

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 As Engrossed: H1/22/09 H1/26/09 H2/2/09 H2/9/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

HOUSE BILL 1111

4

5 *By: Representatives Pennartz, M. Martin, Glidewell, R. Green, Davis, Pierce, Hoyt, Woods, Pyle, Cook,*

6 *Breedlove, G. Smith, Wells, Hyde, S. Malone, Ragland, Ingram, Rice, McLean, Lea, King, Hopper,*

7 *Gaskill, Clemmer, Sample, Stewart*

8

9

For An Act To Be Entitled

10

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

11

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13

14

Subtitle

15

16 AMENDING ARKANSAS LAW CONCERNING
17 CHARITABLE BINGO AND RAFFLES.

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

21

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

23 *23-114-102. Definitions.*

24 *As used in this chapter:*

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

32 *(B) A nonprofit tax-exempt instrumentality of the United*
33 *States Government is a service agency for the purpose of this subdivision*
34 *(1);*

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



1 (B) "Bingo equipment" includes:

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3 other items are withdrawn to determine the letters and numbers or other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

5 (ii) A bingo face;

6 (iii) A bingo ball; and

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

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

11 (i) Any electronic device or machine; or

12 (ii) A pull-tab bingo ticket.

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

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

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

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

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

33 ~~(4)(5)~~ (5) "Charitable purpose" means a purpose described by § 23-
34 114-504;

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

1 ~~(6)~~(7) “Director” means the Director of the Department of
2 Finance and Administration;

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

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

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

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

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

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

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

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

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

36 ~~(15)~~(16)(A) “Raffle” means the selling of tickets to win a prize

1 awarded though a random drawing~~†.~~

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

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

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

11

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

13 23-114-201. Control and supervision of games of bingo and raffles.

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

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

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

25

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

27 23-114-202. Approval of bingo faces and raffle tickets.

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

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

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

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

1 (c)(1) All bingo faces and raffle tickets ~~must~~ shall be preprinted on
2 paper or plastic ~~in a form approved by the director.~~

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

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

8
9 *SECTION 4. Arkansas Code § 23-114-302(b)(3), concerning a temporary*
10 *license to conduct raffles, is amended to read as follows:*

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

16
17 *SECTION 5. Arkansas Code § 23-114-308 is repealed.*

18 ~~23-114-308. Failure to file excise tax reports.~~

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

22
23 *SECTION 6. Arkansas Code Title 23, Chapter 114, Subchapter 3 is*
24 *amended to add additional sections to read as follows:*

25 23-114-309. Collection and disbursement of license fees.

26 The Department of Finance and administration shall deposit the revenue
27 collected from the license fees levied under §§ 23-114-302 and 23-114-307 to
28 the credit of the General Revenue Fund Account of the State Apportionment
29 Fund.

30 23-114-310. Tax exemption.

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

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

35 (2) Purchases of bingo equipment.

36

1 SECTION 7. Arkansas Code § 23-114-401(a), concerning bingo premises,
2 is amended to read as follows:

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

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

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

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

16
17 SECTION 8. Arkansas Code § 23-114-405 is amended to read as follows:
18 23-114-405. Raffle and bingo records.

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

22 (2) If the licensed authorized organization maintains its raffle
23 and bingo records at a location other than the primary business office, the
24 licensed authorized organization shall provide the address of the location
25 where the records are maintained.

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

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

31
32 SECTION 9. Arkansas Code § 23-114-407 is amended to read as follows:
33 23-114-407. Bingo sessions.

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

36 (2) A licensed authorized organization may conduct one (1) bingo

1 session per calendar day and shall not exceed ~~two (2)~~ three (3) bingo
2 sessions during any one (1) calendar week.

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

5
6 SECTION 10. Arkansas Code § 23-114-408 is amended to read as follows:
7 23-114-408. Prizes.

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

10 (b) For the total prizes of all games of bingo, a licensed authorized
11 organization shall not offer or award during a single bingo session prizes
12 with an aggregate value of more than ~~seven thousand five hundred dollars~~
13 ~~(\$7,500)~~ ten thousand dollars (\$10,000).

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

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

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

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

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

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

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

35 (2) As used in this subsection (f), "cash" means coins, paper
36 currency, or a negotiable instrument that represents and is readily

1 convertible to coins or paper currency.

2
3 SECTION 11. Arkansas Code § 23-114-501 is amended to read as follows:
4 23-114-501. Bingo and raffle accounts.

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

9 (2) A licensed authorized organization may also maintain an
10 interest-bearing savings account designated as the bingo and raffle savings
11 account.

12 (b)(1) A licensed authorized organization shall deposit into the bingo
13 and raffle account all funds derived from the conduct of games of bingo and
14 raffles, less the amount awarded as cash prizes. Except as provided by
15 subdivision (b)(2) of this section, a deposit shall be made not later than
16 the next business day after the day of the raffle or bingo session on which
17 the receipts were obtained.

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

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

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

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

30 (e) Except as permitted, the licensed authorized organization shall
31 not transfer gross receipts to another account maintained by the licensed
32 authorized organization.

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

36

1 SECTION 12. Arkansas Code Title 23, Chapter 114, Subchapter 6 is
2 repealed.

3 ~~23-114-601. Tax levied.~~

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

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

11 ~~(b) Items taxed under subsection (a) of this section shall be exempt~~
12 ~~from the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., and the~~
13 ~~Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.~~

14
15 ~~23-114-602. Payment and reporting of tax.~~

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

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

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

25
26 ~~23-114-603. Information to be reported.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

23-114-704. Injunction.

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

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

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

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

5
6 SECTION 14. Arkansas Code Title 23, Chapter 114, Subchapter 7 is
7 amended to add an additional section to read as follows:

8 23-114-706. Complaints.

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

12
13 SECTION 15. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that current Arkansas law imposes a
15 burdensome tax on licensed authorized bingo organizations, that the tax
16 produces revenues that far exceed funds necessary to administer and enforce
17 bingo and raffle laws in this state, and that the tax should be repealed as
18 soon as possible to relieve the burden on licensed authorized organizations
19 and advance the charitable interests served by bingo games. Therefore, an
20 emergency is declared to exist and this act being immediately necessary for
21 the preservation of the public peace, health, and safety shall become
22 effective on:

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

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

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

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30 */s/ Pennartz*
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