

INTERIM STUDY PROPOSAL 2007-225

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REQUESTING THE ARKANSAS LEGISLATIVE COUNCIL REFER TO THE HOUSE INTERIM COMMITTEE ON REVENUE AND TAXATION A STUDY ON THE REPEAL OF THE TAX ON CHARITABLE BINGO.

WHEREAS, in 2006 the voters of this state overwhelmingly approved a constitutional amendment permitting charitable bingo and raffles; and

WHEREAS, that amendment to the Arkansas Constitution stated that “all net receipts over and above the actual cost of conducting the [bingo] game or raffle [shall be] used only for charitable, religious, or philanthropic purposes”; and

WHEREAS, Arkansas Code § 23-114-601, originally part of the implementing legislation for charitable bingos and raffles, imposes an excise tax of one cent (1¢) upon the sale of each bingo face sold by a licensed distributor to a licensed authorized organization, as well as an excise tax of ten percent (10%) of the gross receipts derived from the sale of all bingo equipment other than bingo faces by a licensed distributor to a licensed authorized organization; and

WHEREAS, it appears that this tax collects far more revenue than necessary for the proper administration and oversight of charitable bingo; and

WHEREAS, the revenue collected by the state comes at the detriment of charitable organizations throughout the state, as those funds would otherwise be diverted for those purposes; and

WHEREAS, the tax restricts the ability of charitable organizations to perform beneficial charitable acts such as scholarship awards, the very acts presumed to be a main benefit of the constitutional amendment approved by the citizens of this state; and

WHEREAS, the General Assembly should study the effect of the excise tax

1 on charitable bingo and determine whether the funds collected under the tax
2 are necessary for the proper conduct of charitable bingo,

3
4 NOW THEREFORE,

5 BE IT PROPOSED BY THE ARKANSAS LEGISLATIVE COUNCIL OF THE EIGHTY-SIXTH
6 GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

7
8 THAT the Arkansas Legislative Council refer to the House Interim
9 Committee on Revenue and Taxation a study on repealing the tax on charitable
10 bingo to allow licensed authorized organizations to direct a greater
11 percentage of the proceeds of charitable bingo to charitable, religious, or
12 philanthropic purposes.

13
14 Respectfully submitted,

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17 _____
18 Representative Tracy Pennartz
19 District 65

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22 _____
23 Representative Jon Woods
24 District 93

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27 _____
28 Representative Shirley Walters
29 District 62

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36 Filed Date: 07/23/2008 By: MBM/bgs Revised: 08-12-08 vjf

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 2007-230

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

PBB/RMW
HOUSE BILL

By: Representative Walters

Filed with: Arkansas Legislative Council
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
CODE REGARDING CHARITABLE BINGO AND RAFFLES; AND
FOR OTHER PURPOSES.

Subtitle

AN ACT TO AMEND VARIOUS SECTIONS OF THE
ARKANSAS CODE REGARDING CHARITABLE BINGO
AND RAFFLES.

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

SECTION 1. Arkansas Code § 23-114-102(2)(E), regarding the definition of "bingo face", is amended to read as follows:

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

SECTION 2. Arkansas Code § 23-114-202 is amended to read as follows:
23-114-202. Approval of bingo faces and raffle tickets.

(a) The Director of the Department of Finance and Administration by

1 rule shall provide procedures for the approval of bingo faces and raffle
2 tickets.

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

5 (2)(A) All bingo faces must be purchased by the licensed
6 authorized organization from a distributor licensed under this chapter.

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

8 (c) All bingo faces and raffle tickets must be preprinted on paper or
9 plastic ~~in a form approved by the director~~. No electronic devices, machines,
10 or facsimiles may be used as bingo faces, raffle tickets, or otherwise, by
11 participants of games of bingo or raffles conducted under this chapter.

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

14
15 SECTION 3. Arkansas Code § 23-114-304 is repealed.

16 ~~23-114-304. License application—Distributors and manufacturers.~~

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

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

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

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

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

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

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

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

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

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

35 ~~(2)(A) In order to determine the person's or persons'~~
36 ~~suitability to be involved in the sale of bingo equipment, the Director of~~

1 ~~the Department of Finance and Administration may require that the person or~~
2 ~~persons be fingerprinted and the fingerprints forwarded for a criminal~~
3 ~~background check through the Department of Arkansas State Police.~~

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

8 ~~(3) The person or persons responsible for an applicant's sales~~
9 ~~of bingo equipment shall sign a release that allows the Department of~~
10 ~~Arkansas State Police to release the following:~~

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

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

16
17 SECTION 4. Arkansas Code § 23-114-305 is amended to read as follows:

18 23-114-305. Denial, suspension, or revocation of licenses.

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

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

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

27
28 SECTION 5. Arkansas Code § 23-114-307 is repealed.

29 ~~23-114-307. Licenses and fees — Distributors and manufacturers.~~

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

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

36

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

2 ~~23-114-308. Failure to file excise tax reports.~~

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

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

8 23-114-408. Prizes.

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

11 (b) For the total prizes of all games of bingo, a licensed authorized
12 organization shall not offer or award during a single bingo session prizes
13 with an aggregate value of more than ~~seven thousand five hundred dollars~~
14 ~~(\$7,500)~~ nine thousand dollars (\$9,000).

15 (c) A licensed authorized organization shall not award or offer to
16 award a door prize with a value of more than two hundred fifty dollars (\$250)
17 per bingo session. This door prize value shall not accrue against the bingo
18 session prize limitation of ~~seven thousand five hundred dollars (\$7,500)~~ nine
19 thousand dollars (\$9,000).

20 (d) A bingo prize, other than cash, may be merchandise with a
21 recognized wholesale cost not to exceed one thousand dollars (\$1,000). A copy
22 of the receipt for such merchandise shall be maintained in the licensed
23 authorized organization's bingo records.

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

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

31 (f)(1) A raffle prize may not exceed five hundred dollars (\$500) in
32 cash.

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

36

1 SECTION 8. Arkansas Code § 23-114-409 is repealed.

2 ~~23-114-409. Purchase of bingo equipment.~~

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

7
8 SECTION 9. Arkansas Code § 23-114-501 is amended to read as follows:

9 23-114-501. Bingo and raffle accounts.

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

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

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

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

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

32 ~~(d)(c)~~ (c) A licensed authorized organization shall not commingle gross
33 receipts derived from the conduct of games of bingo and raffles with other
34 funds of the organization.

35 ~~(e)(d)~~ (d) Except as permitted, the licensed authorized organization shall
36 not transfer gross receipts to another account maintained by the licensed

1 authorized organization.

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

5
6

7 SECTION 10. Arkansas Code § 23-114-601 is repealed.

8 ~~23-114-601. Tax levied.~~

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

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

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

19

20 SECTION 11. Arkansas Code § 23-114-602 is repealed.

21 ~~23-114-602. Payment and reporting of tax.~~

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

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

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

31

32 SECTION 12. Arkansas Code § 23-114-603 is repealed.

33 ~~23-114-603. Information to be reported.~~

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

36 ~~(1) The total number of bingo faces and the gross receipts~~

1 ~~derived from the sale of other bingo equipment sold to all licensed~~
2 ~~authorized organizations in this state; and~~

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

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

8
9 SECTION 13. Arkansas Code § 23-114-605 is amended to read as follows:
10 23-114-605. Collection and disbursement of excise tax and license
11 fees.

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

16
17 SECTION 14. Arkansas Code § 23-114-606 is repealed.

18 ~~23-114-606. Nonfiler tax assessments.~~

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

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

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

29
30 SECTION 15. Arkansas Code § 23-114-702 is repealed.

31 ~~23-114-702. Revocation of license — Distributors and manufacturers.~~

32 ~~The license issued to a distributor or manufacturer is subject to~~
33 ~~revocation under this chapter if the licensee:~~

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

36 ~~(2) Fails to maintain records that fully and accurately record~~

1 ~~all transactions connected with the distribution of bingo equipment;~~
2 ~~(3) Falsifies or makes a false entry in a book or record if the~~
3 ~~entry relates in any way to the distribution of bingo equipment; or~~
4 ~~(4) Violates this chapter or a term of a license issued under~~
5 ~~this chapter in any other way.~~

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~~Filed Date: 08/13/2008 By: PBB\RMW~~