

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H1/22/09 H1/26/09 H2/2/09

A Bill

HOUSE BILL 1111

5 *By: Representatives Pennartz, M. Martin, Glidewell, R. Green, Hoyt, Woods, Pyle, Cook, Breedlove, G.*
6 *Smith, Wells, Hyde, S. Malone, Ragland, Ingram, Rice, McLean, Lea, King, Hopper, Gaskill*
7

For An Act To Be Entitled

10 AN ACT AMENDING ARKANSAS LAW CONCERNING
11 CHARITABLE BINGO AND RAFFLES; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 AMENDING ARKANSAS LAW CONCERNING
15 CHARITABLE BINGO AND RAFFLES.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code § 23-114-102 is amended to read as follows:*
22 *23-114-102. Definitions.*

23 *As used in this chapter:*

24 *(1)(A) "Authorized organization" means an organization eligible for a*
25 *license to conduct games of bingo and raffles that is a nonprofit tax-exempt*
26 *religious, educational, veterans, fraternal, service, civic, medical,*
27 *volunteer rescue service, volunteer firefighters organization, or volunteer*
28 *police organization that has been in continuing existence as a nonprofit tax-*
29 *exempt organization in this state for a period of not less than five (5)*
30 *years immediately prior to conducting the game of bingo or raffles.*

31 *(B) A nonprofit tax-exempt instrumentality of the United*
32 *States Government is a service agency for the purpose of this subdivision*
33 *(1);*

34 *(2)(A) "Bingo equipment" means equipment and supplies used, made, or*
35 *sold for the purpose of use in bingo.*

36 *(B) "Bingo equipment" includes:*



1 (i) A machine or other device from which balls or
2 other items are withdrawn to determine the letters and numbers or other
3 symbols to be called;

4 (ii) A bingo face;

5 (iii) A bingo ball; and

6 (iv) Any other device commonly used in the direct
7 operation of a bingo game.

8 (C) "Bingo equipment" is not intended and shall not be
9 construed to permit the participants to play the game through:

10 (i) Any electronic device or machine; or

11 (ii) A pull-tab bingo ticket.

12 (D) "Bingo equipment" does not include:

13 (i) A bingo game set commonly manufactured and sold
14 as a child's game for a retail price of twenty dollars (\$20.00) or less,
15 unless the set or a part of the set is used in a game of bingo subject to
16 regulation under this chapter; or

17 (ii) A commonly available component part of bingo
18 equipment such as a light bulb or fuse.

19 ~~(E)(3)~~ "Bingo face" means a ~~disposable~~ sequentially
20 numbered flat piece of paper that may be used one (1) time and that cannot be
21 reused after the game in which the bingo face was used has ended. The bingo
22 face is marked off into any number of squares in any arrangement of rows,
23 with each square being designated by number, letter, or combination of
24 numbers and letters, and with one (1) or more squares designated as a "free"
25 space ~~with the word "Arkansas" and a facsimile outline of a map of Arkansas~~
26 ~~on the space;~~

27 ~~(3)(4)~~ "Bingo session" means all activities incidental to the
28 conduct of a series of games of bingo by a licensed authorized organization,
29 beginning when the first game of bingo of a bingo session is commenced by
30 calling the first bingo ball drawn, such session not to exceed five (5)
31 consecutive hours during any one (1) twenty-four-hour calendar day;

32 ~~(4)(5)~~ "Charitable purpose" means a purpose described by § 23-
33 114-504;

34 ~~(5)(6)~~ "Department" means the Department of Finance and
35 Administration;

36 ~~(6)(7)~~ "Director" means the Director of the Department of

1 Finance and Administration;

2 ~~(7)~~(8) "Distributor" means a person or business entity that
3 sells, markets, or otherwise provides bingo equipment to a licensed
4 authorized organization;

5 ~~(8)~~(9)(A) "Game of bingo" means a single game of the activity
6 commonly known as "bingo" in which the participants pay a sum of money for
7 the use of one (1) or more bingo faces.

8 (B) "Game of bingo" includes only a game in which the
9 winner receives a preannounced, fixed-dollar prize and in which the winner is
10 determined by the matching of letters and numbers on a bingo face imprinted
11 with at least twenty-four (24) numbers, with letters and numbers appearing on
12 objects randomly drawn and announced by a caller, in contemporaneous
13 competition among all players in the game;

14 ~~(9)~~(10) "Gross receipts" means the total amount received from
15 the sale of raffle tickets and the sale, rental, transfer, or use of bingo
16 faces and entrance fees charged at premises at which games of bingo or
17 raffles are conducted without any deduction on account of prizes paid,
18 losses, or any other expenses whatsoever;

19 ~~(10)~~(11) "Licensed authorized organization" means an authorized
20 organization that holds a license to conduct games of bingo or raffles;

21 ~~(11)~~(12) "Manufacturer" means a person or business entity that
22 produces finished bingo equipment from raw materials, supplies, or subparts
23 and that sells, markets, or otherwise provides such equipment to a licensed
24 distributor;

25 ~~(12)~~(13) "Person" means any individual, company, partnership,
26 limited liability company, joint venture, joint agreement, association,
27 mutual or otherwise, corporation, estate, trust, business trust, receiver,
28 trustee, syndicate, or any other private entity;

29 ~~(13)~~(14) "Premises" means the area subject to the direct control
30 of and actual use by a licensed authorized organization to conduct games of
31 bingo. "Premises" includes a location or place;

32 ~~(14)~~(15) "Primary business office" means the Arkansas location
33 at which all records relating to the primary purpose of a licensed authorized
34 organization are maintained in the ordinary course of business;

35 ~~(15)~~(16)(A) "Raffle" means the selling of tickets to win a prize
36 awarded through a random drawing.

1 ~~(B)~~ provided that the term “raffle” shall “Raffle” does
 2 not include any game played through the use of a machine or electronic
 3 device; and

4 ~~(16)~~ (17) “Responsible person” means the person or persons within
 5 a licensed authorized organization that is responsible for organizing,
 6 conducting, and otherwise administering the licensed authorized
 7 organization’s raffles or bingo sessions; ~~and~~

8 ~~(17)~~ “Taxpayer” means a distributor of bingo equipment licensed
 9 under this chapter.

10
 11 SECTION 2. Arkansas Code § 23-114-201 is amended to read as follows:

12 23-114-201. Control and supervision of games of bingo and raffles.

13 (a) The Director of the Department of Finance and Administration shall
 14 administer this chapter under the ~~provisions of the~~ Arkansas Tax Procedure
 15 Act, § 26-18-101 et seq.

16 (b) The director has ~~broad authority and shall exercise strict control~~
 17 ~~and close supervision~~ over all games of bingo and raffles conducted in this
 18 state so that games of bingo and raffles are fairly conducted and the
 19 proceeds derived from games of bingo and raffles are used only for an
 20 authorized purpose.

21 ~~(c) The Department of Finance and Administration may employ any~~
 22 ~~inspectors or other personnel that the director determines are necessary to~~
 23 ~~properly administer this chapter.~~

24
 25 SECTION 3. Arkansas Code § 23-114-202 is amended to read as follows:

26 23-114-202. Approval of bingo faces and raffle tickets.

27 (a) The Director of the Department of Finance and Administration by
 28 rule shall provide ~~procedures for the approval of~~ for the form of bingo faces
 29 and raffle tickets used in the State of Arkansas.

30 ~~(b)(1) A licensed authorized organization shall not use or distribute~~
 31 ~~a bingo face unless the bingo face has been approved by the director.~~

32 ~~(2)(A)~~ (1) All bingo faces must be purchased by the licensed
 33 authorized organization from a distributor licensed under this chapter.

34 ~~(B)~~ (2) Only one (1) game shall be played on each bingo
 35 face.

36 (c) (1) All bingo faces and raffle tickets ~~must~~ shall be preprinted on

1 paper or plastic ~~in a form approved by the director.~~

2 (2) ~~No electronic~~ Electronic devices, machines, or facsimiles
3 ~~may~~ shall not be used as bingo faces, raffle tickets, or otherwise, by
4 participants of games of bingo or raffles conducted under this chapter.

5 (d) All bingo faces and raffle tickets ~~must~~ shall be sequentially
6 numbered at the time of printing.

7
8 SECTION 4. Arkansas Code § 23-114-302 is amended to read as follows:
9 23-114-302. License fees – Authorized organizations.

10 (a) An authorized organization license to conduct games of bingo and
11 raffles may be issued to an authorized organization and is subject to renewal
12 on an annual basis. The annual fee for this license ~~shall be~~ is one hundred
13 dollars (\$100).

14 (b) In lieu of the annual license issued under subsection (a) of this
15 section, an authorized organization, at its request, may be issued one (1) or
16 more of the following temporary authorized organization licenses:

17 (1) A temporary license to conduct one (1) bingo session. The
18 fee for this temporary license is ~~twenty five dollars (\$25.00)~~ fifteen
19 dollars (\$15.00);

20 (2) A temporary license, to be known as a “Class I temporary
21 raffle license”, to conduct one (1) raffle other than a raffle under
22 subdivision (b)(3) of this section. The fee for this temporary license is
23 ~~twenty five dollars (\$25.00)~~ fifteen dollars (\$15.00); and

24 (3) A temporary license, to be known as a “Class II temporary
25 raffle license”, to conduct one (1) raffle in which the total prize package
26 to be given away has been donated and has a total value of less than ~~five~~
27 ~~hundred dollars (\$500)~~ five thousand dollars (\$5,000). The fee for this
28 temporary license is ten dollars (\$10.00).

29
30 SECTION 5. Arkansas Code § 23-114-307 is amended to read as follows:
31 23-114-307. Licenses and fees – Distributors and manufacturers.

32 (a) A distributor license may be issued to a distributor of bingo
33 equipment and is subject to renewal on an annual basis. The annual fee for
34 this license shall be ~~two thousand five hundred dollars (\$2,500)~~ one thousand
35 five hundred dollars (\$1,500).

36 (b) A manufacturer license may be issued to a manufacturer of bingo

1 equipment and is subject to renewal on an annual basis. The annual fee for
2 this license shall be ~~two thousand five hundred dollars (\$2,500)~~ one thousand
3 five hundred dollars (\$1,500).

4
5 SECTION 6. Arkansas Code § 23-114-308 is repealed.

6 ~~23-114-308. Failure to file excise tax reports.~~

7 ~~A distributor of bingo equipment licensed under this chapter shall not~~
8 ~~be eligible to renew its license unless all excise tax reports required under~~
9 ~~this chapter have been filed and all reported taxes are paid in full.~~

10
11 SECTION 7. Arkansas Code Title 23, Chapter 114, Subchapter 3 is
12 amended to add *additional sections* to read as follows:

13 23-114-309. Collection and disbursement of license fees.

14 The Department of Finance and administration shall deposit the revenue
15 collected from the license fees levied under §§ 23-114-302 and 23-114-307 to
16 the credit of the General Revenue Fund Account of the State Apportionment
17 Fund.

18 23-114-310. Tax exemption.

19 Licensed authorized organizations shall be exempt from the Arkansas
20 Gross Receipts Tax of 1941, § 26-52-101 et seq., and the Arkansas
21 Compensating Use Tax Act of 1949, § 26-53-101 et seq., regarding:

22 (1) Purchases or sales of bingo faces; and

23 (2) Purchases of bingo equipment.

24
25 SECTION 8. Arkansas Code § 23-114-401(a), concerning bingo premises,
26 is amended to read as follows:

27 (a)(1) Games of bingo shall ~~not~~ be conducted at ~~more than one (1)~~
28 ~~premises~~ on property owned or leased by a licensed authorized organization.

29 (2) ~~The Department of Finance and Administration shall not~~
30 ~~license more than one (1) organization to conduct games of bingo at the same~~
31 ~~premises~~ No more than two (2) organizations may conduct bingo games at the
32 same premises so long as that premises is owned or leased by a licensed
33 authorized organization.

34 (3) Games of bingo under this chapter shall not be conducted
35 through any system that links the games of bingo or participants at one (1)
36 premises location to any other premises or participants.

1 (4) All participants in games of bingo shall be physically
2 present in person at the authorized premises in a single facility in order to
3 play a game of bingo under this chapter.

4
5 SECTION 9. Arkansas Code § 23-114-405 is amended to read as follows:
6 23-114-405. Raffle and bingo records.

7 (a)(1) A licensed authorized organization shall provide to the
8 Director of the Department of Finance and Administration at the time of
9 application for license the address of its primary business office.

10 (2) If the licensed authorized organization maintains its raffle
11 and bingo records at a location other than the primary business office, the
12 licensed authorized organization shall provide the address of the location
13 where the records are maintained.

14 (b) Bingo and raffle records shall be maintained in Arkansas in
15 accordance with generally accepted accounting practices.

16 ~~(c) The director may provide by rule for different recordkeeping~~
17 ~~procedures for licensed authorized organizations based upon the amount of~~
18 ~~gross receipts of the licensed authorized organization.~~

19
20 SECTION 10. Arkansas Code § 23-114-407 is amended to read as follows:
21 23-114-407. Bingo sessions.

22 (a)(1) A bingo session begins when the first game of bingo of the
23 bingo session is commenced by calling the first bingo ball drawn.

24 (2) A licensed authorized organization may conduct one (1) bingo
25 session per calendar day and shall not exceed ~~two (2)~~ three (3) bingo
26 sessions during any one (1) calendar week.

27 (b) A bingo session shall not exceed five (5) consecutive hours during
28 any one (1) twenty-four-hour calendar day.

29
30 SECTION 11. Arkansas Code § 23-114-408 is amended to read as follows:
31 23-114-408. Prizes.

32 (a) A bingo prize shall not have a value of more than one thousand
33 dollars (\$1,000) for a single game.

34 (b) For the total prizes of all games of bingo, a licensed authorized
35 organization shall not offer or award during a single bingo session prizes
36 with an aggregate value of more than ~~seven thousand five hundred dollars~~

1 ~~(\$7,500)~~ ten thousand dollars (\$10,000).

2 (c)(1) A licensed authorized organization shall not award or offer to
3 award a door prize with a value of more than two hundred fifty dollars (\$250)
4 per bingo session.

5 (2) ~~This door prize value~~ The value of the door prize under
6 subdivision (c)(1) of this section shall not accrue against the bingo session
7 prize limitation of ~~seven thousand five hundred dollars (\$7,500)~~ ten thousand
8 dollars (\$10,000).

9 (d)(1) A bingo prize, other than cash, may be merchandise with a
10 recognized wholesale cost not to exceed one thousand dollars (\$1,000).

11 (2) A copy of the receipt for ~~such~~ merchandise under subdivision
12 (d)(1) of this section shall be maintained in the licensed authorized
13 organization's bingo records.

14 (e)(1) Except as otherwise provided in subdivision (e)(2) of this
15 section, the total value of raffle prizes in a calendar year shall not exceed
16 fifty thousand dollars (\$50,000).

17 (2) If the prizes were donated to the licensed authorized
18 organization, the total value of raffle prizes in a calendar year shall not
19 exceed one hundred thousand dollars (\$100,000), except as applicable to a
20 temporary license to conduct a raffle under § 23-114-302(b)(3).

21 (f)(1) A raffle prize ~~may~~ shall not exceed ~~five hundred dollars (\$500)~~
22 five thousand dollars (\$5,000) in cash.

23 (2) As used in this subsection (f), "cash" means coins, paper
24 currency, or a negotiable instrument that represents and is readily
25 convertible to coins or paper currency.

26
27 SECTION 12. Arkansas Code § 23-114-501 is amended to read as follows:

28 23-114-501. Bingo and raffle accounts.

29 (a)(1) A licensed authorized organization with gross receipts from
30 raffles or games of bingo in excess of five hundred dollars (\$500) per month
31 shall establish and maintain one (1) regular checking account designated as
32 the bingo and raffle account.

33 (2) A licensed authorized organization may also maintain an
34 interest-bearing savings account designated as the bingo and raffle savings
35 account.

36 (b)(1) A licensed authorized organization shall deposit into the bingo

1 and raffle account all funds derived from the conduct of games of bingo and
2 raffles, less the amount awarded as cash prizes. Except as provided by
3 subdivision (b)(2) of this section, a deposit shall be made not later than
4 the next business day after the day of the raffle or bingo session on which
5 the receipts were obtained.

6 (2) A licensed authorized organization may deposit funds derived
7 from the conduct of a raffle or games of bingo that are paid through a debit
8 card transaction into the bingo fund not later than seventy-two (72) hours
9 after the transaction.

10 (c)(1) A licensed authorized organization may lend money from its
11 general fund to its bingo and raffle account ~~if the organization requests and~~
12 ~~receives the prior approval of the Department of Finance and Administration.~~

13 (2) Except as provided by this section, no other funds may be
14 deposited into the bingo and raffle account.

15 (d) Except as provided in subsection (c) of this section, a licensed
16 authorized organization shall not commingle gross receipts derived from the
17 conduct of games of bingo and raffles with other funds of the organization.

18 (e) Except as permitted, the licensed authorized organization shall
19 not transfer gross receipts to another account maintained by the licensed
20 authorized organization.

21 (f) A licensed authorized organization shall maintain all of its
22 savings and checking accounts established under this section in a financial
23 institution in this state.

24
25 SECTION 13. Arkansas Code Title 23, Chapter 114, Subchapter 6 is
26 repealed.

27 ~~23-114-601. Tax levied.~~

28 ~~(a)(1) There is levied an excise tax of one cent (1¢) upon the sale of~~
29 ~~each bingo face sold by a licensed distributor to a licensed authorized~~
30 ~~organization in this state.~~

31 ~~(2) There is levied an excise tax of ten percent (10%) of the~~
32 ~~gross receipts derived from the sale of all bingo equipment other than bingo~~
33 ~~faces by a licensed distributor to a licensed authorized organization in this~~
34 ~~state.~~

35 ~~(b) Items taxed under subsection (a) of this section shall be exempt~~
36 ~~from the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the~~

1 ~~Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.~~

2
3 ~~23-114-602. Payment and reporting of tax.~~

4 ~~(a) The excise tax levied under this subchapter is due and payable by~~
5 ~~distributors that sold bingo faces and other bingo equipment to licensed~~
6 ~~authorized organizations in this state. The tax shall be reported and paid to~~
7 ~~the Department of Finance and Administration monthly on or before the~~
8 ~~fifteenth day of the month following the month of sale.~~

9 ~~(b) The report shall be filed under oath on forms prescribed by the~~
10 ~~Director of the Department of Finance and Administration.~~

11 ~~(c) The director shall adopt any rules necessary for the proper~~
12 ~~reporting and payment of the tax.~~

13
14 ~~23-114-603. Information to be reported.~~

15 ~~(a) The excise tax report required under § 23-114-602 shall include~~
16 ~~the following information:~~

17 ~~(1) The total number of bingo faces and the gross receipts~~
18 ~~derived from the sale of other bingo equipment sold to all licensed~~
19 ~~authorized organizations in this state; and~~

20 ~~(2) Any other information that the Director of the Department of~~
21 ~~Finance and Administration determines is necessary to properly administer the~~
22 ~~excise tax levied by this subchapter.~~

23 ~~(b) A taxpayer shall maintain records to substantiate the contents of~~
24 ~~each report.~~

25
26 ~~23-114-604. Record of prize winners.~~

27 ~~The Director of the Department of Finance and Administration may~~
28 ~~require a licensed authorized organization to maintain records relating to~~
29 ~~prizes awarded at a raffle or bingo session.~~

30
31 ~~23-114-605. Collection and disbursement of excise tax and license fees.~~

32 ~~The Department of Finance and Administration shall deposit the revenue~~
33 ~~collected from the license fees levied under §§ 23-114-302 and 23-114-307,~~
34 ~~and the excise tax levied in § 23-114-601 to the credit of the General~~
35 ~~Revenue Fund Account of the State Apportionment Fund.~~

36

1 ~~23-114-606. Nonfiler tax assessments.~~

2 ~~(a) If a distributor fails to file an excise tax report required under~~
3 ~~this chapter, the Department of Finance and Administration shall make an~~
4 ~~excise tax assessment for the period or periods for which the distributor~~
5 ~~failed to report.~~

6 ~~(b) The estimate shall be based on any information covering any period~~
7 ~~possessed by the department.~~

8 ~~(c) On the basis of the department's estimate, the department shall~~
9 ~~compute and determine the amount of excise tax required to be paid along with~~
10 ~~any applicable interest and penalties authorized under the Arkansas Tax~~
11 ~~Procedure Act, § 26-18-101 et seq.~~

12
13 SECTION 14. Arkansas Code § 23-114-704 is amended to read as follows:

14 23-114-704. Injunction.

15 (a) If the Department of Finance and Administration has reason to
16 believe that this chapter has been ~~or is about to be~~ violated, the Director
17 of the Department of Finance and Administration may petition a court for
18 injunctive relief to restrain the violation.

19 (b)(1) Venue for an action seeking injunctive relief against a
20 licensed distributor or a licensed manufacturer is in Pulaski County,
21 Arkansas.

22 (2) Venue for an action seeking injunctive relief against a
23 licensed authorized organization is in the county where the licensed
24 authorized organization resides.

25 ~~(e)(b)~~ If the court finds that this chapter has been violated ~~or is~~
26 ~~about to be violated~~, the court shall issue a temporary restraining order
27 and, after due notice and hearing, a temporary injunction, and after a final
28 trial, a permanent injunction to restrain the violation.

29
30 SECTION 15. Arkansas Code Title 23, Chapter 114, Subchapter 7 is
31 amended to add an additional section to read as follows:

32 23-114-706. Complaints.

33 (a) If a person suspects a violation of this chapter, he or she may
34 file a complaint concerning a licensed authorized organization with the
35 Department of Finance and Administration.

36

1 SECTION 16. EMERGENCY CLAUSE. It is found and determined by the
2 General Assembly of the State of Arkansas that current Arkansas law imposes a
3 burdensome tax on licensed authorized bingo organizations, that the tax
4 produces revenues that far exceed funds necessary to administer and enforce
5 bingo and raffle laws in this state, and that the tax should be repealed as
6 soon as possible to relieve the burden on licensed authorized organizations
7 and advance the charitable interests served by bingo games. Therefore, an
8 emergency is declared to exist and this act being immediately necessary for
9 the preservation of the public peace, health, and safety shall become
10 effective on:

11 (1) The date of its approval by the Governor;

12 (2) If the bill is neither approved nor vetoed by the Governor,
13 the expiration of the period of time during which the Governor may veto the
14 bill; or

15 (3) If the bill is vetoed by the Governor and the veto is
16 overridden, the date the last house overrides the veto.

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/s/ Pennartz