



## **Sub. H.B. 325**

125th General Assembly  
(As Reported by H. State Government)

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### **BILL SUMMARY**

- Creates the short-term bingo license to be issued to certain charitable organizations to conduct bingo at a specific event, but for not more than 72 hours from the event's beginning.
- Authorizes holders of a short-term bingo license to sell instant bingo tickets to persons under age 18.
- Changes definitions of various charitable organizations and other terms used in the Charitable Bingo Law.
- Includes social clubs and community action agencies within the definition of a charitable organization.
- Authorizes charitable organizations to purchase, lease, and use instant bingo ticket dispensers.
- Authorizes more charitable organizations to conduct games of chance and instant bingo at festivals they conduct.
- Allows more charitable organizations to conduct raffles without having to obtain a bingo license.

- Changes the number of days and hours during which social clubs and veteran's, fraternal, and sporting organizations may conduct instant bingo other than at a bingo session.
- Requires a charitable organization to keep a separate account in a financial institution for the deposit of the net profit from the proceeds of the instant bingo its conduct and to keep a record of deposits into and withdrawals from the account.
- Provides that a bartender who commits certain gambling offenses while working at a liquor permit premises for which the permit is issued to a charitable organization is guilty of no more than a misdemeanor of the first degree.
- Limits the Attorney General's power to delegate duties under the Charitable Gambling Law to another state agency to administrative and ministerial duties.
- Allows charitable gambling by county or independent agricultural societies at all county fairgrounds during specified time periods.
- Changes the activities in which a distributor of bingo supplies may engage pursuant to its licensure by the Attorney General.
- Makes other changes in the Charitable Gambling Law, including reducing the general penalty for conducting illegal bingo.

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## TABLE OF CONTENTS

Short-term license to conduct bingo .....	3
Application.....	3
Granting or denying the application .....	4
License.....	5
Conforming changes .....	5
Changes in definitions used in, and in corresponding operative provisions of, the Charitable Bingo Law.....	5
Charitable organization.....	5
Charitable instant bingo organization.....	6
Fraternal organization.....	6
Sporting organization.....	6
Veteran's organization .....	7
Service organization.....	7

Nonprofit medical organization.....	7
Charitable purpose for which net regular bingo profits may be used.....	8
Expenses for maintaining a charitable organization's facilities.....	8
Net profit from the proceeds of the sale of instant bingo .....	8
Social club as a type of charitable organization .....	8
"Community action agency" as a type of charitable organization .....	9
Use of instant bingo ticket dispensers.....	9
Games of chance at festivals .....	10
Permissible charitable organizations.....	10
Leases.....	10
Use of profit .....	10
Instant bingo at festivals .....	11
Charitable organizations that may conduct raffles.....	11
Exception to the prohibition against the sale of instant bingo tickets to minors ....	11
Conduct of instant bingo by certain charitable organizations other than at a bingo session.....	12
Hours.....	12
Liquor permit premises.....	12
Use of the net profit derived from instant bingo.....	12
Criminal liability of bartenders for gambling violations and other penalty changes.....	13
Existing law.....	13
Changes proposed by the bill.....	13
Restrictions on the Attorney General's power to delegate duties under the Charitable Bingo Law .....	14
Gambling at a county fairground.....	14
Issuance of new bingo licenses.....	14
Distributors.....	15

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## CONTENT AND OPERATION

### Short-term license to conduct bingo

#### Application

Under the bill, a charitable organization (see **COMMENT 1**) that does not have a license issued under the Charitable Bingo Law but that desires to conduct, at a specific event, regular bingo, instant bingo at a bingo session, or instant bingo at other than a bingo session must make out, at least 30 business days before the event, an application for a short-term license to conduct bingo, instant bingo at a bingo session, or instant bingo at other than a bingo session (hereafter, a short-term license). The application must be on a form to be furnished by the Attorney General for that purpose and be delivered to the Attorney General with the license

fee determined by the Attorney General.<sup>1</sup> The short-term license, if granted, will be in effect for 72 hours from the time when the event begins. A charitable organization may apply for no more than two short-term licenses during a calendar year. (R.C. 2915.083(A).)

The bill requires the application to be in the form prescribed by the Attorney General, be signed and sworn to by the applicant, and contain the information generally required of an applicant for a bingo license under current law. The applicant is not required to submit information on the application other than this information. (R.C. 2915.083(B).)

### **Granting or denying the application**

Except as described in this paragraph, the bill requires the Attorney General, within ten business days after receiving a timely submitted application from a charitable organization, to issue a short-term license to the charitable organization (R.C. 2915.083(C)). The Attorney General may refuse to grant a short-term license to, and can revoke or suspend a previously granted short-term license of, any charitable organization that does any of the following or to which any of the following applies: (1) it fails or has failed at any time to meet any requirement of the Charitable Bingo Law, the laws dealing with the registration and issuance of reports by charitable trusts and with the registration of charitable organizations that intend to solicit contributions in Ohio, or any rule adopted by the Attorney General under the bill, (2) it makes or has made an incorrect or false statement material to the granting of the short-term license in the application for it, (3) it submits or has submitted any incorrect or false information relating to an application which is material to the granting of the short-term license, or (4) the Attorney General has good cause to believe that the organization will not conduct bingo, instant bingo at a bingo session, or instant bingo at other than a bingo session in accordance with the Charitable Bingo Law (R.C. 2915.083(D)).

If the Attorney General refuses to grant or revokes or suspends a short-term license, the Attorney General must notify the applicant in writing and specifically identify the reason for the refusal, revocation, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The Attorney General's failure to give this written notice or a mistake in it does not affect the validity of the Attorney General's refusal to grant, or revocation or suspension of, a short-term license. If the Attorney General fails to give, or if there is a mistake in, the written notice, the applicant may bring an action to compel the Attorney General to comply with the bill or correct the mistake, but the

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<sup>1</sup> The bill requires the Attorney General to establish by rule adopted under R.C. 111.15 a reduced license fee for charitable organizations that are issued a short-term license.

Attorney General's order refusing to grant, or revoking or suspending, the short-term license cannot be enjoined during the pendency of the action. (R.C. 2915.083(E).)

### **License**

A short-term license must set forth the information contained on the charitable organization's application that the Attorney General determines is relevant, including, but not limited to, the location at which the organization will conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session and the dates and times on each of those dates when bingo will be conducted (R.C. 2915.083(E)).

### **Conforming changes**

The bill changes several provisions of the Charitable Bingo Law to reflect the creation of the short-term license (R.C. 2915.01(H), (K), (R), (NN), and (OO), 2915.02(D)(3), 2915.07(A), 2915.081(E)(1), 2915.09(C)(6), and 2915.091(A)(2)(a) and (3)).

### **Changes in definitions used in, and in corresponding operative provisions of, the Charitable Bingo Law**

#### **Charitable organization**

Current law generally specifies that a charitable organization is tax exempt for purposes of the Charitable Bingo Law if it is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that it is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code (see **COMMENT 1**).<sup>2</sup> The bill retains most of this specification but removes its reference to *subsection 501(c)(4)* and substitutes a distinct statement that an organization is tax exempt for purposes of the Charitable Bingo Law if it is a veteran's organization or fraternal organization and is, and has received from the Internal Revenue Service a determination letter that currently is

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<sup>2</sup> *Current law separately states that a charitable organization is tax exempt for purposes of the Charitable Bingo Law if it is a sporting organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(7) of the Internal Revenue Code. The bill conforms this separate statement with the other provisions of the definition by additionally specifying that the sporting organization must have "received from the Internal Revenue Service a determination letter that currently is in effect stating that" it is exempt from federal income taxation as described in the preceding sentence.*

in effect stating that it is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(4) of the Internal Revenue Code. (R.C. 2915.01(H).)

### **Charitable instant bingo organization**

Current law generally defines a "charitable instant bingo organization" as a charitable organization as generally defined for the Charitable Bingo Law that is exempt from federal income taxation under subsection 501(a) and described in *subsection 501(c)(3)* of the Internal Revenue Code. But, a charitable organization that is so tax exempt and that is created by a veteran's organization, fraternal organization, or sporting organization in regards to bingo conducted or assisted by it under the provision of the Charitable Bingo Law that authorizes such an organization to conduct instant bingo other than at a bingo session is currently not a "charitable instant bingo organization." (R.C. 2915.01(XX).)

The bill redefines a "charitable instant bingo organization" to mean a charitable organization as generally defined for the Charitable Bingo Law that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), *501(c)(4)*, *501(c)(7)*, *501(c)(8)*, *501(c)(10)*, or *501(c)(19)* of the Internal Revenue Code (R.C. 2915.01(XX)).

### **Fraternal organization**

Current law defines a "fraternal organization" as any society, order, state headquarters, 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 the organization's required length of continuous existence in Ohio to *two years*. (R.C. 2915.01(M) and 2915.08(A)(2)(b).)

### **Sporting organization**

Current law defines a "sporting organization" as a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including, but not limited to, the Ohio League of Sportsmen, and that has been in continuous existence in Ohio for a period of three years. The bill reduces the organization's required length of continuous existence in Ohio to *two years*. (R.C. 2915.01(CCC).)

### **Veteran's organization**

Current law defines a "veteran's organization" as any individual post or state headquarters of a national veteran's association, or any auxiliary unit of any individual post of a national veteran's association, that, among other requirements, has been in continuous existence in Ohio for at least two years and is incorporated as a nonprofit corporation. The bill substitutes that a post, state headquarters, or auxiliary unit must have been in continuous existence in Ohio for at least two years *immediately preceding making an application for a license or a short-term license* under the Charitable Bingo Law and removes the nonprofit corporation requirement. (R.C. 2915.01(K).)

### **Service organization**

Current law defines a "service organization" as (1) any organization, not organized for profit, that is organized and operated *exclusively* to provide, or to contribute to the support of organizations or institutions organized and operated *exclusively* to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or (2) any nonprofit organization that is organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment. The bill instead defines a "service organization" as (a) any organization, not organized for profit, that is organized and operated *primarily* to provide, or to contribute to the support of organizations or institutions organized and operated *primarily* to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect or (b) any nonprofit organization described in (2) above. (R.C. 2915.01(O).)

### **Nonprofit medical organization**

Current law defines a "nonprofit medical organization" as any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated *exclusively* to provide, or to contribute to the support of organizations or institutions organized and operated *exclusively* to provide, hospital, medical, research, or therapeutic services for the public. The bill instead defines a "nonprofit medical organization" as any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated *primarily* to provide, or to contribute to the support of organizations or institutions organized and operated *primarily* to provide, hospital, medical, research, or therapeutic services for the public. (R.C. 2915.01(P).)

### **Charitable purpose for which net regular bingo profits may be used**

Current law requires a charitable organization to use, or to give, donate, or otherwise transfer, all of the net profit it derives from bingo, other than instant bingo, for a charitable purpose authorized by the Charitable Bingo Law and described in its license application (R.C. 2915.09(A)(3)). And, it defines "charitable purpose" to mean that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, among other organizations an organization that is a certain type of private foundation and that 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. The bill expands this definition and, thus, also allows the net profit from bingo, other than instant bingo, to be used by, or to be given, donated, or otherwise transferred to, any organization that is a certain type of private foundation and that is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.01(Z)(1).)

### **Expenses for maintaining a charitable organization's facilities**

Current law describes various "expenses" that a charitable organization incurs and that can be deducted from its gross profit derived from bingo to calculate its net profit derived from bingo. One category of expenses is expenses of maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to any of the preceding. The bill also includes within this category of expenses "any other expenses for these facilities." (R.C. 2915.01(LL)(11).) (See **COMMENT 2**.)

### **Net profit from the proceeds of the sale of instant bingo**

Current law defines "net profit from the proceeds from the sale of instant bingo" as gross profit minus the ordinary, necessary, and reasonable expenses expended for the purchase of instant bingo supplies. The bill redefines this term to mean gross profit minus the ordinary, necessary, and reasonable expenses expended for the purchase of instant bingo supplies and *minus expenses* as defined in the Charitable Bingo Law. (R.C. 2915.01(WW).) (See **COMMENT 2**.)

### **Social club as a type of charitable organization**

The bill includes within the definition of a "charitable organization" a specified type of "social club" (see next paragraph) that is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating the club is, exempt from federal income taxation under subsection 501(a)

and described in subsection 501(c)(7) of the Internal Revenue Code, thereby allowing that type of social club to conduct raffles, to conduct games of chance at festivals, and to obtain a license to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session. The bill also generally treats a social club within the Charitable Bingo Law the same as fraternal organizations, sporting organizations, and veteran's organizations for purposes of conducting instant bingo; the major exception is the nonapplicability of the provisions of that Law that govern the distribution of the net profit from the proceeds of instant bingo by the latter organizations. (R.C. 2915.01(H), 2915.09(D)(3), 2915.095, and 2915.13(A) to (D).)

The bill defines a "social club" as an organization that is not organized for profit, that is organized and operated exclusively to provide recreational, patriotic, historical, cultural, or ancestral activities for its members, and that has been in continuous existence in Ohio for a period of ten years (R.C. 2915.01(DDD) and 2915.08(A)(2)(b)).

### **"Community action agency" as a type of charitable organization**

The bill includes within the definition of a "charitable organization" a tax exempt community action agency (see below), thereby allowing a community action agency to conduct raffles, to conduct games of chance at festivals, and to obtain a license to conduct bingo, instant bingo at a bingo session, or instant bingo other than at a bingo session (R.C. 2915.01(H)).<sup>3</sup> The bill defines a "community action agency" as a community-based and operated private nonprofit agency or organization that includes or is designed to include a sufficient number of projects or components to provide a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem and that is designated as a community action agency by the Office of Community Services in the Department of Development (R.C. 2915.01(EEE) by cross-reference to R.C. 122.66--not in the bill).

### **Use of instant bingo ticket dispensers**

Current law defines an "instant bingo ticket dispenser" as a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed, that is activated upon the insertion of United States currency, that

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<sup>3</sup> *The community action agency must be tax exempt under, and have received from the Internal Revenue Service a determination letter that currently is in effect stating it is tax exempt under, subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.*

performs no gaming functions, and that has certain other characteristics (R.C. 2915.01(SS)). And, it prohibits a charitable organization that conducts instant bingo from purchasing, leasing, or using instant bingo ticket dispensers to sell instant bingo tickets or cards. The bill removes this prohibition. (R.C. 2915.091(A)(16).)

### **Games of chance at festivals**

#### **Permissible charitable organizations**

Current law exempts from the general prohibition against establishing, promoting, or operating any game of chance conducted for profit, those games of chance that are not craps or roulette for money and that are conducted by a charitable organization *described in subsection 501(c)(3)* of the Internal Revenue Code at certain festivals of the charitable organization.<sup>4</sup> These festivals can be conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days and not more than once a year. The bill allows *any charitable organization* to conduct games of chance (that are not craps or roulette for money) at these festivals. (R.C. 2915.02(D)(1)(b).)

#### **Leases**

Current law prohibits a charitable organization from leasing a premises from a veteran's or fraternal organization to conduct a festival if the veteran's or fraternal organization has already leased the premises four times during the immediately preceding year to charitable organizations for that purpose. The bill increases the maximum number of these leases to *12* during the immediately preceding 12 months. (R.C. 2915.02(D)(1)(c).)

#### **Use of profit**

Current law requires that all of the money or assets received from games of chance conducted at these festivals, after deduction only of prizes paid out during their conduct, be used by, or be given, donated, or otherwise transferred to, any organization that is a specified type of private foundation and either is 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. The bill also allows that remaining money or assets to be used by, or to be given, donated, or otherwise transferred to, any organization that is tax exempt under subsection

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<sup>4</sup> A violation of the general prohibition as well as of certain other violations constitutes the offense of gambling, which can be a felony of the fifth degree or a misdemeanor of the first degree (R.C. 2915.02(F)).

501(a) and described in subsection 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.02(D)(1)(d).)

### **Instant bingo at festivals**

The bill specifically allows a charitable organization that holds a bingo license to conduct instant bingo at its festivals, provided the festivals (1) are conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days and not more than once a year, and (2) are conducted (a) on premises that the charitable organization owned for a period of no less than one year immediately preceding the conducting of the instant bingo, (b) on premises leased from a governmental unit, or (c) on premises leased from a veteran's or fraternal organization and owned by the lessor organization for a period of no less than one year immediately preceding the conducting of the instant bingo (R.C. 2915.091(B)(2)).

### **Charitable organizations that may conduct raffles**

Current law authorizes a charitable organization, public school, chartered nonpublic school, community school, or sporting organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), or 501(c)(7) of the Internal Revenue Code to conduct a raffle to raise money for the organization or school without the need to obtain a bingo license as long as the raffle drawing is not for profit. The bill also allows a charitable organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code to conduct a raffle under these same conditions. (R.C. 2915.092(A).)<sup>5</sup>

### **Exception to the prohibition against the sale of instant bingo tickets to minors**

Current law prohibits a charitable organization from selling an instant bingo ticket or card to a person under age 18. The bill provides that this prohibition does not apply to the sale of instant bingo tickets or cards by the holder of a short-term license to conduct instant bingo at a bingo session or to conduct instant bingo at other than a bingo session. (R.C. 2915.091(A)(7).)

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<sup>5</sup> *The bill strikes through current law's reference to a "sporting organization" in making its changes, because a sporting organization is covered by the term "charitable organization."*

**Conduct of instant bingo by certain charitable organizations other than at a bingo session**

**Hours**

Current law authorizes a veteran's, fraternal, or sporting organization authorized to conduct regular bingo, instant bingo, and seal cards at a bingo session to conduct instant bingo other than at a bingo session if it meets specified requirements. One of these requirements is that the organization limit the sale of instant bingo to ten consecutive hours per day for up to six days per week. The bill changes this limitation to *12 hours during any day* and applies it also to a social club. (R.C. 2915.13(A)(1).)

**Liquor permit premises**

Current law also provides that if a veteran's, fraternal, or sporting organization authorized to conduct instant bingo other than at a bingo session has been issued a liquor permit, the permit may be suspended, revoked, or cancelled if the organization violates a provision of the Charitable Gambling Law. The bill, while retaining that provision and applying it also to a social club, authorizes such an organization or club *to sell instant bingo* in the area to which its permit applies. (R.C. 2915.13(C)(1).)

**Use of the net profit derived from instant bingo**

Current law regulates the *distribution* of the net profit that a charitable organization derives from its conduct of instant bingo.<sup>6</sup> Under the bill, a charitable organization that conducts instant bingo *must deposit* the net profit from the proceeds of the sale of instant bingo into *a separate account* established at a financial institution prior to distributing the net profit as prescribed by law. The bill defines "financial institution" to mean a state bank, national bank, savings association, or bank doing business under authority granted by the bank regulatory authority of another state or another country. (R.C. 2915.101(B)(1).) The bill authorizes the Attorney General or any law enforcement agency to conduct an audit of such a separate account (R.C. 2915.10(H)(5)).

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<sup>6</sup> *The bill modifies the distribution provisions, by (a) correcting a technical error in one of them--35% should be 45% (R.C. 2915.101(A)(1)(c) and (3)), (b) specifically describing permissible recipients of certain distributions in order to retain existing law, rather than using cross-references to an expanded description of organizations in another provision of the Charitable Bingo Law (R.C. 2915.101(A)(1)(a), (2), and (4)), and (c) making certain of the provisions consistent (R.C. 2915.101(A)(2)).*

The bill also requires the charitable organization to do all of the following: (1) include in its application to the Attorney General for an instant bingo license a statement of the designated purpose for which it will use the net profit from the proceeds of the sale of instant bingo maintained in such a separate account, (2) maintain for at least three years from the date on which instant bingo is conducted an itemized list of each deposit into and withdrawal from such a separate account and an itemized list of the purpose for each withdrawal, and (3) use the net profit from the proceeds of the sale of instant bingo as specified in its instant bingo license application (R.C. 2915.08(A)(2)(g), 2915.10(A)(8), and 2915.101(B)(2)).

### **Criminal liability of bartenders for gambling violations and other penalty changes**

#### **Existing law**

Under current law, a violation of the various prohibitions relating to bookmaking or conducting schemes of chance or games of chance for profit constitutes the offense of *gambling*, a misdemeanor of the first degree or, if the offender previously has been convicted of any gambling offense, a felony of the fifth degree (R.C. 2915.02(F)). Also, under current law, a violation of the prohibitions constituting the offense of *operating a gambling house* carries one of those same criminal penalties (R.C. 2915.03(B)). Finally, current law prohibits any person, except a charitable organization that has obtained a license under the Charitable Bingo Law, from conducting or advertising bingo. A violation of this prohibition constitutes the offense of *conducting illegal bingo*, a felony of the fourth degree *in all situations*. (R.C. 2915.07.)

#### **Changes proposed by the bill**

Under the bill, in relation to *gambling* or *operating a gambling house*, if a violation normally would be punishable as a felony of the fifth degree but the offender who has the prior gambling offense conviction *is a bartender* who committed the violation while working at a premises for which the Division of Liquor Control has issued a liquor permit *to a charitable organization*, the offense continues to be only a misdemeanor of the first degree (R.C. 2915.02(F) and 2915.03(B)).

With respect to *conducting illegal bingo*, the bill generally *reduces* the penalty for the offense to a misdemeanor of the first degree. It then makes a subsequent conviction for the offense a felony of the fourth degree--subject to one exception. A violation that normally would be a felony of the fourth degree would remain as a misdemeanor of the first degree under the bill if the offender is (1) a

social club or a veteran's, fraternal, or sporting organization or (2) a bartender as described above (R.C. 2915.07(B)).<sup>7</sup>

### **Restrictions on the Attorney General's power to delegate duties under the Charitable Bingo Law**

Current law allows the Attorney General to enter into a written contract with any other state agency to delegate to that state agency "the powers prescribed to" the Attorney General under the Charitable Gambling Law (R.C. 2915.08(I)). The bill instead authorizes the Attorney General to enter into a written contract with any other state agency to delegate to that state agency any *administrative or ministerial powers or duties* granted to or imposed upon the Attorney General under the Charitable Gambling Law and specifically prohibits the delegation to a state agency of *any rule-making powers* granted to the Attorney General under the law (R.C. 2915.08(I)).

### **Gambling at a county fairground**

Existing law generally prohibits county agricultural societies and independent agricultural societies at any time from allowing or tolerating lottery devices, games of chance, or gambling of any kind anywhere on their fairground. However, it does authorize a society to permit, at any time except during a fair or for one week before or three days thereafter, a charitable organization to conduct in accordance with the Charitable Gambling Law games of chance or bingo on the fairground of any county *with a population of 500,000 or less*. (R.C. 1711.09.)

The bill instead authorizes a county or independent agricultural society to permit, at any time except during a fair or for one week before or three days thereafter, a charitable organization to so conduct games of chance or bingo on the fairground of *any* county (R.C. 1711.09).

### **Issuance of new bingo licenses**

With respect to charitable organizations that have a bingo license and are applying for a *new license*, the bill provides that, if an applicant was or is issued a bingo license on or after July 1, 2003, the applicant must be rebuttably presumed to qualify for the issuance of a new license (R.C. 2915.08(A)(3)).

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<sup>7</sup> *The bill creates distinct penalties for social clubs and veteran's, fraternal, or sporting organizations that commit repeat violations of "conducting illegal bingo" and for all other charitable organizations that commit repeat violations of that offense. The disparate criminal penalties for the same conduct may raise constitutional issues.*

## Distributors

Existing law prohibits a distributor from selling, offering to sell, or otherwise providing or offering to provide bingo supplies to another person for use in Ohio without obtaining a distributor license from the Attorney General (R.C. 2915.081(A)). The definition of a "distributor" reflects these same permissible activities (R.C. 2915.01(PP)).

The bill alters the definition of a "distributor" so that it includes a person who purchases or obtains bingo supplies and then also *modifies, converts, adds to, or removes parts from those bingo supplies to further their promotion or sale for use in Ohio* (R.C. 2915.01(PP)(2)). And, a distributor is prohibited from performing any of those additional activities (1) without having obtained a distributor license from the Attorney General, (2) for any person except a charitable organization that has been issued a bingo license or short-term license by the Attorney General under the Charitable Bingo Law, or (3) for the use of 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 (R.C. 2915.081(A) and (E)(1) and (2)).

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## COMMENT

1. Under the Charitable Gambling Law, "charitable organization" means any tax-exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, amateur athletic, youth athletic, or youth athletic park organization. A charitable organization must be tax exempt under subsection 501(a) and be described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code. (R.C. 2915.01(H).)

The following are descriptions of relevant subsections of the Internal Revenue Code:

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 to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

Subsection 501(c)(4) describes civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to employees of a designated person or persons in a municipality, and the net earnings of which are devoted exclusively to charitable, recreational, or educational purposes.



Subsection 501(c)(7) describes clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for these purposes and no part of the net earnings of which inures to the benefit of any private shareholder. Subsection 501(c)(8) describes fraternal organizations that provide payment of life, sick, accident, or other benefits to their members and their members' dependents, and subsection 501(c)(10) describes domestic fraternal organizations that devote their net 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 veteran organizations and their auxiliaries.

2. "Expenses" are defined for the Charitable Gambling Law as the reasonable amount of gross profit actually expended for all of the following (R.C. 2915.01(LL)):

- (a) The purchase or lease of bingo supplies;
- (b) The annual license fee required under R.C. 2915.08;
- (c) Bank fees and service charges for a bingo session or game account;
- (d) Audits and accounting services;
- (e) Safes;
- (f) Cash registers;
- (g) Hiring security personnel;
- (h) Advertising bingo;
- (i) Renting premises in which to conduct a bingo session;
- (j) Tables and chairs;
- (k) Expenses for maintaining and operating a charitable organization's facilities;
- (l) Any other product or service directly related to the conduct of bingo that is authorized in certain rules adopted by the Attorney General.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-06-03	p. 1054
Reported, H. State Gov't	03-18-04	p. 1707

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