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*Bill Analysis*  
*Legislative Service Commission*

## **Sub. H.B. 512**

124th General Assembly  
(As Passed by the House)

**Reps. Husted, Faber, Setzer, Collier, Latta, Williams, Webster, Britton, Lendrum, Niehaus, Evans, Flannery, Latell, Coates, Schaffer, Carano, Otterman, Sferra, Raga, Jolivette, G. Smith, Core, Wolpert, Peterson, Seitz, Kearns, Young, Cirelli, Willamowski**

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### **BILL SUMMARY**

- Defines "bingo" to include regular bingo, instant bingo, punch boards, and raffles.
- Creates a license that authorizes charitable organizations to conduct regular bingo, instant bingo, punch board games, and raffles, and establishes annual fees for the license based on the charitable organization's gross annual revenues.
- Authorizes the use of electronic bingo aids to assist participants in playing regular bingo.
- Requires that bingo cards or sheets be uniquely identifiable, and prohibits the resale or reuse of these uniquely identifiable cards or sheets.
- Requires the licensing of manufacturers and distributors of bingo supplies.
- Authorizes a licensed charitable organization to conduct certain types of bingo on the premises of a D liquor permit holder under an agreement with the permit holder to conduct those types of bingo on behalf of the organization.
- 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.

- Enacts provisions that govern the distribution of the net profit of instant bingo conducted by veteran's organizations and fraternal organizations and of the net profit of instant bingo conducted by other charitable organizations.
- 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 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, 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.)

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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)).

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

**Bingo-related definitions and cheating.** The bill defines "bingo" as the conduct of regular bingo, instant bingo, punch boards, and raffles (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 (secs. 2915.01(C), (D), (E), and (S) and 2915.05(A)(4)).<sup>2</sup> It alters the current definition of "regular bingo" to specify that it includes the use of bingo sheets as well as bingo cards (specified in current law), and includes both paper formats and electronic representation or image formats of bingo cards or sheets (sec. 2915.01(S)(1)).

"Instant bingo" is defined by the bill 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 advance as prize winners; "instant bingo" includes "seal cards" (see below) but does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent and 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) and (GG)). The bill defines a "seal card" as a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard 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 by the bill 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).)

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

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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.*

from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. (Sec. 2915.01(HH).)

**Electronic bingo aids.** The bill includes electronic bingo aids as a type of "bingo supplies" (see definition under **"Meaning of 'net profit'; related terms"** below). It defines an "electronic bingo aid" as an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following: (1) provides a means for the participant to input numbers and letters announced by a bingo caller, (2) compares the numbers and letters that the participant enters to the bingo faces previously stored in the device's memory, and (3) identifies a winning bingo pattern. "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play. (Sec. 2915.01(EE) and (TT).)

A charitable organization may use or permit the use of electronic bingo aids, but only under the following circumstances: not more than 144 bingo faces can be played by a single participant using an aid; the charitable organization must provide a participant using an aid with corresponding paper bingo cards or sheets; the total price of bingo faces played with an aid must equal the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an aid; and the aid (1) cannot be part of an electronic network or be interactive, (2) be used to participate in bingo that is conducted at a location other than the location at which the bingo session is being conducted and at which the aid is being used, and (3) be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is being conducted and at which the aid is being used (sec. 2915.09(C)(12)(a)).

The bill authorizes the Attorney General to adopt rules in accordance with the Administrative Procedure Act that govern the use of electronic bingo aids. These rules may include a requirement that the aids be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session. (Sec. 2915.09(C)(12)(b).)

**"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, (10) tables and chairs, and (11) 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 offered in single cards or sheets or in packets that have a common serial number and a unique card or sheet number, (2) instant bingo tickets or cards, (3) electronic bingo aids, (4) raffle tickets, (5) punch boards, (6) seal cards, (7) instant bingo ticket dispensers, and (8) 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, a fee must be paid for an "initial" license to conduct bingo and for each subsequent "annual" bingo license. The fee for an initial license generally is \$500, and the fee that must accompany an annual application for a bingo license thereafter generally must be based on the gross annual revenues (see below) of the charitable organization involved. Generally, a charitable organization whose gross annual revenues are \$50,000 or less must pay a fee of \$500 for an annual license; if its gross annual revenues exceed \$50,000 but are \$300,000 or less, the charitable organization must pay a fee of \$1,500 for the license; and if its gross annual revenues exceed \$300,000, the charitable organization must pay a fee of \$2,500 for the license. (Sec. 2915.08(A)(1).)

The annual fee for a charitable bingo license under current law generally is \$100.<sup>3</sup> The bill's new fees will not be charged until one year after the bill's effective date, and, thus the current annual fee will continue for a short period of time after that date. (Sec. 2915.08(A)(1) and Section 3 of the bill.)

"Gross annual revenues," for purposes of the bill's fee provisions, means the annual gross receipts derived from the conduct of regular bingo plus the annual net profit derived from the conduct of instant bingo, punch boards, and raffles (sec. 2915.01(RR)).

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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)(d) and (G)).

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

**"Charitable purpose" and use of "net profit"**. 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 and raffles (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 redefines "charitable purpose" to mean that the *net profit* of bingo other than instant bingo (see below) generally is used, or is given, donated, or otherwise transferred, in a manner as specified in current law (but see change in the next paragraph). It thus requires a charitable organization that conducts a *raffle or punch board game* to use, give, donate, or otherwise transfer the net profit of the raffle or game in one of the same manners in which the net profit of regular bingo games must be used, given, donated, or otherwise transferred generally as specified in current law. (Secs. 2915.01(Z), 2915.08(A)(2)(f), and 2915.09(A)(3).)

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, raffle, or punch board 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)(3).)

Finally, the bill provides that a charitable organization that conducts *instant bingo* must distribute the net profit derived from the instant bingo as follows (secs. 2915.08(A)(2)(f), 2915.09(A)(3), and 2915.101):

- If a veteran's organization or a fraternal organization conducted the instant bingo, the organization must distribute the net profit as follows: (1) 50% must be distributed to a charitable organization for a "charitable purpose" generally as specified in current law or to a department or agency of the federal government, the state, or any political subdivision, (2) 20% may be distributed for the organization's own charitable purposes, and (3) 30% may be deducted and retained by the organization for the organization.



- If a veteran's organization or a fraternal organization does not distribute the full percentages specified in (2) and (3) above for the purposes specified, the balance of the net profit not distributed for those purposes must be distributed to an organization or governmental entity described in (1) above.
- If a charitable organization other than a veteran's organization or a fraternal organization conducted the instant bingo, the organization must distribute the net profit as follows: (a) 70% must be distributed to a charitable organization for a "charitable purpose" generally as specified in current law or to a department or agency of the federal government, the state, or any political subdivision, and (b) 30% may be deducted and retained by the organization for the organization.
- If such a charitable organization does not retain the full percentage specified in (b) above for the purpose specified, the balance of the net profit not retained for that purpose must be distributed to an organization or governmental entity described in (a) above.

**Educational organization.** Current law defines one type of charitable organization--an "educational organization"--as any organization within Ohio that is not organized for profit, that has as its primary purpose 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 another type of charitable organization--a "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, still another type of charitable organization--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 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 and conduct.** 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 or redeeming instant bingo tickets or cards, (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."

Currently, the term "conduct" means to back, promote, organize, manage, carry on, or prepare for the operation of a scheme or game of chance, but does not include any act performed by a bingo game operator. The bill redefines this term to mean to back, promote, organize, manage, carry on, *sponsor*, or prepare for the operation of bingo (reflecting its expanded meaning under the bill) or a game of chance. (Sec. 2915.01(T).)

**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)).

**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 bingo that includes regular bingo games, but provides that, if that charitable organization conducts instant bingo, a raffle, or punch board games *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).)

### **Time deadline for issuing initial bingo licenses; temporary license option**

Within 30 days after receiving an initial application from a charitable organization for a license to conduct bingo, the Attorney General is required by the bill to conduct a preliminary review of the application and notify the applicant regarding any deficiencies. Beginning on the 30th day after the application is filed, if the Attorney General failed to notify the applicant of any deficiencies, the Attorney General has an additional 60 days to conduct an investigation and either grant or deny the application based on the findings that are required to be established and communicated under existing law when the Attorney General

considers bingo license applications. As an option to granting or denying an initial application, the Attorney General may grant a temporary license and request additional time to conduct the investigation if the Attorney General has cause to believe that additional time is necessary to complete the investigation and has notified the applicant in writing with the specific concerns raised during the investigation. (Sec. 2915.08(A)(4).)

These provisions will not be applied until one year after the bill's effective date (Section 7 of the bill).

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

Current law allows a charitable organization to apply for an amended bingo license if it cannot conduct *regular bingo sessions* at the location, or on the day of the week or at the time, specified on its license due to "circumstances beyond its control" making it "impossible" to so conduct the sessions. Current law apparently also allows a charitable organization that wants to conduct bingo sessions on a day or at a time other than that specified on its license to apply for an amended license. However, current law specifies that a charitable organization may 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. No fee may be charged for an amended license. (Secs. 2915.08(F) and 2915.09(C)(6).)

The bill modifies one ground upon which an amended license may be sought--"the circumstances make it impracticable" for a charitable organization to conduct *bingo as redefined by the bill* at the location, or on the day of the week or at the time, specified on its license. It requires that any application for an amended bingo license be accompanied by an application fee of \$250 and be made at least 30 days prior to the requested change in location, day, or time. Finally, the bill allows a charitable organization to apply *twice in each calendar year* for an amended license to conduct *regular bingo sessions* on another day or at another time than that specified in its license. (Secs. 2915.08(F) and 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. Such 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.)<sup>4</sup>

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 from conducting instant bingo, raffles, and punch board games on the premises of a D permit holder in accordance with the Charitable Gambling Law and the following provisions (secs. 4301.03(B)(3) and 4303.17):<sup>5</sup>

- The bingo must be conducted by a charitable organization that has obtained a license under the bill and that has entered into an agreement with the D permit holder to authorize the permit holder to conduct bingo on behalf of the organization.
- All bingo supplies sold or offered for sale by the D permit holder must be obtained from the charitable organization. Within seven days after the conduct of each game for which supplies are so provided, the D permit holder must pay to the charitable organization a sum equal to the definite profit of that game. "Definite profit" means the amount remaining after all the tickets or cards in the game are sold at the price stated on them and all prizes were paid.
- The charitable organization must keep a record of all bingo supplies sold or offered for sale by the D permit holder. The record must list each game for which supplies are provided by serial number and record the definite profit of each game.
- The permit of the D permit holder is subject to suspension, revocation, or cancellation if the permit holder or the permit holder's employees violate a provision of the Charitable Gambling Law while

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<sup>4</sup> A D-4 liquor permit may be issued to a club in existence for at least three years authorizing sales of beer and intoxicating liquor for sale by individual drink to club members only for consumption on the premises.

<sup>5</sup> A class D permit is a liquor permit that allows the permit holder to purchase beer, wine, and mixed beverages from class A and B permit holders and to sell at retail beer, wine, mixed beverages, or spirituous liquor for consumption on the premises where sold, as authorized by the specific class D permit; many class D permits also authorize the permit holder to sell at retail beer, wine, or mixed beverages for consumption off the premises where sold.

conducting instant bingo, raffles, or punch board games on the permit holder's premises.

The bill further prohibits any rule or order of the Commission from prohibiting a charitable organization that holds an F or F-2 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion is used at other times for the conduct of instant bingo, raffles, punch board games, or games of chance in accordance with the Charitable Gambling Law (sec. 4301.03(B)(4)).<sup>6</sup>

**Restrictions applicable to regular bingo game operators in the purchase, sale, or use of bingo supplies**

In addition to prohibitions set forth in existing law, the bill prohibits a charitable organization that conducts regular bingo games from (1) purchasing or leasing bingo supplies from any person except a distributor licensed under the bill (see below), (2) using bingo cards or sheets other than *uniquely identifiable* bingo cards or sheets, or (3) reselling or reusing uniquely identifiable bingo cards or sheets, including electronic representations or image formats (sec. 2915.09(C)(10) and (11)).

**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 offered in single cards or sheets or in packets that have a common serial number and a unique card or sheet number, instant bingo tickets or cards, electronic bingo aids, 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)).

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<sup>6</sup> A class F permit is a liquor permit that allows the permit holder to sell beer or intoxicating liquor for limited time periods, for consumption on the premises where sold, and for designated purposes, as authorized by the specific class F permit. An F-2 liquor permit may be issued to a nonprofit organization for a temporary period (48 hours or less) authorizing sales of beer and intoxicating liquor by individual drink at a special event.

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, but this provision (1) does not prohibit a distributor from advising charitable organizations on the use and benefit of specific bingo supplies or from advising a customer on operational methods to improve bingo profitability and (2) does not apply during the one-year period after a distributor is first issued a license if the distributor possesses an interest in any premises used for the conduct of bingo on the bill's effective date (sec. 2915.081(D) and (E)(4) and Section 6 of the bill). 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 doing the following: (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, (3) purchasing bingo supplies for use in Ohio except from a

manufacturer licensed to sell bingo supplies or from another licensed distributor, (4) donating, giving, loaning, leasing, or otherwise providing any bingo supplies or equipment to a charitable organization for use in a bingo session conditioned on or in consideration for an exclusive right to provide bingo supplies to the charitable organization, (5) participating in the conduct of bingo on behalf of a charitable organization or having any direct or indirect ownership in a premises used for the conduct of bingo (this provision does not apply during the one-year period after a distributor is first issued a license if the distributor possesses an interest in any such premises on the bill's effective date), (6) knowingly soliciting, offering, paying, or receiving any kickback, bribe, or undocumented rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies to any person in Ohio, or (7) selling, offering to sell, leasing, offering to lease, or otherwise providing or offering to provide bingo cards or sheets other than uniquely identifiable bingo cards or sheets or resell or reuse uniquely identifiable bingo cards or sheets, including electronic representations or image formats (sec. 2915.081(E) and Section 6 of the bill).

The bill also requires a distributor to *accept only checks* as payment for the sale or other provision of bingo supplies, and generally requires that payment by a distributor for purchases of bingo supplies be made only by check (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(QQ)).

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 generally requires that a manufacturer *accept only checks* as payment for the sale of bingo supplies. 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 that, until further notice, the delinquent distributor must purchase bingo supplies from them only by *certified check or money order* upon receipt of the supplies. (Sec. 2915.082(D)(1).)

The bill also prohibits a manufacturer from (1) knowingly soliciting, offering, paying, or receiving any kickback, bribe, or undocumented rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies to any person in Ohio, (2) selling, offering to sell, leasing, offering to lease, or otherwise providing or offering to provide bingo cards or sheets other than uniquely identifiable bingo cards or sheets, or (3) reselling or reusing uniquely identifiable bingo cards or sheets; the bingo cards or sheets mentioned in (2) and (3) above include electronic representations or image formats (sec. 2915.082(D)(2) and (3)).

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," as described above (sec. 2915.082(F)).

### **Licensing caveat relative to bingo supply distributors and manufacturers**

The bill provides that bingo supply distributor and manufacturer licenses are not required for distributors or manufacturers during the 210 days after the bill's effective date. Distributors and manufacturers that do apply for an initial license within 180 days after the bill's effective date will receive a provisional license that is effective on the 210th day after that effective date and that authorizes all activities permitted to a licensee under the bill. (Sections 4 and 5.)

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

#### **Instant bingo**

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, but at not more than five separate locations (sec. 2915.091(B)(1)). 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(B)(2)). An "instant bingo dispenser" is defined as a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following additional characteristics: it is activated upon the insertion of United States currency; it performs no gaming functions; it does not contain a video display monitor or generate noise; it is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations; it does not simulate or display rolling or spinning reels; it is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator; it may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses; and it is not part of an electronic network and is not interactive (sec. 2915.01(SS)).

The bill also prohibits a charitable organization that conducts instant bingo from doing any of the following: (1) failing to comply with certain requirements of existing law governing the conduct of regular bingo games, (2) failing to use, or give, donate, or otherwise transfer, the net profit it derives from the conduct of instant bingo for a charitable purpose stated in its bingo license application, (3) 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 game operator in the conduct of instant bingo, (4) purchasing or leasing



supplies used to conduct instant bingo or punch board games, or raffles from any person except a licensed distributor, (5) conducting instant bingo unless 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 and described in subsection 501(c)(3), (4), (8), (10), or (19) of the Internal Revenue Code, (6) conducting instant bingo on any day, at any time, or at any premises not specified on the organization's bingo license, (7) conducting instant bingo more than 12 hours in any day or more than six days in any seven-day period, (8) selling or providing any instant bingo ticket or card for a price different from that printed on it by the manufacturer, (9) using any instant bingo ticket or card as a prize or award (except that an organization may give a winner of an instant bingo game additional instant bingo tickets in lieu of a cash prize), (10) selling an instant bingo ticket or card to a person under 18 years of age, (11) failing to keep unsold instant bingo tickets or cards for less than three years, (12) paying any compensation to a bingo game operator for conducting instant bingo for the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, (13) permitting any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at any instant bingo game conducted by the organization, (14) permitting any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages, (15) paying fees to any person for any services performed in relation to an instant bingo game, (16) paying fees to any person who provides refreshments to the participants in an instant bingo game, (17) allowing instant bingo tickets or cards to be sold to bingo game operators who are performing work or labor at a premises at which the organization sells instant bingo tickets or cards or to employees of a D permit holder who are working at a premises where instant bingo tickets or cards are sold on behalf of the organization as authorized by the bill, (18) failing to display its bingo license, and the serial numbers of the boxes of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards, (19) possessing a box of instant bingo tickets or cards that was not purchased from a distributor licensed under the bill's provisions as reflected on an invoice issued by the distributor that contains all of the information required by the bill's record-keeping provisions, or (20) failing, once it opens a box of instant bingo tickets or cards, to continue to sell the tickets or cards in that box until the tickets or cards with the two highest tiers of prizes in that box are sold (sec. 2915.091(A)). A person who violates any of the latter prohibitions 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. Thus, 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. But, (1) a charitable organization that conducts a raffle and that is not an organization that is, and that 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 and described in subsection 501(c)(3), (4), (8), (10), or (19) of the Internal Revenue Code, or (2) a person who fails to use, or to give, donate, or otherwise transfer, the net profit from a raffle for a charitable purpose for which the net profit from a regular bingo game may be used, commits the offense of "illegal conduct of a raffle." 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 and punch board game a charitable organization conducts. In addition, the *all prizes awarded* list must be maintained for each raffle and punch board 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 apparently requires that these itemized lists include expenses incurred in conducting instant bingo games as well as each session of regular bingo, each raffle, and each punch board 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 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 or other 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, or punch board game, and (presumably) each 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 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 nonrepeating serial numbers of all bingo cards and sheets and 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 nonrepeating serial numbers of all bingo cards and sheets and 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).)

### *Deposit of licensing fees*

The bill requires the Attorney General to pay all license fees received for the licensing of bingo operators, distributors of bingo supplies, and manufacturers of bingo supplies into the state treasury to the credit of the Charitable Law Fund. The bill further requires the Attorney General, or the Attorney General in cooperation with any local law enforcement agency, to use annual license fees that are received from bingo game operators and credited to the Fund for the following purposes: (1) investigating any charitable organization that conducts bingo as redefined by the bill or games of chance or any officer, agent, trustee, member, or employee of such a charitable organization, (2) examining the accounts and records of such a charitable organization, (3) conducting inspections, audits, and observations of bingo or games of chance, (4) conducting inspections of the premises where bingo or games of chance are conducted, and (5) taking any other necessary and reasonable action to determine if a violation of the Charitable Gambling Law has occurred. (Sec. 109.32.)

### *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), (R), (T), (U), (V), (W), (X), (Y), and (CC), 2915.02, 2915.07, 2915.08, 2915.09, 2915.12(A)(4)(b) and (B)(6)(b), and 3763.01(B)).

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## **COMMENT**

Under the Charitable Gambling 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

ACTION	DATE	JOURNAL ENTRY
Introduced	02-14-02	pp. 1407-1408
Reported, H. State Gov't	06-18-02	p. 1917
Passed House (94-0)	06-19-02	pp. 1927-1928

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