

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.

INTERIM STUDY PROPOSAL 2007-235

State of Arkansas

87th General Assembly

Regular Session, 2009

A Bill

MBM/MBM

HOUSE BILL

By: Representatives R. Green, Dickinson, Wells, Medley, Glidewell, M. Martin, Woods, Ragland

Filed with: Joint Performance Review Committee
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT CONCERNING THE REGULATION OF CHARITABLE
BINGO AND RAFFLES; AND FOR OTHER PURPOSES.

Subtitle

AN ACT CONCERNING THE REGULATION OF
CHARITABLE BINGO AND RAFFLES.

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

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

As used in this chapter:

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

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

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3 other items are withdrawn to determine the letters and numbers or other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

28 (3) "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) "Charitable purpose" means a purpose described by § 23-114-
34 504;

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

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

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

6 ~~(8)~~(5)(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)~~(6) “Gross receipts” means the total amount received from the
16 sale of raffle tickets and the sale, rental, transfer, or use of bingo faces
17 and entrance fees charged at premises at which games of bingo or raffles are
18 conducted without any deduction on account of prizes paid, losses, or any
19 other expenses whatsoever;

20 ~~(10)~~(7) “Licensed authorized organization” means an authorized
21 organization that holds a license to conduct games of bingo or raffles;

22 ~~(11)~~ “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)~~(8) “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)~~(9) “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)~~(10) “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)~~(11) “Raffle” means the selling of tickets to win a prize

1 awarded though a random drawing, provided that the term "raffle" shall not
2 include any game played through the use of a machine or electronic device;
3 and

4 ~~(16)~~(12) "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 bingo faces and raffle
29 tickets.

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

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

35 (c) All bingo faces and raffle tickets must be preprinted on paper or
36 plastic in a form approved by the director. No electronic devices, machines,

1 or facsimiles may be used as bingo faces, raffle tickets, or otherwise, by
2 participants of games of bingo or raffles conducted under this chapter.

3 (d) All bingo faces and raffle tickets must be sequentially numbered
4 at the time of printing.

5
6 SECTION 4. Arkansas Code § 23-114-302 is amended to read as follows:
7 23-114-302. License fees – Authorized organizations.

8 (a) An authorized organization license to conduct games of bingo and
9 raffles may be issued to an authorized organization and is subject to renewal
10 ~~on an annual basis~~ every three (3) years. The ~~annual~~ fee for this license
11 ~~shall be~~ is one hundred dollars (\$100).

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

15 (1) A temporary license to conduct one (1) bingo session. The
16 fee for this temporary license is twenty-five dollars (\$25.00);

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

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

26
27 SECTION 5. Arkansas Code § 23-114-303(d), concerning license
28 applications, is amended to read as follows:

29 (d)(1) Before the renewal of ~~an annual~~ a license, the authorized
30 organization shall report the following information:

31 (A) The amount of the total gross receipts derived from
32 games of bingo and raffles;

33 (B) The net proceeds derived from games of bingo and
34 raffles;

35 (C) The use to which the proceeds have been or are to be
36 applied; and

1 (D) If requested by the director, a list of expenses paid
2 or incurred.

3 (2) A licensed authorized organization shall maintain records to
4 substantiate the contents of the report required by this subsection (d).

5
6 SECTION 5. Arkansas Code § 23-114-304 is repealed.

7 ~~23-114-304. License application—Distributors and manufacturers.~~

8 ~~(a) An applicant for a distributor license or a manufacturer license
9 shall file a written verified application with the Department of Finance and
10 Administration on a form prescribed by the department.~~

11 ~~(b) The license application shall include:~~

12 ~~(1) The name, address, and federal employer identification
13 number of the applicant;~~

14 ~~(2) The names and positions of the applicant's officers;~~

15 ~~(3) The name and address of the person or persons who are
16 responsible for the applicant's sales of bingo equipment; and~~

17 ~~(4) A statement that the applicant complies with the conditions
18 for eligibility for the license.~~

19 ~~(c) The person or persons who are responsible for the applicant's
20 sales of bingo equipment shall meet the following requirements:~~

21 ~~(1) The person or persons shall not have been found guilty of or
22 pleaded guilty or no contest to:~~

23 ~~(A) Any felony by any court in the State of Arkansas; or~~

24 ~~(B) Any similar offense by a court in another state or of
25 any similar offense by a military or federal court;~~

26 ~~(2)(A) In order to determine the person's or persons'
27 suitability to be involved in the sale of bingo equipment, the Director of
28 the Department of Finance and Administration may require that the person or
29 persons be fingerprinted and the fingerprints forwarded for a criminal
30 background check through the Department of Arkansas State Police.~~

31 ~~(B) After the completion of the criminal background check
32 through the Department of Arkansas State Police, the fingerprints shall be
33 forwarded by the Department of Arkansas State Police to the Federal Bureau of
34 Investigation for a national criminal history record check; and~~

35 ~~(3) The person or persons responsible for an applicant's sales
36 of bingo equipment shall sign a release that allows the Department of~~

1 ~~Arkansas State Police to release the following:~~

2 ~~(A) An Arkansas noncriminal justice background check to~~
3 ~~the Department of Finance and Administration; and~~

4 ~~(B) A fingerprint card of the applicant to the Federal~~
5 ~~Bureau of Investigation to allow a federal fingerprint-based background check~~
6 ~~to be performed.~~

7
8 SECTION 6. Arkansas Code § 23-114-305 is amended to read as follows:
9 23-114-305. Denial, suspension, or revocation of licenses.

10 (a) All proceedings for the suspension and revocation of the license
11 issued to ~~a manufacturer, a distributor, or~~ an authorized organization under
12 this chapter shall be before the Department of Finance and Administration.

13 (b) The department may deny an application for a license, or for the
14 renewal of a license issued under this chapter if it determines that issuing
15 the license would violate any provisions of this chapter.

16 (c) The proceedings shall be conducted in accordance with the Arkansas
17 Tax Procedure Act, § 26-18-101 et seq.

18
19 SECTION 7. Arkansas Code § 23-114-307 is repealed.
20 ~~23-114-305. Denial, suspension, or revocation of licenses.~~

21 ~~(a) All proceedings for the suspension and revocation of the license~~
22 ~~issued to a manufacturer, a distributor, or an authorized organization under~~
23 ~~this chapter shall be before the Department of Finance and Administration.~~

24 ~~(b) The department may deny an application for a license, or for the~~
25 ~~renewal of a license issued under this chapter if it determines that issuing~~
26 ~~the license would violate any provisions of this chapter.~~

27 ~~(c) The proceedings shall be conducted in accordance with the Arkansas~~
28 ~~Tax Procedure Act, § 26-18-101 et seq.~~

29
30 SECTION 8. Arkansas Code § 23-114-308 is repealed.
31 ~~23-114-308. Failure to file excise tax reports.~~

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

35
36 SECTION 9. Arkansas Code Title 23, Chapter 114, Subchapter 3 is

1 amended to add an additional section to read as follows:

2 23-114-309. Collection and disbursement of license fees.

3 The Department of Finance and administration shall deposit the revenue
4 collected from the license fees levied under §§ 23-114-302 and 23-114-307 to
5 the credit of the General Revenue Fund Account of the State Apportionment
6 Fund.

7
8 SECTION 10. Arkansas Code § 23-114-401(a), concerning bingo premises,
9 is amended to read as follows:

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

12 (2) ~~The Department of Finance and Administration shall not~~
13 ~~license more than one (1) organization to conduct games of bingo at the same~~
14 ~~premises~~ One (1) or more organizations may conduct bingo games at the same
15 premises so long as that premises is owned or leased by a licensed authorized
16 organization.

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

20 ~~(4)~~(3) All participants in games of bingo shall be physically
21 present in person at the authorized premises in a single facility in order to
22 play a game of bingo under this chapter.

23
24 SECTION 11. Arkansas Code § 23-114-405 is amended to read as follows:
25 23-114-405. Raffle and bingo records.

26 (a)(1) A licensed authorized organization shall provide to the
27 Director of the Department of Finance and Administration at the time of
28 application for license the address of its primary business office. If the
29 licensed authorized organization maintains its raffle and bingo records at a
30 location other than the primary business office, the licensed authorized
31 organization shall provide the address of the location where the records are
32 maintained.

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

35 ~~(c) The director may provide by rule for different recordkeeping~~
36 ~~procedures for licensed authorized organizations based upon the amount of~~

1 ~~gross receipts of the licensed authorized organization.~~

2
3 SECTION 11. Arkansas Code § 23-114-409 is repealed.

4 ~~23-114-409. Purchase of bingo equipment.~~

5 ~~Licensed authorized organizations shall purchase bingo equipment only~~
6 ~~from distributors licensed under this chapter. Distributors that wish to sell~~
7 ~~bingo equipment to licensed authorized organizations within this state shall~~
8 ~~purchase bingo equipment only from manufacturers licensed under this chapter.~~

9
10 SECTION 12. Arkansas Code § 23-114-501 is amended to read as follows:

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

15 (2) A licensed authorized organization may also maintain an
16 interest-bearing savings account designated as the bingo and raffle savings
17 account.

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

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

28 (c) A licensed authorized organization may lend money from its general
29 fund to its bingo and raffle account ~~if the organization requests and~~
30 ~~receives the prior approval of the Department of Finance and Administration.~~
31 Except as provided by this section, no other funds may be deposited into the
32 bingo and raffle account.

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

36 (e) Except as permitted, the licensed authorized organization shall

1 not transfer gross receipts to another account maintained by the licensed
2 authorized organization.

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

6
7 SECTION 13. Arkansas Code § 23-114-504(c), concerning the use of net
8 bingo proceeds for charitable purposes, is amended to read as follows:

9 (c)~~(1)~~ The licensed authorized organization shall make mandatory
10 annual or more frequent disbursements from the bingo and raffle account to
11 the general fund of the licensed authorized organization after providing for
12 appropriate reserves and funds necessary to pay for reasonable and necessary
13 bingo and raffle expenses.

14 ~~(2) Once funds are distributed to the licensed authorized~~
15 ~~organization general fund under subdivision (c)(1) of this section, no funds~~
16 ~~shall be returned to the bingo and raffle account except by means of a loan~~
17 ~~from the licensed authorized organization's general fund to the bingo and~~
18 ~~raffle account as evidenced by a written instrument.~~

19
20 SECTION 14. Arkansas Code Title 23, Chapter 114, Subchapter 6 is
21 repealed.

22 ~~23-114-601. Tax levied.~~

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

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

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

33
34 ~~23-114-602. Payment and reporting of tax.~~

35 ~~(a) The excise tax levied under this subchapter is due and payable by~~
36 ~~distributors that sold bingo faces and other bingo equipment to licensed~~

1 ~~authorized organizations in this state. The tax shall be reported and paid to~~
2 ~~the Department of Finance and Administration monthly on or before the~~
3 ~~fifteenth day of the month following the month of sale.~~

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

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

8
9 ~~23-114-603. Information to be reported.~~

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

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

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

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

20
21 ~~23-114-604. Record of prize winners.~~

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

25
26 ~~23-114-605. Collection and disbursement of excise tax and license fees.~~

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

31
32 ~~23-114-606. Nonfiler tax assessments.~~

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

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

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

7
8 SECTION 15. Arkansas Code § 23-114-702 is repealed.

9 ~~23-114-702. Revocation of license—Distributors and manufacturers.~~
10 ~~The license issued to a distributor or manufacturer is subject to~~
11 ~~revocation under this chapter if the licensee:~~

12 ~~(1) Makes a false statement or material omission in an~~
13 ~~application for a license under this chapter;~~

14 ~~(2) Fails to maintain records that fully and accurately record~~
15 ~~all transactions connected with the distribution of bingo equipment;~~

16 ~~(3) Falsifies or makes a false entry in a book or record if the~~
17 ~~entry relates in any way to the distribution of bingo equipment; or~~

18 ~~(4) Violates this chapter or a term of a license issued under~~
19 ~~this chapter in any other way.~~

20
21 SECTION 16. Arkansas Code § 23-114-703 is amended to read as follows:

22 23-114-703. Inspection of premises.

23 ~~The~~ Upon receipt of a complaint, the Department of Finance and
24 Administration, a law enforcement agency with jurisdiction, or the
25 prosecuting attorney having criminal jurisdiction of the matter may enter and
26 inspect the premises where:

27 (1) A raffle or a game of bingo is being conducted or intended
28 to be conducted; or

29 (2) Equipment used or intended for use in a raffle or a game of
30 bingo is located.

31
32 SECTION 17. Arkansas Code § 23-114-704 is amended to read as follows:

33 23-114-704. Injunction.

34 (a) If the Department of Finance and Administration, a law enforcement
35 agency with jurisdiction, or the prosecuting attorney having criminal
36 jurisdiction of the matter has reason to believe that this chapter has been

1 or is about to be violated, the Director of the Department of Finance and
2 Administration, the law enforcement agency, or the prosecuting attorney may
3 petition a court for injunctive relief to restrain the violation.

4 ~~(b) Venue for an action seeking injunctive relief is in Pulaski~~
5 ~~County, Arkansas.~~

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

10
11 SECTION 18. Arkansas Code Title 23, Chapter 114, Subchapter 7 is
12 amended to add an additional section to read as follows:

13 23-114-706. Complaints.

14 (a) If a person suspects a violation of this chapter, he or she may
15 file a complaint concerning a licensed authorized organization with:

16 (1) The Department of Finance and Administration;

17 (2) A law enforcement agency with jurisdiction; or

18 (3) The prosecuting attorney having criminal jurisdiction of the
19 matter.

20 (b)(1) If the department receives a complaint of suspected criminal
21 activity under this chapter, the department shall forward the complaint to a
22 law enforcement agency with jurisdiction or the prosecuting attorney having
23 criminal jurisdiction of the matter.

24 (2) If as a result of the investigation of a complaint a law
25 enforcement agency with jurisdiction or the prosecuting attorney having
26 criminal jurisdiction of the matter believes that a complaint merits
27 administrative remedies by the department, including without limitation the
28 suspension or revocation of a license, the law enforcement agency with
29 jurisdiction or the prosecuting attorney having criminal jurisdiction of the
30 matter shall forward the complaint to the department.