordance with that law. (Sec. 2915.01(F)(5), (EE), (JJ), (KK), and (LL).)

### **Bingo license fees**

Under the bill, the fee that must accompany the annual application for a bingo license is based on the gross annual revenues of the charitable organization involved. Generally, a charitable organization whose gross annual revenues are \$300,000 or less must pay a fee of \$250; if its gross annual revenues exceed \$300,000 but are \$600,000 or less, the charitable organization must pay a fee of \$500; if its gross annual revenues exceed \$600,000 but are \$1 million or less, the charitable organization must pay a fee of \$1,000; and if its gross annual revenues exceed \$1 million, the charitable organization must pay a fee of \$2,000. The annual fee for a charitable bingo license under current law generally is \$100.<sup>3</sup> (Sec. 2915.08(A)(1).) "Gross annual revenues" means the annual gross receipts derived from the conduct of regular bingo plus the annual net profit derived from the conduct of instant bingo, seal cards, punch boards, and raffles (sec. 2915.01(RR)).

### **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, seal cards, and punch boards (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 it generally has under current law in connection with regular bingo games, as meaning that the *net profit* of instant bingo, raffles, seal cards, and punch boards, 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

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<sup>3</sup> Under current law and the bill, the Attorney General must establish, by rule, a schedule of reduced fees for charitable organizations that desire to conduct bingo during fewer than 26 weeks in any calendar year (sec. 2915.08(A)(1)(e) and (G)).

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>4</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)(b).)

**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>4</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(X)).

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)).

#### **Explanations of law by 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 an explanation of a particular provision of the Charitable Bingo Law, the Liquor Control Law, or the Liquor Permit Law, that pertains to the Attorney General's authority and potential enforcement actions under that provision. If the Attorney General receives a request for such an explanation, the Attorney General must provide the explanation verbally or in writing to the charitable organization that requested it. (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, seal cards, or punch boards *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 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 or cards 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, seal cards, or punch boards. (Secs. 4301.03(B) and 4303.17.)

### **Licensing of bingo supply distributors**

The bill prohibits any distributor from selling, offering to sell, or otherwise providing or offering to provide bingo supplies for use in Ohio without having obtained a distributor license from the Attorney General (sec. 2915.081(A)). A violator of this prohibition is guilty of the offense of "illegally operating as a distributor," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense (sec. 2915.081(G)). The bill relatedly defines a "*distributor*" as any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another for use in Ohio and "*bingo supplies*" as bingo cards or sheets, instant bingo tickets or cards, raffle tickets, punch boards, seal cards, instant bingo ticket dispensers, and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets (sec. 2915.01(EE) and (PP)).

The bill authorizes the Attorney General to issue a distributor license to any person who meets the bill's requirements for being issued that license. The application for the license must be on a form that the Attorney General prescribes, the license is valid for a period of one year, and the annual fee for the license is \$2,500. (Sec. 2915.081(B).)

The bill authorizes the Attorney General to *refuse to issue* a distributor license to any person to which any of the following applies, or to any person that has an officer, partner, or other person with an ownership interest of 10% or more and to whom any of the following applies: (1) the person, officer, or partner has been convicted of a felony under the laws of Ohio, another state, or the United States, (2) the person, officer, or partner has been convicted of any gambling offense, (3) the person, officer, or partner has made a material incorrect or false statement to the Attorney General in a license application submitted for a distributor license or to a gambling licensing authority in another jurisdiction in a similar application if the statement resulted in license revocation through administrative action in that jurisdiction, (4) the person, officer, or partner has submitted any incorrect or false information relating to the application if the information is material to the Attorney General's granting of the distributor license, (5) the person, officer, or partner has failed to correct any incorrect or false information material to the Attorney General's granting of the distributor license in the records the bill requires a distributor to maintain, or (6) the person, officer, or partner has had a license related to gambling revoked or suspended under the laws of Ohio, another state, or the United States (sec. 2915.081(C)). The Attorney General *must not issue* a distributor license to any person that is involved in the conduct of bingo on behalf of a charitable organization or that is a lessor of premises used for the conduct of bingo (sec. 2915.081(D)). And, the Attorney General may *suspend or revoke* a distributor license for any of the reasons for which the Attorney General may refuse to issue the license or if the distributor holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it (sec. 2915.081(F)).

The bill prohibits a distributor from (1) providing a charitable organization with free samples of instant bingo tickets or cards, punch boards, or seal cards, (2) selling, offering to sell, or otherwise providing or offering to provide bingo supplies to any person for use in Ohio except to a charitable organization licensed to conduct bingo or to another licensed distributor, or (3) purchasing bingo supplies for use in Ohio except from a manufacturer licensed to sell bingo supplies or from another licensed distributor (sec. 2915.081(E)(1), (2), and (3)).

Except as described below, the bill also requires a distributor to *accept only checks* as payment for the sale of bingo supplies, and requires that payment by a distributor for purchases of bingo supplies be made only by check. A supplying distributor must receive payment by check not later than 45 days after the date the supplying distributor ships bingo supplies to a charitable organization or other distributor. If a charitable organization or other distributor fails to pay a supplying distributor within that period, the supplying distributor must notify the Attorney General. The Attorney General then must notify all distributors that, until further notice, the delinquent charitable organization or delinquent distributor must

purchase or lease bingo supplies from them only by payment *by certified check or money order*. Similarly, a supplying manufacturer or distributor must receive payment by check not later than 45 days after the date the supplying manufacturer or distributor ships bingo supplies to a purchasing distributor. If a purchasing distributor fails to pay a supplying manufacturer or distributor within that period, the supplying manufacturer or distributor must notify the Attorney General. The Attorney General then must notify all manufacturers and distributors that, until further notice, the delinquent distributor must purchase or lease bingo supplies from them only by payment by certified check or money order. (Sec. 2915.081(E)(1) and (3).)

A violator of any of the prohibitions or requirements mentioned in the preceding two paragraphs also is guilty of "illegally operating as a distributor," as described above (sec. 2915.081(G)).

### **Licensing of bingo supply manufacturers**

The bill prohibits any manufacturer from selling, offering to sell, or otherwise providing or offering to provide bingo supplies for use in Ohio without having obtained a manufacturer license from the Attorney General (sec. 2915.082(A)). A violator of this prohibition is guilty of the offense of "illegally operating as a manufacturer," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense (sec. 2915.082(F)). The bill relatedly defines a "*manufacturer*" as any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale (sec. 2915.01(OO)).

The bill authorizes the Attorney General to issue a manufacturer license to any person who meets the bill's requirements for being issued that license. The application for the license must be on a form that the Attorney General prescribes, the license is valid for a period of one year, and the annual fee for the license is \$2,500. (Sec. 2915.082(B).)

The bill authorizes the Attorney General to *refuse to issue* a manufacturer license to any person to which any of the following applies, or to any person that has an officer, partner, or other person with an ownership interest of 10% or more and to whom any of the following applies: (1) the person, officer, or partner has been convicted of a felony under the laws of Ohio, another state, or the United States, (2) the person, officer, or partner has been convicted of any gambling offense, (3) the person, officer, or partner has made a material incorrect or false statement to the Attorney General in a license application submitted for a manufacturer license or to a gambling licensing authority in another jurisdiction in a similar application if the statement resulted in license revocation through

administrative action in the other jurisdiction, (4) the person, officer, or partner has submitted any incorrect or false information relating to the application if the information is material to the Attorney General's granting of the manufacturer license, (5) the person, officer, or partner has failed to correct any incorrect or false information material to the Attorney General's granting of the manufacturer license in the records the bill requires a manufacturer to maintain, or (6) the person, officer, or partner has had a license related to gambling revoked or suspended under the laws of Ohio, another state, or the United States (sec. 2915.082(C)). The Attorney General may *suspend or revoke* a manufacturer license for any of the reasons for which the Attorney General may refuse to issue the license or if the manufacturer holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it (sec. 2915.082(E)).

The bill prohibits a manufacturer from selling, offering to sell, or otherwise providing or offering to provide bingo supplies to any person in Ohio except to a licensed distributor. And, it requires that a manufacturer *accept only checks* as payment for the sale of bingo supplies. (Sec. 2915.082(D).)

Under the bill, a manufacturer must receive such a payment by check not later than 45 days after the date the manufacturer ships bingo supplies to a distributor. If the distributor fails to pay the manufacturer within that period, the manufacturer must notify the Attorney General. The Attorney General then must notify all manufacturers and distributors that, until further notice, the delinquent distributor must purchase or lease bingo supplies from them only by payment by *certified check or money order*. (Sec. 2915.082(D).)

A violator of the prohibitions or requirements mentioned in the preceding two paragraphs also is guilty of the offense of "illegally operating as a manufacturer," described above (sec. 2915.082(F)).

### **Regulation of the conduct of instant bingo and of raffles**

#### **Instant bingo: in general**

The bill explicitly allows a charitable organization that conducts instant bingo to do so at times other than during the charitable organization's bingo sessions (sec. 2915.091(B)). Current law (continued by the bill) defines a "*bingo session*" as a period, not to exceed five continuous hours, during which a person conducts one or more regular bingo games (sec. 2915.01(W)). The bill also authorizes a charitable organization to purchase or lease, and to use, instant bingo dispensers to sell instant bingo tickets or cards (sec. 2915.091(A)(4)). An "instant bingo dispenser" is defined as mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has, or may have, the following characteristics: (1) it is activated upon the insertion of United States

currency, (2) it performs no gaming functions, (3) it does not contain a video display monitor, (4) it is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations, (5) it does not simulate or display rolling or spinning reels, (6) it is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card, and (7) it may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses (sec. 2915.01(SS)).

The bill also prohibits a charitable organization that conducts instant bingo from failing to comply with certain requirements of existing law governing the conduct of regular bingo games, from failing to use, or give, donate, or otherwise transfer, the net profit it derives from the conduct of instant bingo for a charitable purpose listed in its bingo license application, from permitting any person whom the charitable organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo operator in the conduct of instant bingo, and from purchasing or leasing supplies used to conduct instant bingo, seal card or punch board games, or raffles from any person except a licensed distributor (sec. 2915.091(A)). A person who violates any of the latter prohibitions that relate to the conduct of instant bingo is guilty of the offense of "illegal instant bingo conduct," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on subsequent offenses (sec. 2915.091(D)).

In addition, the bill authorizes the Attorney General to adopt rules in accordance with the Administrative Procedure Act governing the conduct of instant bingo by charitable organizations. Before those rules are adopted, the Attorney General must reference the recommended standards for opacity, randomization, minimum information, winner protection, color, and cutting for instant bingo tickets or cards, seal cards, and punch boards established by the North American Gaming Regulators Association. And, no Attorney General rule can prohibit or limit the legal conduct of instant bingo by, or the number of instant bingo games being conducted by, charitable organizations. A violation of any rule so adopted by the Attorney General also constitutes the offense of "illegal instant bingo conduct," as described above. (Sec. 2915.091(C) and (D).)

### **Raffles**

The bill specifies that a charitable organization *does not need* a license to conduct bingo, in order to conduct a raffle drawing on the premises that it uses for its charitable programs. A charitable organization that has not been issued a bingo license by the Attorney General does not commit the offense of "conducting illegal bingo" if it conducts or advertises a raffle drawing in that manner. But, a person who conducts a raffle drawing for a charitable organization on premises other than premises it uses for its charitable programs, or who fails to use, or to give, donate, or otherwise transfer, the net profit for a charitable purpose described

in the bill in relation to raffles, instant bingo, seal cards, and punch boards, commits the offense of "illegal conduct of a raffle" that the bill creates. It is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on subsequent offenses. (Secs. 2915.07 and 2915.092.)

### **Maintenance of records**

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

Under current law, a charitable organization that conducts a bingo session (i.e., regular bingo games) 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 game of instant bingo *by serial number* and for each raffle, each punch board game, and each seal card game a charitable organization conducts. In addition, the *all prizes awarded* list must be maintained for each raffle, each punch board game, and each seal card game a charitable organization conducts. (Sec. 2915.10(A)(1) and (3).)

Current law requires a charitable organization to include in the *all prizes awarded* list the name and address of all winners of prizes of \$100 or more in value. The bill increases this amount to \$600 or more in value and requires the listing, in addition to their names and addresses, of the Social Security numbers of the winners of prizes of that value. (Sec. 2915.10(A)(3).)

The bill further requires that a list be maintained of the *total prizes awarded* from each game of instant bingo by serial number, and that each charitable organization conduct and record an *inventory* of all of its bingo supplies as of November 1 of each year (sec. 2915.10(A)(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 each game of instant bingo by serial number and in conducting each session of regular bingo, each raffle, each punch board game, and each seal card game. (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 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 (presumably) raffle must be deposited into a checking account devoted exclusively to the bingo session, game, or raffle. Payments for allowable expenses incurred in conducting the bingo session, game, or raffle and payments to charitable recipients of some or all of the net profit of the bingo session, game, or raffle must be made only by checks drawn on the applicable account. (Sec. 2915.10(B).)

### **Special distributor records**

The bill requires a distributor to maintain, for a period of three years after the date of sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in Ohio. The record must include all of the following for each instance: (1) the name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase, (2) the name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided, (3) a description that clearly identifies the bingo supplies, and (4) invoices that include the serial numbers of all instant bingo tickets or cards sold or otherwise provided to each licensed charitable organization. (Sec. 2915.10(E).)

### **Special manufacturer records**

The bill also requires a manufacturer to maintain, for a period of three years after the date of sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in Ohio. The record must include all of the following for each instance: (1) the name and address of the distributor to

whom the bingo supplies were sold or otherwise provided, (2) a description that clearly identifies the bingo supplies, and (3) invoices that include the serial numbers of all instant bingo tickets or cards sold or otherwise provided to each distributor. (Sec. 2915.10(F).)

### **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 gross 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(G).)

### **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), 1711.09, 2915.01(H), (T), (V), (W), (X), and (CC), 2915.02, 2915.07, 2915.08, 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, 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	02-14-02	pp. 1407-1408

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