



**Sub. S.B. 235\***

124th General Assembly

(As Reported by S. Judiciary on Civil Justice)

Sen. Spada

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**BILL SUMMARY**

- Modifies the definition of "bingo" to include instant bingo, seal cards, and raffles within the definition of the term, to remove certain types of schemes and games of chance from the definition, and to include references to bingo sheets in the definition.
- Modifies definitions applicable to, and defines terms for use in, the Gambling Law.
- Creates a license that authorizes certain charitable organizations to conduct bingo and instant bingo.
- Requires the licensing of manufacturers and distributors of bingo supplies.
- Regulates the sale of instant bingo and the conduct of raffles.
- Prohibits the playing of bingo and games of chance that a charitable organization conducts, in a premises where beer or liquor is sold for on-premises consumption.
- Defines and regulates the use of "electronic bingo aids."
- Prohibits a distributor or manufacturer from participating in the conduct of bingo on behalf of a charitable organization; having any direct or indirect ownership interest in premises used for the conduct of bingo; or knowingly soliciting, offering, paying, or receiving any kickback, bribe,

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\* *This analysis was prepared before the report of the Senate Judiciary on Civil Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies.

- Requires the Attorney General, within 30 days after receiving a timely filed application from a distributor or manufacturer that has previously been issued a license that has not expired and has not been revoked or suspended, to send a temporary permit to the applicant.
- Specifies the percentage of net profits from instant bingo that must go to charity.
- Permits veterans and fraternal organizations to conduct instant bingo nine hours a day, five days a week.
- Specifies the Attorney General's use of the licensing fees generated from the bingo provisions of the Gaming Law.
- Makes other changes in the Charitable Gambling Law.

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## CONTENT AND OPERATION

### Definition of "bingo" and other related definitions

#### Bingo

The bill modifies the definition of "bingo" as follows (R.C. 2915.01(S)):

- (1) It includes instant bingo, raffles, and seal cards within the definition.
- (2) It removes the following from the definition: any scheme or game other than a game that meets the traditional definition of bingo with the following characteristics:
  - (a) The participants use cards, sheets, or other devices that are divided into spaces arranged in horizontal, vertical, or diagonal rows of spaces, with each space, except free spaces, being designated by a single letter, number, or symbol; by a combination of letters, numbers, or symbols; by a combination of a letter and a number, a letter and a symbol, or a number and a symbol; or by any combination of letters, numbers, and symbols, with some or none of the spaces being designated as a free, complimentary, or similar space.
  - (b) The participants cover the spaces on the cards, sheets, or devices that correspond to letters, numbers, symbols, or combinations of such that are announced by a bingo game operator or otherwise transmitted to the participants.
  - (c) A bingo game operator announces, or otherwise transmits to the participants, letters, numbers, symbols, or any combination of such as set forth in (2)(a) above that appear on objects that a bingo game operator selects by chance that correspond to one of the possible letters, numbers, symbols, or combinations of such that can appear on the bingo cards, sheets, or devices.
  - (d) The winner of the bingo game is any participant who properly announces that a predetermined and preannounced pattern of spaces has been covered on a card, sheet, or device being used by the participant.
- (3) It replaces all references to bingo cards with a reference to *bingo cards or sheets*.
- (4) It conditions the definition by stating that bingo has the meaning specified in the definition *except as otherwise provided in the R.C. chapter that regulates gambling*.

### *Other definitions*

The bill defines or modifies the definitions of the following terms:

"Instant bingo" means a form of bingo in which one or more prizes are won by one or more persons who have purchased, folded, or banded tickets 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 (R.C. 2915.01(FF)).

"Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket and in which 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 (R.C. 2915.01(GG)).

"Seal card" means a board or placard used in conjunction with instant bingo tickets that contain one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols (R.C. 2915.01(PP)).

The bill modifies the definition of "scheme of chance" to include a slot machine and a punch board, and to not include bingo (R.C. 2915.01(C)).

"Slot machine" means either of the following: (1) any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance, (2) any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance (R.C. 2915.01(QQ)).

"Net profit from a bingo session" means gross profit minus the expenses a charitable organization may lawfully incur for conducting bingo under current law (R.C. 2915.01(KK)).

"Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies (R.C. 2915.01(SS)).

"Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards (R.C. 2915.01(JJ)).

"Premises," unless the context requires a different meaning, means a building in which a bingo session is conducted or in which instant bingo is

conducted other than at a bingo session but does not include any area of land surrounding the building unless the area is used by a charitable organization that is tax-exempt under subsection 501(a) and is described in subsection 501(c)(3) of the Internal Revenue Code and is used by the charitable organization in conjunction with games of chance authorized to be conducted at the organization's festivals (R.C. 2915.01(MM)).

"Distributor" means 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 person for use in this state (R.C. 2915.01(HH)).

"Manufacturer" means 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 (R.C. 2915.01(II)).

"Revoke" means to void permanently all rights and privileges of the holder of an operator's, distributor's, or manufacturer's license issued under the Charitable Gambling Law or a charitable gaming license issued by another jurisdiction (R.C. 2915.01(NN)).

"Suspend" means to interrupt temporarily all rights and privileges of the holder of an operator's, distributor's, or manufacturer's license issued under the Charitable Gambling Law or a charitable gaming license issued by another jurisdiction (R.C. 2915.01(OO)).

The bill expands the definition of "gambling offense" found in the Charitable Gaming Law to include the new criminal offenses the bill creates, a violation of an existing or former municipal ordinance or law of this state, another state, or the United States that is substantially equivalent to any of those new offenses, and a conspiracy to commit, attempt to commit, or complicity in committing one of those new offenses (R.C. 2915.01(G)).

The bill provides that to qualify as a "volunteer firefighter's organization" an organization must be organized and operated to provide financial support for a volunteer fire department or volunteer fire company and must be recognized or ratified by the county, municipal corporation, or township in which the department or company is located (R.C. 2915.01(L)).

The bill modifies the definition of "game of chance" to not include bingo and removes "punch board" from the definition (R.C. 2915.01(D)).

The bill modifies the definition of "gambling device" to include "bingo supplies sold or used in violation of the Gambling Law" within the definition and

removes a ticket, token, or other device representing a chance, share, or interest in a charitable bingo game from the definition (R.C. 2915.01(F)).

The bill modifies the definition of "charitable bingo game" to mean any bingo described in the definition of bingo, except a raffle, that is conducted by a charitable organization that has obtained a license to conduct "bingo sessions" or "instant bingo other than at a bingo session" and the proceeds of which are used for a charitable purpose and removes the word "game" from the defined term (R.C. 2915.01(R)).

The bill redefines "conduct" to mean to back, promote, organize, manage, carry on, or prepare for the operation of *bingo or* (added by the bill) a scheme or game of chance (removes existing statement that it does not include any act performed by a bingo game operator) (R.C. 2915.01(T)).

The bill redefines "bingo game operator" to mean any person, except security personnel, who performs work or labor at the site of a bingo game *session or at the site of instant bingo conducted other than at a bingo session* (italicized provisions added by the bill), including, but not limited to, collecting money from participants, handing out bingo cards *or sheets* or objects to cover spaces on the bingo cards *or sheets*, *selling bingo cards or sheets*, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on the bingo cards *or sheets* (added by the bill), calling out the combinations of *those* letters and numbers, *identifying winners*, distributing prizes, *selling instant bingo tickets or raffle tickets*, *selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle*, *cleaning up the premises*, and preparing, selling, and serving food or beverages (R.C. 2915.01(U)).

The bill redefines "participant" to mean any person who plays bingo (R.C. 2915.01(V)).

The bill redefines "bingo session" to mean a period that includes both of the following (R.C. 2915.01(W)):

(1) Not to exceed five continuous hours *for the conduct of one or more games described in the primary definition of bingo, instant bingo, and seal cards*;

(2) *A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in the prior paragraph.*

The bill redefines "gross receipts" to include references to "instant bingo other than a bingo session," "raffles," and "conduct of instant bingo other than at a bingo session" (R.C. 2915.01(X)).



"Bingo supplies" means bingo cards or sheets, electronic bingo aids, devices for selecting the objects that contain the combination of bingo letters and numbers, instant bingo tickets, raffle tickets, and seal cards. Items that are bingo supplies are not gambling devices if sold and used in accordance with the Charitable Gambling Law. (R.C. 2915.01(EE).)

"Expenses" means the ordinary, necessary, and reasonable amount of gross profit actually expended for the conduct of bingo sessions or the conduct of instant bingo at other than a bingo session (R.C. 2915.01(LL)).

"Electronic bingo aid" means an electronic device that a bingo player uses to monitor bingo paper sheets purchased at the time and place of a bingo session and to which all of the following apply: (1) the device provides a means for bingo players to input numbers announced by a bingo operator, (2) the device compares the numbers entered by the bingo player to the bingo faces previously stored in the memory of the device, and (3) the device identifies a winning bingo pattern. "Electronic bingo aid" does not include any device into which coins, currency, tokens, or any other monetary equivalent are inserted to activate play. (R.C. 2915.01(RR)).

The bill modifies the definition of "scheme of chance" to specifically include a slot machine and a punch board and specifically not to include bingo (R.C. 2915.01(C)).

The bill specifies that "scheme or game of chance conducted for profit" does not include "bingo" rather than not including "a charitable bingo game" as is excluded from the existing definition (R.C. 2915.01(E)).

The bill removes from the definition of "charitable organization" the requirement that *to qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer fire fighter's organization, must have been in continuous existence as such in Ohio for a period of two years immediately preceding either the making of an application for a bingo license or the conducting of any scheme of chance or game of chance.* It also specifies that the definition applies except as otherwise provided in the R.C. chapter that regulates gambling. (R.C. 2915.01(H).)

The bill also modifies the definitions of "service organization," "security personnel," "to use gross receipts for a charitable purpose (also changes the term to "charitable purpose")," and "youth athletic park organization" (R.C. 2915.01(O), (Y), (Z), and (CC)).

The bill defines "slot machine" to mean any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope



of gain, the outcome of which is determined largely or wholly by chance or from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance (R.C. 2915.01(QQ)).

**License to conduct bingo and instant bingo**

The bill authorizes a charitable organization to apply for and the Attorney General to issue a license that would allow any charitable organization to conduct bingo sessions and a license that would allow a charitable organization to conduct instant bingo other than at a bingo session. The annual application fee for a license to conduct bingo sessions is \$200. The license fee to conduct instant bingo other than at a bingo session is based upon the total of all money or assets received by any person or the charitable organization from the operation of instant bingo other than at a bingo session, during the one-year period ending on October 31 of the year immediately preceding the year for which the license is sought. The fee is determined as follows: if the total is less than \$250,000, a fee of \$500; if the total is \$250,000 or more but less than \$500,000, a fee of \$1,000; if the total is \$500,000 or more but less than \$750,000, a fee of \$1,500; if the total is \$750,000 or more but less than \$1 million, a fee of \$2,000; if the total is \$1 million or more but less than \$1.5 million, a fee of \$3,500; and if the total is \$1.5 million or more, a fee of \$5,000. The annual fee for a charitable bingo license under current law is \$100. (R.C. 2915.08(A).)

The bill requires the Attorney General to deposit all license fees received for bingo licenses and licenses to conduct instant bingo other than at a bingo session into the state treasury to the credit of the charitable law fund (R.C. 2915.08(B)). It also modifies the information that a bingo license application must contain to include the address of the principal place of business of the applicant, the premises of bingo sessions and instant bingo at other than a bingo session, and information regarding whether the applicant has been refused a license, or had a license revoked or suspended, in another state (R.C. 2915.08(C)).

The bill authorizes instead of requires as under existing law the Attorney General to adopt rules to enforce the Charitable Bingo Law, expands the purpose of those rules to include insuring that instant bingo sessions are conducted in accordance with the law, and expands the purpose of the rules to include implementing the R.C. chapter that regulates gambling. It prohibits the Attorney General from granting more than one license to a particular charitable organization. The bill modifies the licensing provisions of the Charitable Bingo Law to include references to conducting instant bingo other than at a bingo session. (R.C. 2915.08(E) to (G).)

### *Licensing of distributors of bingo supplies*

The bill prohibits any person from selling, offering to sell, or otherwise providing bingo supplies for use in Ohio without having obtained a distributor license from the Attorney General. A violator of this prohibition is guilty of "illegally operating as a distributor," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. (R.C. 2915.081(A) and (H).) The bill defines "distributor" as any person who purchases or obtains bingo supplies and who sells, offers for sale, or otherwise provides bingo supplies to another person for use in Ohio and defines "bingo supplies" as bingo cards or sheets, electronic bingo aids, devices for selecting the objects that contain the combination of bingo letters and numbers, instant bingo tickets, raffle tickets, and seal cards (R.C. 2915.01(EE) and (HH)).

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

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

The bill prohibits a distributor from (1) selling, offering to sell, or otherwise providing or offering to provide bingo supplies to any person in Ohio except a charitable organization licensed to conduct bingo or to conduct instant bingo other than at a bingo session or to another licensed distributor, or (2) purchasing bingo supplies for use in Ohio except from a manufacturer licensed to sell bingo supplies or from another licensed distributor. The bill requires a distributor to accept only checks as payment for the sale of bingo supplies and requires that payment by a distributor for these sales be made only by check. The bill also prohibits a distributor from participating in the conduct of bingo on behalf of a charitable organization; having any direct or indirect ownership interest in premises used for the conduct of bingo; or knowingly soliciting, offering, paying, or receiving any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies to any person in this state. A violator of any of these prohibitions is guilty of "illegally operating as a distributor," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. (R.C. 2915.081(E) and (H).)

The bill requires the Attorney General, within 30 days after receiving a timely filed application from a distributor that has previously been issued a license that has not expired and has not been revoked or suspended, to send a temporary permit to the applicant specifying the date on which the application was filed with the Attorney General and stating that the applicant may continue business until a new license is granted or, if the application is rejected, until 15 days after notice of the rejection is mailed to the applicant. The temporary permit does not affect the validity of the applicant's application and does not grant any rights to the applicant. The issuance of a temporary permit by the Attorney General does not prohibit the Attorney General from rejecting the applicant's application because of acts that the applicant committed, or actions that the applicant failed to take, before or after the issuance of the temporary permit. (R.C. 2915.081(G).)

### **Licensing of manufacturers and distributors of bingo supplies**

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. A violator of this prohibition is guilty of "illegally operating as a manufacturer," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. (R.C. 2915.082(A) and (G).) The bill defines "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 (R.C. 2915.01(II)).

The bill authorizes the Attorney General to issue a manufacturer license to any person who meets the bill's requirements for being issued such a license. The

application for a manufacturer license must be on a form that the Attorney General prescribes and be accompanied by the annual fee. The license is valid for a period of one year, and the annual fee for the license is \$2,500. (R.C. 2915.082(B).)

The bill authorizes the Attorney General to refuse to issue a manufacturer license to any person that has, or that has an officer or partner or other person with an ownership interest of 10% or more who has, (1) been convicted of a felony under the laws of Ohio, another state, or the United States, (2) been convicted of any gambling offense, (3) made a material incorrect or false statement to the Attorney General in a license application submitted for a manufacturer license or submitted to a gambling licensing authority in another jurisdiction if the statement resulted in license revocation through administrative action in the other jurisdiction, (4) submitted any incorrect or false information relating to an application if the information is material to the granting of the license, (5) maintained any incorrect or false information material to the granting of the license in records the bill requires the manufacturer to maintain, or (6) had a license related to gambling revoked in Ohio or another jurisdiction. The Attorney General may suspend or revoke a manufacturer license for any of the reasons for which the Attorney General may refuse to issue a manufacturer license or if the manufacturer holding the license violates any provision of the Charitable Gambling Law or any rule adopted under it. The refusal to issue, the suspension of, or the revocation of a manufacturer license is subject to the Administrative Procedure Act. (R.C. 2915.082(C) and (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 a licensed distributor. It requires that a manufacturer accept only checks as payment for the sale of bingo supplies. The bill also prohibits a manufacturer from participating in the conduct of bingo on behalf of a charitable organization; having any direct or indirect ownership interest in premises used for the conduct of bingo; or knowingly soliciting, offering, paying, or receiving any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing bingo supplies to any person in this state. (R.C. 2915.082(D).) A violator of this prohibition is guilty of "illegally operating as a manufacturer," a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense (R.C. 2915.082(G)).

The bill requires the Attorney General, within 30 days after receiving a timely filed application from a distributor that has previously been issued a license that has not expired and has not been revoked or suspended, to send a temporary permit to the applicant specifying the date on which the application was filed with the Attorney General and stating that the applicant may continue business until a new license is granted or, if the application is rejected, until 15 days after notice of the rejection is mailed to the applicant. The temporary permit does not affect the

validity of the applicant's application and does not grant any rights to the applicant. The issuance of a temporary permit by the Attorney General does not prohibit the Attorney General from rejecting the applicant's application because of acts that the applicant committed, or actions that the applicant failed to take, before or after the issuance of the temporary permit. (R.C. 2915.081(F).)

### **Maintenance of records**

Under current law, a charitable organization that conducts a bingo session or a scheme or game of chance is required to maintain for at least three years itemized lists of the gross receipts of, and all prizes awarded at, each bingo session or scheme or game of chance. Under the bill, these same records must also be maintained for each raffle and instant bingo at other than a bingo session. A list also must be maintained of the total prizes awarded from each game of chance, each regular bingo game, and each raffle, each instant bingo at other than a bingo session, and of the name and address of all persons who are winners of prizes of more than \$600 in value (\$100 under existing law). The bill requires each charitable organization to conduct and record an inventory of all bingo supplies as of November 1 of each year. (R.C. 2915.10(A) and (C).)

Current law requires that these charitable organizations maintain an itemized list of the charitable recipients of the proceeds of a bingo session or game or scheme 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 requires these charitable organizations to maintain an itemized list of the charitable recipients of the net profit of the bingo session, raffle, instant bingo at other than a bingo session, or game of chance, and if the organization uses the net profit, a list showing each purpose and an itemized list showing each expenditure for each purpose. (R.C. 2915.10(A).)

Under the bill, the gross profit from each bingo session must be deposited into a checking account devoted exclusively to the bingo session. Payments for allowable expenses and to charitable recipients must be made only by checks from the bingo session account. (R.C. 2915.10(B).)

The bill authorizes the Attorney General, in accordance with the Administrative Procedure Act, to adopt rules establishing standards of accounting, record-keeping, and reporting to ensure that charitable receipts from bingo sessions, raffles, and games of chance are properly accounted for (R.C. 2915.10(D)).

A distributor is required by the bill 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 were provided to each charitable organization that include the name and license number of the charitable organization making the purchase, the name of the manufacturer of the game, the name of the game, the serial number and form number of the instant bingo ticket including the price per ticket, the number of tickets in a game, the total amount to be paid out to winners when all of the tickets are sold, the gross profit per game, and the number and value of top prizes. (R.C. 2915.10(E).)

The bill 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 were provided to each distributor that include the name and license number of the distributor making the purchase, the name of the manufacturer of the game, the name of the game, the serial number and form number of the instant bingo ticket including the price per ticket, the number of tickets in a game, the total amount to be paid out to winners when all of the tickets are sold, the gross profit per game, and the number and value of top prizes. (R.C. 2915.10(F).)

The bill authorizes the Attorney General or any law enforcement agency to inspect, during normal business hours, the books, records, inventory, and business premises of a licensed distributor or manufacturer and to take other reasonable action to determine whether there has been a violation of the Gambling Law (R.C. 2915.10(H)).

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, examine the accounts and records of the organization, and conduct inspections, audits, and observations of bingo games or schemes or games of chance while they are in session. The bill permits such investigations and other activities to be carried out also with regard to bingo sessions, raffles, and bingo conducted other than at a bingo session. Under the bill, the Attorney General or any other local law enforcement authority, may take any other necessary and reasonable action to determine if there has been a violation of the Gambling Law, and any local law enforcement agency may proceed to enforce the Gambling Law after giving written notice to the Attorney General when commencing an action. (R.C. 2915.10(G).) Whoever fails to



comply with any of the bill's requirements related to the maintenance of records, as described above, is guilty of a fourth degree felony rather than a first degree misdemeanor as under current law (R.C. 2915.10(J)).

### **Conduct of bingo sessions**

#### **Use of electronic bingo aids**

The bill requires a charitable organization that conducts a bingo session to use or permit the use of electronic bingo aids only under the following circumstances: (a) the number of bingo faces that can be played by a single bingo player using an electronic bingo aid must be limited to 54 bingo faces, (b) the organization must require that an electronic bingo aid be used with corresponding bingo paper sheets, and (c) the price of a bingo face played with an electronic bingo aid cannot be less than the price of a face played with a bingo paper sheet sold at the same session (R.C. 2915.09(A)(6)).

The bill permits the Attorney General to adopt rules in accordance with the Administrative Procedure Act that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be approved by the Attorney General prior to its use in this state. (R.C. 2915.09(F).)

#### **Other modifications**

The bill prohibits a charitable organization that conducts a bingo session from permitting any person the charitable organization knows, or should have known, to be under 18 years of age to play bingo or to play in a raffle, except at a festival or civic celebration and from purchasing bingo supplies from any person except a licensed distributor (R.C. 2915.09(B)(10) and (11)).

The bill also modifies the conduct of bingo sessions provisions of the Charitable Bingo Law to include references to conducting instant bingo other than at a bingo session (R.C. 2915.09).

### **Regulation of the sale of instant bingo**

The bill prohibits a charitable organization from conducting instant bingo or using seal cards unless that 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 is described in subsection 501(c)(3) of the Internal Revenue Code. The charitable organization is not permitted to conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license. No charitable organization that conducts instant bingo other than at a bingo session may fail to comply with the requirements of the Charitable Gambling Law that govern the

conduct of instant bingo at a bingo session, the use of gross receipts from instant bingo conducted at a bingo session, and the keeping of instant bingo records relative to a bingo session. (R.C. 2915.091(A).)

The bill prohibits a charitable organization that conducts instant bingo from doing any of the following: (1) selling any instant bingo ticket for a price different from the price printed on the ticket by the manufacturer, (2) using any instant bingo ticket as a prize or award, (3) selling an instant bingo ticket to a person under 18 years of age, or (4) failing to keep unsold instant bingo tickets for less than three years. (R.C. 2915.091(B).)

The Attorney General may adopt rules, in accordance with the Administrative Procedure Act, governing the sale of instant bingo tickets by charitable organizations and establishing standards for instant bingo tickets (R.C. 2915.091(C)).

Whoever violates any of the above prohibitions is guilty of illegal instant bingo conduct. Except for certain violations, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender has previously been convicted of a violation, illegal instant bingo conduct is a felony of the fifth degree. (R.C. 2915.091(D).)

### **The conduct of raffles**

The bill authorizes a charitable organization to conduct a raffle without a license to conduct bingo. However, charitable organizations may not conduct a raffle unless that 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 is described in subsection 501(c)(3) of the Internal Revenue Code. No charitable organization may conduct more than 36 raffles during a calendar year. No person may be compensated directly or indirectly for assisting in the conduct or operation of a raffle. A raffle drawing may not be conducted on premises other than premises that a charitable organization uses for its charitable programs. (R.C. 2915.092(A), (B), and (C).)

Whoever violates any of the above prohibitions is guilty of illegal conduct of a raffle. Illegal conduct of a raffle is a misdemeanor of the first degree. If the offender has previously been convicted of a violation, illegal conduct of a raffle is a felony of the fifth degree. (R.C. 2915.092(D).)

**Prohibition against the playing of bingo and games of chance in a premises where beer or liquor is sold for on-premises consumption**

The bill exempts from the prohibition against gambling games of chance that are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to the Charitable Gambling Law *and are not conducted on any premises for which a permit, other than a D-4, D-5, F, or F-2 permit, for the sale of beer or intoxicating liquor has been issued* (R.C. 2915.02(D)(1)(e)).

The bill expands the offense of public gaming by prohibiting the following: (1) it prohibits any person, while at a tavern or other establishment at which beer or intoxicating liquor is sold for consumption on the premises, from playing bingo, any game of chance, or any scheme of chance, whether or not a charitable organization conducts the bingo, game, or scheme, (2) it prohibits any person who is the owner or lessee, or who has custody, control, or supervision, of a tavern or other establishment at which beer or intoxicating liquor is sold for consumption on the premises from recklessly permitting the premises to be used or occupied for a purpose described in (1) above. Whoever violates either of those prohibitions is guilty of "public gaming," a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on a subsequent offense. Premises used or occupied in violation of the prohibition constitute a nuisance subject to abatement. (R.C. 2915.04(C) and (F).)

**Inclusion of bingo in offense of cheating**

The bill modifies the offense of cheating to include bingo. The bill prohibits any person, with purpose to defraud or knowing that the person is facilitating a fraud, from engaging in conduct designed to corrupt the outcome of bingo. Whoever violates this prohibition is guilty of "cheating," a misdemeanor of the first degree on a first offense and a felony of the fifth degree on a subsequent offense. The offense is also a felony of the fifth degree if the potential gain from the cheating is \$500 or more. (R.C. 2915.05.)

**Distribution of the net proceeds from the sale of instant bingo**

The bill provides that, except as otherwise provided by law, a charitable organization that conducts instant bingo must distribute the net profit from the proceeds of the sale of instant bingo as follows: if a veteran's organization or a fraternal organization conducted the instant bingo, the organization must distribute the net profit as follows: (a) 50% must be distributed to a charitable organization as defined in the bill, (b) 20% may be distributed for the organization's own charitable purposes, and (c) 30% may be deducted and retained by the organization for the organization's expenses in conducting the instant bingo game. If a veteran's organization or a fraternal organization does not distribute the full

percentages specified in (b) and (c) above for the purposes specified, the balance of the net profit not distributed or retained for those purposes must be distributed to the charitable organization referenced in (a) above. (R.C. 2915.101(A).)

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 as defined in the bill, and (b) 30% may be deducted and retained by the organization for the organization's expenses in conducting the instant bingo game. If a charitable organization does not retain the full percentage specified in (b) above for the purposes specified, the balance of the net profit not retained for that purpose must be distributed to the charitable organization referenced in (a) above. (R.C. 2915.101(B).)

### **Veteran's or fraternal organization conduct of instant bingo**

The bill provides that a veteran's organization or a fraternal organization authorized to conduct a bingo session pursuant to the Gaming Law may conduct instant bingo at sessions other than the bingo sessions if both of the following apply: (1) the veteran's organization or fraternal organization limits the sale of instant bingo to nine consecutive hours per day for up to five days per week, and (2) the veteran's organization or fraternal organization limits the sale of instant bingo to its own premises and to its own members and invited guests. (R.C. 2915.13(A).)

The bill also provides that if a veteran's organization or fraternal organization authorized to conduct instant bingo under the bill is raising money for another charitable organization, the veteran's organization or fraternal organization must execute a written contract with that charitable organization in order to conduct instant bingo. That contract must include a statement of the percentage of the net proceeds that the veteran's or fraternal organization will be distributing to the charitable organization. (R.C. 2915.13(B).) If a veteran's organization or fraternal organization authorized to conduct instant bingo under the bill has been issued a liquor permit under Chapter 4303. of the Revised Code, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization or fraternal organization violates the bingo provisions of the Gaming Law (R.C. 2915.13(C)).

### **Other changes in the Charitable Gambling Law**

#### **Deposit of licensing fees**

The bill requires the Attorney General to pay all license fees received for the licensing of bingo and instant bingo operators under R.C. 2915.08, distributors



of bingo supplies under R.C. 2915.081, and manufacturers of bingo supplies under R.C. 2915.082 into the state treasury to the credit of the charitable law fund.

The bill further requires the Attorney General to use those license fees for the following purposes: (1) investigating any charitable organization that conducts bingo or instant bingo or any officer, agent, trustee, member, or employee of a charitable organization that conducts bingo, instant bingo, or raffles, (2) examining the accounts and records of a charitable organization that conducts bingo, instant bingo, or raffles, (3) conducting inspections, audits, and observations of bingo sessions, instant bingo conducted other than at a bingo session, and raffles, (4) conducting inspections of the premises where bingo sessions, instant bingo conducted other than at a bingo session, and raffles are conducted, and (5) taking any other necessary and reasonable action to determine if a violation of the bingo provisions of the Charitable Gaming Law has occurred. (R.C. 109.32.)

**Automatic termination of order issued by a common pleas court suspending the effect of an order of the Attorney General**

The bill provides that any order issued by a common pleas court suspending the effect of an order of the Attorney General that revokes or suspends any bingo license must terminate not more than 15 months after the date of the filing of a notice of appeal in the common pleas court, even if the matter has not been finally adjudicated within that time (R.C. 119.12).

**Conforming changes**

The bill amends several Revised Code sections to make conforming changes that reflect substantive changes made in other parts of the bill (R.C. 173.121(B), 1531.01(TT), 1711.09, 2915.01(F), (H), (R), (S), (T), (V), (W), (X), and (Y), 2915.02, 2915.11, 2915.12, 3763.01, and 4301.03).

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**COMMENT**

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

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

Subsection 501(c)(4) describes civic leagues composed of employees of a municipality that devote their net earnings exclusively to charitable, recreational,

or educational purposes. Subsection 501(c)(8) describes fraternal organizations that provide payment of life, sick, accident, or other benefits to their members, and subsection 501(c)(10) describes domestic fraternal organizations that devote earnings exclusively to religious, charitable, scientific, educational, and fraternal purposes other than the payment of life, sick, accident, or other benefits to their members. Subsection 501(c)(19) describes certain war veteran organizations and their auxiliaries.

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

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-14-02	p. 1469
Reported, S. Judiciary on Civil Justice	---	---

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