

AN ACT

relating to the regulation of bingo.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2001.002, Occupations Code, is amended by amending Subdivision (5) to read as follows:

(5) "Bingo equipment" means equipment used, made, or sold for the purpose of use in bingo. The term:

(A) includes:

(i) a machine or other device from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called;

(ii) an electronic or mechanical cardminding device;

(iii) a pull-tab dispenser;

(iv) a bingo card; ~~and~~

(v) a bingo ball; and

(vi) any other device commonly used in the direct operation of a bingo game; and

(B) does not include:

(i) a bingo game set commonly manufactured and sold as a child's game for a retail price of \$20 or less unless the set or a part of the set is used in bingo subject to regulation under this chapter; or

(ii) a commonly available component part of

bingo equipment such as a light bulb or [7] fuse [~~7~~ ~~or bingo ball~~].

SECTION 2. Subchapter B, Chapter 2001, Occupations Code, is amended by adding Section 2001.059 to read as follows:

Sec. 2001.059. ADVISORY OPINIONS. (a) A person may request from the commission an advisory opinion regarding compliance with this chapter and the rules of the commission.

(b) The commission shall respond to a request under Subsection (a) not later than the 60th day after the date a request is received, unless the commission determines that the request does not contain sufficient facts to provide an answer on which the requestor may rely. In that event, the commission shall request additional information from the requestor not later than the 10th day after the date the request is received. If the commission requests additional information, the commission shall respond to the request not later than the 60th day after the date additional information is received pursuant to the request for additional information.

(c) A person who requests an advisory opinion under Subsection (a) may act in reliance on the opinion in the conduct of any activity under any license issued under this chapter if the conduct is substantially consistent with the opinion and the facts stated in the request.

(d) An advisory opinion issued under this section is not a rule under Subchapter B, Chapter 2001, Government Code, and the rulemaking requirements of that subchapter do not apply to a request for an advisory opinion or any advisory opinion issued by the commission.

1 (e) Nothing in this section precludes the commission from
2 requesting an attorney general opinion under Section 402.042,
3 Government Code. In the event the commission requests an attorney
4 general opinion on a matter that is the subject of an advisory
5 opinion request under this section, the deadlines established under
6 Subsection (b) are tolled until 30 days following the issuance of
7 the attorney general opinion.

8 (f) The commission may delegate all or part of the authority
9 and procedures for issuing advisory opinions under this section to
10 an employee of the commission.

11 SECTION 3. Section 2001.103, Occupations Code, is amended
12 by adding Subsections (e)-(h) to read as follows:

13 (e) Notwithstanding Subsection (c), an authorized
14 organization that holds a regular license to conduct bingo may
15 receive not more than 12 temporary licenses during the 12-month
16 period following the issuance or renewal of the license.

17 (f) An authorized organization that holds a regular license
18 to conduct bingo may apply for all or any portion of the total
19 number of temporary licenses to which the organization is entitled
20 under Subsection (e) in one application without stating the days or
21 times for which the organization will use the temporary licenses.

22 (g) An organization that has been issued a temporary license
23 under Subsection (f) shall notify the commission of the specific
24 date and time of the bingo occasion for which the temporary license
25 will be used before using the license. If the commission receives
26 the notification by noon of the day before the day the temporary
27 license will be used, the commission shall verify receipt of the

1 notice before the end of the business day on which the notice is
2 received. If the commission does not receive the notification by
3 noon of the day before the day the temporary license will be used,
4 the commission shall verify receipt of the notice before noon of the
5 business day that follows the day the commission received the
6 notice.

7 (h) A verification under Subsection (g) may be delivered by
8 facsimile, e-mail, or any other means reasonably contemplated to
9 arrive before the time the temporary license will be used.

10 SECTION 4. Section 2001.104, Occupations Code, is amended
11 by adding Subsection (d) to read as follows:

12 (d) An applicant shall pay the fees established under
13 Subsection (a) annually. An applicant for a license or renewal of a
14 license may obtain a license that is effective for two years by
15 paying an amount equal to two times the amount of the annual license
16 fee plus \$25.

17 SECTION 5. Section 2001.105, Occupations Code, is amended
18 by adding Subsection (c) to read as follows:

19 (c) Except as provided by Section 2001.104(d), a license
20 issued under this subchapter is effective for one year.

21 SECTION 6. Subchapter C, Chapter 2001, Occupations Code, is
22 amended by adding Section 2001.108 to read as follows:

23 Sec. 2001.108. LICENSE AMENDMENT FOR CHANGE OF BINGO
24 PREMISES OR OCCASIONS. (a) A licensed authorized organization and
25 the licensed commercial lessor at which the organization conducts
26 or will conduct bingo may file a joint application with the
27 commission to change the premises at which the organization may

1 conduct bingo or the times of the organization's bingo occasions to
2 allow the organization to conduct bingo at the same time and
3 premises that another licensed authorized organization is licensed
4 to conduct bingo if the other organization has ceased, or will
5 cease, conducting bingo at that time and premises. The application
6 must state whether the other organization has ceased or will cease
7 conducting bingo at that time and premises because:

8 (1) the organization has abandoned or will abandon its
9 licensed time or premises; or

10 (2) the organization's lease has been or will be
11 terminated.

12 (b) If the other organization ceased or will cease
13 conducting bingo for the reason stated in Subsection (a)(1), the
14 commission must act on the joint application filed under Subsection
15 (a) not later than the 10th day after the date the application is
16 filed with the commission.

17 (c) If the other organization ceased or will cease
18 conducting bingo for the reason stated in Subsection (a)(2), the
19 commission must act on the joint application filed under Subsection
20 (a) not later than the 10th day after the date the application is
21 filed with the commission or the date on which the termination takes
22 effect, whichever is later.

23 (d) If the commission fails to act within the time provided
24 by Subsection (b) or (c), the licensed authorized organization may
25 act as if the change in premises or bingo occasions has been
26 approved by the commission and may conduct bingo at the new premises
27 or during the new bingo occasion until the commission acts on the

1 application.

2 (e) Notwithstanding Subsection (d), the commission may
3 issue temporary licenses to one or more licensed authorized
4 organizations that conduct bingo at the same location as an
5 organization that has ceased or will cease to conduct bingo, which
6 are in addition to the number of temporary licenses each
7 organization is entitled to under another provision of this
8 chapter. The commission is not required to act on a joint
9 application under Subsection (a) within the time provided by this
10 section if the number of additional temporary licenses is
11 sufficient to allow the other organizations at the location to
12 conduct bingo during the licensed times of the organization that
13 has ceased or will cease to conduct bingo.

14 SECTION 7. Section 2001.152, Occupations Code, is amended
15 by adding Subsection (c) to read as follows:

16 (c) Notwithstanding Subsection (a), the commission may
17 issue a commercial lessor license under Subsection (a)(2) or (3)
18 only if there is not a licensed commercial lessor whose premises is
19 located in the county in which an applicant for a license under
20 Subsection (a)(2) or (3) proposes to locate a bingo premises. This
21 subsection does not prohibit the renewal of an existing license.
22 This subsection expires September 1, 2005.

23 SECTION 8. Section 2001.158, Occupations Code, is amended
24 by adding Subsection (d) to read as follows:

25 (d) An applicant for a commercial lessor license shall pay
26 the fees established under Subsection (a) annually. An applicant
27 for a license or renewal of a license may obtain a license that is

1 effective for two years by paying an amount equal to two times the
2 amount of the annual license fee plus \$25.

3 SECTION 9. Section 2001.159(c), Occupations Code, is
4 amended to read as follows:

5 (c) Except as provided by Section 2001.158(d), the [The]
6 period may not exceed one year.

7 SECTION 10. Section 2001.214, Occupations Code, is amended
8 to read as follows:

9 Sec. 2001.214. LICENSE TERM. (a) Except as provided by
10 Subsection (b), a [A] manufacturer's or distributor's license is
11 effective for one year unless revoked or suspended by the
12 commission.

13 (b) A manufacturer or distributor may obtain a license that
14 is effective for two years by paying an amount equal to two times
15 the amount of the annual license fee plus \$1,000.

16 SECTION 11. Section 2001.218(a), Occupations Code, is
17 amended to read as follows:

18 (a) Each sale or lease of bingo supplies or equipment to a
19 license holder under this chapter must be on terms of immediate
20 payment or on terms requiring payment not later than the 30th day
21 after the date of actual delivery.

22 SECTION 12. Section 2001.307, Occupations Code, is amended
23 to read as follows:

24 Sec. 2001.307. MAXIMUM LICENSE TERM. Except as otherwise
25 provided by this chapter, a [A] license issued under this chapter
26 may not be effective for more than one year.

27 SECTION 13. Subchapter G, Chapter 2001, Occupations Code,

1 is amended by adding Sections 2001.313 and 2001.314 to read as
2 follows:

3 Sec. 2001.313. REGISTRY OF APPROVED BINGO WORKERS. (a) To
4 minimize duplicate criminal history background checks by the
5 commission and the costs incurred by organizations and individuals,
6 the commission shall maintain a registry of persons on whom the
7 commission has conducted a criminal history background check and
8 who are approved to be involved in the conduct of bingo or to act as
9 a bingo operator.

10 (b) A person listed in the registry may be involved in the
11 conduct of bingo or act as an operator at any location at which
12 bingo is lawfully conducted.

13 (c) The commission shall make the registry information
14 available to the public by publishing it on the commission's
15 website and by responding to telephone, e-mail, and facsimile
16 requests. This subsection does not require the commission to
17 disclose information that is confidential by law.

18 (d) A person who is not listed on the registry established
19 by this section may not act as an operator, manager, cashier, usher,
20 caller, or salesperson for a licensed authorized organization.

21 (e) The commission may refuse to add a person's name to, or
22 remove a person's name from, the registry established by this
23 section if, after notice and a hearing, the person is finally
24 determined to have:

25 (1) been convicted of an offense listed under Section
26 2001.105(b);

27 (2) converted bingo equipment in a premises to an

1 improper use;

2 (3) converted funds that are in, or that should have
3 been in, the bingo account of any licensed authorized organization;

4 (4) taken any action, individually or in concert with
5 another person, that affects the integrity of any bingo game to
6 which this chapter applies; or

7 (5) acted as an operator, manager, cashier, usher,
8 caller, or salesperson for a licensed authorized organization
9 without being listed on the registry established under this
10 section.

11 (f) A licensed authorized organization shall report to the
12 commission or its designee the discovery of any conduct on the part
13 of a person registered or required to be registered under this
14 section where there is substantial basis for believing that the
15 conduct would constitute grounds for removal of the person's name
16 from, or refusal to add the person's name to, the registry
17 established by this section. A statement made in good faith to the
18 commission or to an adjudicative body in connection with any such
19 report may not be the basis for an action for defamation of
20 character.

21 (g) A person who has been finally determined to have taken
22 action prohibited by Subsection (e)(2), (3), (4), or (5) cannot be
23 listed on the registry of approved bingo workers and cannot work as
24 a bingo worker for one year from the date of such determination.
25 Upon expiration of the one-year period, the person is eligible for
26 listing on the registry provided a licensee subject to this chapter
27 makes application to list the person. In such event, the commission

1 shall take into consideration the facts and circumstances that
2 occurred that led to the applicable action under Subsections
3 (e)(2)-(5) in deciding whether to list the person on the registry.

4 Sec. 2001.314. IDENTIFICATION CARD FOR APPROVED BINGO
5 WORKER. (a) The commission may require a person listed in the
6 registry maintained under Section 2001.313 to wear an
7 identification card to identify the person to license holders,
8 bingo players, and commission staff while the person is on duty
9 during the conduct of bingo. The commission by rule shall prescribe
10 the form and content of the card.

11 (b) The commission shall provide the identification card
12 and shall provide a form to be completed by a person that allows the
13 person to prepare the identification card. The commission shall
14 collect a reasonable charge to cover the cost of providing the card
15 or form.

16 (c) An identification card required by the commission under
17 this section to be worn by a person while on duty during the conduct
18 of bingo must be in substantial compliance with the form and content
19 requirements prescribed by the commission under this section.

20 (d) The commission may not require any other person licensed
21 under this chapter, or a person acting on the license holder's
22 behalf, to wear an identification card, whether or not the person is
23 present or performing the person's duties during the conduct of
24 bingo.

25 SECTION 14. Section 2001.411, Occupations Code, is amended
26 by adding Subsection (e) to read as follows:

27 (e) The commission may not prohibit an operator responsible

1 for conducting, promoting, or administering bingo from acting as a
2 bingo caller for a licensed authorized organization during a bingo
3 occasion. This subsection does not relieve the operator of the duty
4 to be available to a commission employee or bingo player if required
5 by this chapter.

6 SECTION 15. Subchapter I, Chapter 2001, Occupations Code,
7 is amended by adding Section 2001.4115 to read as follows:

8 Sec. 2001.4115. JOINT EMPLOYMENT OF BINGO EMPLOYEES. Two
9 or more licensed authorized organizations conducting bingo at the
10 same premises may jointly hire bingo employees. One organization
11 may act as the employee's employer and the other organization may
12 reimburse the employing organization for the other organization's
13 share of the employee's compensation and other employment-related
14 costs. A reimbursement under this section is an authorized expense
15 and must be made from the bingo account of the reimbursing
16 organization.

17 SECTION 16. Section 2001.413, Occupations Code, is amended
18 to read as follows:

19 Sec. 2001.413. ADMISSION CHARGE REQUIRED. Except as
20 provided by Section 2001.4155, a [A] licensed authorized
21 organization may not offer or provide to a person the opportunity to
22 play bingo without charge.

23 SECTION 17. Section 2001.415, Occupations Code, is amended
24 to read as follows:

25 Sec. 2001.415. ADVERTISEMENTS. (a) A person other than a
26 licensed authorized organization, licensed commercial lessor, or
27 the commission may not advertise bingo.

1 (b) A licensed authorized organization, licensed commercial
2 lessor, or the commission may include in an advertisement or
3 promotion the amount of a prize or series of prizes offered at a
4 bingo occasion.

5 SECTION 18. Subchapter I, Chapter 2001, Occupations Code,
6 is amended by adding Section 2001.4155 to read as follows:

7 Sec. 2001.4155. GIFT CERTIFICATES. (a) Nothing in this
8 chapter prohibits a licensed authorized organization from selling
9 or redeeming a gift certificate that entitles the bearer of the
10 certificate to play a bingo game, including instant bingo.

11 (b) A licensed authorized organization that sells or
12 redeems a gift certificate must keep adequate records relating to
13 the gift certificate as provided by commission rule.

14 SECTION 19. Chapter 2001, Occupations Code, is amended by
15 adding Subchapter I-1 to read as follows:

16 SUBCHAPTER I-1. UNIT ACCOUNTING

17 Sec. 2001.431. DEFINITIONS. In this subchapter:

18 (1) "Unit" means two or more licensed authorized
19 organizations that conduct bingo at the same location joining
20 together to share revenues, authorized expenses, and inventory
21 related to bingo operations.

22 (2) "Unit accounting" means a method by which licensed
23 authorized organizations that are members of a unit account for the
24 sharing of revenues, authorized expenses, and inventory related to
25 bingo operations.

26 (3) "Unit accounting agreement" means a written
27 agreement by all the licensed authorized organizations that are

1 members of a unit that contains, at a minimum:

2 (A) the taxpayer name and number of each licensed
3 authorized organization that is a member of the unit;

4 (B) the method by which the net proceeds of the
5 bingo operations of the unit will be apportioned among the members
6 of the unit;

7 (C) the name of the unit manager or designated
8 agent of the unit; and

9 (D) the methods by which the unit may be
10 dissolved and by which one or more members of the unit may withdraw
11 from participation in the unit, including the distribution of
12 funds, records, and inventory and the allocation of authorized
13 expenses and liabilities on dissolution or withdrawal of one or
14 more members of the unit.

15 (4) "Unit manager" means an individual licensed under
16 this subchapter to be responsible for the revenues, authorized
17 expenses, and inventory of a unit.

18 Sec. 2001.432. FORMING ACCOUNTING UNIT. (a) Two or more
19 licensed authorized organizations may form and operate a unit as
20 provided by this subchapter by:

21 (1) executing a unit accounting agreement; and

22 (2) stating in the unit accounting agreement whether
23 the unit will use:

24 (A) a unit manager; or

25 (B) a designated agent.

26 (b) More than one unit may be formed at a single location. A
27 licensed authorized organization may not be a member of more than

1 one unit.

2 (c) This subchapter does not require a licensed authorized
3 organization to join a unit. Except as provided by Subsection (d),
4 whether to join or withdraw from a unit is at the discretion of each
5 licensed authorized organization.

6 (d) The members of a unit may determine whether to allow
7 another licensed authorized organization to join the unit. The
8 terms of the withdrawal of a member from the unit are governed by
9 the unit accounting agreement.

10 Sec. 2001.433. APPLICABILITY OF CHAPTER. A licensed
11 authorized organization that uses unit accounting is subject to the
12 other provisions of this chapter to the extent the provisions are
13 applicable and are not inconsistent with this subchapter.

14 Sec. 2001.434. CONDUCT OF BINGO. (a) Each licensed
15 authorized organization that is a member of a unit shall conduct its
16 bingo games separately from the bingo games of the other members of
17 the unit.

18 (b) A unit may purchase or lease bingo supplies and
19 equipment in the same manner as a licensed authorized organization.

20 (c) A licensed distributor may sell or lease bingo supplies
21 or equipment to a unit in the same manner as the distributor sells
22 or leases bingo supplies and equipment to a licensed authorized
23 organization.

24 Sec. 2001.435. UNIT ACCOUNTING. (a) A unit:

25 (1) shall establish and maintain one checking account
26 designated as the unit's bingo account;

27 (2) shall maintain one inventory of bingo supplies and

1 equipment for use in the bingo operations of members of the unit;
2 and

3 (3) may maintain an interest-bearing savings account
4 designated as the unit's bingo savings account.

5 (b) Each member of a unit shall deposit into the unit's
6 bingo account all funds derived from the conduct of bingo, less the
7 amount awarded as cash prizes under Sections 2001.420(a) and (b).
8 The deposit shall be made not later than the next business day after
9 the day of the bingo occasion on which the receipts were obtained.

10 (c) All authorized expenses and distributions of the unit
11 and its members shall be paid from the unit's bingo checking
12 account.

13 Sec. 2001.436. DISBURSEMENT OF FUNDS BY DISSOLVED UNIT.

14 (a) Sections 2001.457(a) and (b) apply to a unit formed under this
15 subchapter. For purposes of this subchapter, the requirements of
16 Sections 2001.457(a) and (b) that are applicable to a licensed
17 authorized organization shall be applied to a unit.

18 (b) A unit that has dissolved for any reason and has
19 unexpended bingo funds shall disburse those funds to the bingo
20 account of each member of the unit before the end of the next
21 calendar quarter after the calendar quarter in which the unit
22 dissolves.

23 (c) For purposes of the application of Sections 2001.457(a)
24 and (b) to a unit under this section:

25 (1) "Adjusted gross receipts" means gross receipts
26 less the amount of cost of goods purchased by a unit and prizes paid
27 in the preceding quarter; and

1 (2) "Cost of goods purchased by a unit" means the cost
2 of bingo paper and pull-tab bingo tickets purchased by the unit and
3 payments to distributors for electronic cardminding devices.

4 Sec. 2001.437. UNIT MANAGER; LICENSE. (a) If the unit
5 accounting agreement of a unit states that a unit manager is
6 responsible for compliance with commission rules and this chapter,
7 the unit manager is responsible for:

8 (1) the filing of one quarterly report for the unit on
9 a form prescribed by the commission; and

10 (2) the payment of taxes and fees and the maintenance
11 of the bingo inventory and financial records of the unit.

12 (b) A unit with a unit manager shall notify the commission
13 of the name of the unit manager and immediately notify the
14 commission of any change of unit manager.

15 (c) A person may not provide services as a unit manager to
16 licensed authorized organizations that form a unit unless the
17 person holds a unit manager license under this subchapter. A person
18 designated as an agent under Section 2001.438(b) is not a unit
19 manager on account of that designation for purposes of this
20 section.

21 (d) An applicant for a unit manager license must file with
22 the commission a written application on a form prescribed by the
23 commission that includes:

24 (1) the name and address of the applicant;

25 (2) information regarding whether the applicant, or
26 any officer, director, or employee of the applicant, has been
27 convicted of a felony, criminal fraud, gambling or gambling-related

1 offense, or crime of moral turpitude; and

2 (3) any other information required by commission rule.

3 (e) The commission by rule shall establish an annual license
4 fee for a unit manager license in an amount reasonable to defray
5 administrative costs plus any costs incurred to conduct a criminal
6 background check.

7 (f) A person who holds a unit manager license shall post a
8 bond or other security pursuant to Section 2001.514.

9 (g) A person is not eligible for a unit manager license
10 under this subchapter if the person, or any officer, director, or
11 employee of the person:

12 (1) has been convicted of a felony, criminal fraud, a
13 gambling or gambling-related offense, or crime of moral turpitude,
14 if less than 10 years has elapsed since the termination of a
15 sentence, parole, or community supervision served for the offense;

16 (2) is an owner, officer, or director of a licensed
17 commercial lessor, is employed by a licensed commercial lessor, or
18 is related to a licensed commercial lessor within the second degree
19 by consanguinity or affinity, unless the holder of the license is a
20 licensed authorized organization or an association of licensed
21 authorized organizations; or

22 (3) holds or is listed on another license under this
23 chapter, unless the holder of the license is a licensed authorized
24 organization or an association of licensed authorized
25 organizations.

26 (h) A unit manager must complete the training required by
27 Section 2001.107.

1 Sec. 2001.438. AGREEMENT WITHOUT UNIT MANAGER. (a) This
2 section applies to a unit if the unit accounting agreement for the
3 unit:

4 (1) does not state that a unit manager will be
5 responsible for compliance with the rules of the commission and
6 this chapter; or

7 (2) states that the unit will use a designated agent.

8 (b) The unit shall designate with the commission an agent
9 who will be responsible for providing the commission access to all
10 inventory and financial records of the unit on request of the
11 commission.

12 (c) The agent designated under Subsection (b) may not:

13 (1) hold or be listed on another license issued under
14 this chapter, unless the holder of the license is a licensed
15 authorized organization or an association of licensed authorized
16 organizations; or

17 (2) be an owner, officer, or director of a licensed
18 commercial lessor, be employed by a licensed commercial lessor, or
19 be related to a licensed commercial lessor within the second degree
20 by consanguinity or affinity, unless the holder of the license is a
21 licensed authorized organization or an association of licensed
22 authorized organizations.

23 (d) The unit shall immediately notify the commission of any
24 change in the agent designated under Subsection (b).

25 (e) The designated agent must complete the training
26 required by Section 2001.107.

27 (f) Each licensed authorized organization that is a member

1 of the unit shall be jointly and severally liable for:

2 (1) compliance with the requirements of this
3 subchapter and the rules of the commission relating to the filing of
4 required reports;

5 (2) the maintenance of bingo inventory and financial
6 records; and

7 (3) the payment of taxes, fees, and any penalties
8 imposed for a violation of this subchapter or commission rules
9 related to the operations of the unit.

10 (g) Each licensed authorized organization that is a member
11 of the unit may be made a party to any administrative or judicial
12 action relating to the enforcement of this subchapter or the rules
13 of the commission pertaining to the operation of the unit.

14 Sec. 2001.439. TRUST AGREEMENT. (a) Notwithstanding any
15 other provision of this subchapter, a unit may be formed pursuant to
16 a trust agreement between two or more licensed authorized
17 organizations that conduct bingo at the same location. The
18 agreement must:

19 (1) designate one of the organizations as the trustee;
20 (2) designate a person who will carry out the duties
21 described by Section 2001.438(b);

22 (3) specify the method by which the unit will comply
23 with the requirements of Section 2001.436(a); and

24 (4) state that the trustee is responsible for
25 compliance with the rules of the commission and this chapter.

26 (b) The commission by rule may prohibit a person from
27 serving as a unit manager or as a designated agent for a unit that

1 does not use a unit manager if the person has failed to comply with
2 the duties required of the person as a unit manager or designated
3 agent.

4 (c) The commission may prohibit a person who serves as a
5 designated agent that is listed on a license under this chapter,
6 including having been approved by the commission to work in the
7 bingo operations of a licensed authorized organization or as an
8 operator, from holding or being listed on any license or from being
9 approved to work in the bingo operations of any licensed authorized
10 organization or to serve as an operator if the person has failed to
11 comply with the duties required of the person as a unit manager or
12 designated agent.

13 SECTION 20. Section 2001.451, Occupations Code, is amended
14 by amending Subsection (b) and adding Subsection (b-1) to read as
15 follows:

16 (b) A licensed authorized organization shall deposit in the
17 bingo account all funds derived from the conduct of bingo, less the
18 amount awarded as cash prizes under Sections 2001.420(a) and (b).
19 Except as provided by Subsection (b-1), a [A] deposit must be made
20 not later than the next business day after the day of the bingo
21 occasion on which the receipts were obtained.

22 (b-1) A licensed authorized organization may deposit funds
23 derived from the conduct of bingo that are paid through a debit card
24 transaction in the bingo fund not later than 72 hours after the
25 transaction.

26 SECTION 21. Section 2001.454, Occupations Code, is amended
27 to read as follows:

1 Sec. 2001.454. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES.

2 (a) A licensed authorized organization shall devote to the [a]
3 charitable purposes of the organization [~~purpose~~] its net proceeds
4 of bingo and any rental of premises.

5 (b) Except as otherwise provided by law, the [The] net
6 proceeds derived from bingo and any rental of premises are
7 dedicated to the [a] charitable purposes of the organization
8 [~~purpose~~] only if directed to a cause, deed, or activity that is
9 consistent with the federal tax exemption the organization obtained
10 under 26 U.S.C. Section 501 and under which the organization
11 qualifies as a nonprofit organization as defined by Section
12 2001.002[+]

13 ~~[(1) benefits an indefinite number of needy or~~
14 ~~deserving persons in this state by:~~

15 ~~[(A) enhancing their opportunity for religious~~
16 ~~or educational advancement,~~

17 ~~[(B) relieving them from disease, suffering, or~~
18 ~~distress,~~

19 ~~[(C) contributing to their physical well-being,~~

20 ~~[(D) assisting them in establishing themselves~~
21 ~~in life as worthy and useful citizens, or~~

22 ~~[(E) increasing their comprehension of and~~
23 ~~devotion to the principles on which this nation was founded and~~
24 ~~enhancing their loyalty to their government, or~~

25 ~~[(2) initiates, performs, or fosters worthy public~~
26 ~~works in this state or enables or furthers the erection or~~
27 ~~maintenance of public structures in this state]. If the~~

1 organization is not required to obtain a federal tax exemption
2 under 26 U.S.C. Section 501, the organization's net proceeds are
3 dedicated to the charitable purposes of the organization only if
4 directed to a cause, deed, or activity that is consistent with the
5 purposes and objectives for which the organization qualifies as an
6 authorized organization under Section 2001.002.

7 SECTION 22. Section 2001.458(a), Occupations Code, is
8 amended to read as follows:

9 (a) An item of expense may not be incurred or paid in
10 connection with the conduct of bingo except an expense that is
11 ~~[those expenses that are]~~ reasonable or necessary to conduct bingo,
12 including an expense ~~[and necessarily expended]~~ for:

13 (1) advertising, including the cost of printing bingo
14 gift certificates;

15 (2) security;

16 (3) repairs to premises and equipment;

17 (4) bingo supplies and equipment;

18 (5) prizes;

19 (6) stated rental or mortgage and insurance expenses;

20 (7) bookkeeping, legal, or accounting services
21 related to bingo;

22 (8) fees ~~[in amounts authorized by the commission]~~ for
23 callers, cashiers, ushers, janitorial services, and utility
24 supplies and services; ~~[and]~~

25 (9) license fees;

26 (10) attending a bingo seminar or convention required
27 under Section 2001.107; and

1 (11) debit card transaction fees.

2 SECTION 23. Section 2001.459(a), Occupations Code, is
3 amended to read as follows:

4 (a) The following items of expense incurred or paid in
5 connection with the conduct of bingo must be paid from an
6 organization's bingo account:

7 (1) advertising, including the cost of printing bingo
8 gift certificates;

9 (2) security during a bingo occasion;

10 (3) the purchase or repair of bingo supplies and
11 equipment;

12 (4) prizes, other than authorized cash prizes;

13 (5) stated rental expenses;

14 (6) bookkeeping, legal, or accounting services;

15 (7) fees for callers, cashiers, and ushers;

16 (8) janitorial services;

17 (9) license fees; and

18 (10) payment for services provided by a system service
19 provider.

20 SECTION 24. Section 2001.504(a), Occupations Code, is
21 amended to read as follows:

22 (a) A tax or fee authorized or imposed under this subchapter
23 is due and is payable by the license holder or a person conducting
24 bingo without a license to the commission quarterly on or before the
25 25th ~~[15th]~~ day of the month succeeding each calendar quarter.

26 SECTION 25. Section 2001.602(b), Occupations Code, is
27 amended to read as follows:

1 (b) In determining the amount of the penalty, the
2 ~~[executive]~~ director shall consider:

3 (1) the seriousness of the violation, including the
4 nature, circumstances, extent, and gravity of the prohibited acts;

5 (2) the history of previous violations;

6 (3) the amount necessary to deter future violations;

7 (4) efforts to correct the violation; and

8 (5) any other matter that justice may require.

9 SECTION 26. Sections 2001.603(a) and (b), Occupations Code,
10 are amended to read as follows:

11 (a) If, after investigating a possible violation and the
12 facts surrounding that possible violation, the ~~[executive]~~
13 director determines that a violation has occurred, the ~~[executive]~~
14 director may issue a violation report stating the facts on which the
15 conclusion that a violation occurred is based, recommending that an
16 administrative penalty be imposed on the person alleged to have
17 committed the violation, and recommending the amount of the
18 proposed penalty. The ~~[executive]~~ director shall base the
19 recommended amount of the proposed penalty on the seriousness of
20 the violation determined by consideration of the factors set out in
21 Section 2001.602(b).

22 (b) Not later than the 14th day after the date on which the
23 report is issued, the ~~[executive]~~ director shall give written
24 notice of the report to the person alleged to have committed the
25 violation.

26 SECTION 27. Section 2001.604, Occupations Code, is amended
27 to read as follows:

Sec. 2001.604. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Not later than the 20th day after the date the person receives the notice, the person may:

(1) accept the recommendation of the ~~[executive]~~ director, including the recommended administrative penalty; or

(2) make a written request for a hearing on the determination.

(b) If the person accepts the ~~[executive]~~ director's determination, the ~~[executive]~~ director by order shall approve the determination and impose the proposed penalty.

SECTION 28. Section 2001.605(a), Occupations Code, is amended to read as follows:

(a) If the person timely requests a hearing or does not respond to the notice in the time provided by Section 2001.604(a), the ~~[executive]~~ director shall set a hearing and give notice of the hearing to the person.

SECTION 29. Section 2001.606, Occupations Code, is amended to read as follows:

Sec. 2001.606. DECISION BY ~~[EXECUTIVE]~~ DIRECTOR. (a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the ~~[executive]~~ director by order:

(1) may find that a violation has occurred and may impose an administrative penalty; or

(2) may find that a violation has not occurred.

(b) The ~~[executive]~~ director shall give notice of the order to the person. The notice must include:

(1) separate statements of the findings of fact and conclusions of law;

(2) the amount of any penalty imposed;

(3) a statement of the right of the person to judicial review of the order; and

(4) other information required by law.

SECTION 30. Sections 2001.607(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond approved by the court for the amount of the penalty that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the ~~executive~~ director by certified mail.

(c) On receipt of a copy of the affidavit as provided by Subsection (b)(2), the ~~executive~~ director may file with the court, not later than the fifth day after the date the copy is received, a contest to the affidavit. The court shall hold a

1 hearing on the facts alleged in the affidavit as soon as practicable
2 and shall stay the enforcement of the penalty on finding that the
3 alleged facts are true. The person who files an affidavit has the
4 burden of proving that the person is financially unable to pay the
5 penalty and to give a supersedeas bond.

6 SECTION 31. Section 2001.608, Occupations Code, is amended
7 to read as follows:

8 Sec. 2001.608. COLLECTION OF PENALTY. If the person does
9 not pay the administrative penalty and the enforcement of the
10 penalty is not stayed, the ~~[executive]~~ director may refer the
11 matter to the attorney general for collection of the penalty.

12 SECTION 32. Subchapter H, Chapter 151, Tax Code, is amended
13 by adding Section 151.3105 to read as follows:

14 Sec. 151.3105. BINGO EQUIPMENT PURCHASED BY CERTAIN
15 ORGANIZATIONS. Bingo equipment, as defined by Section 2001.002,
16 Occupations Code, is exempted from the taxes imposed by this
17 chapter if the bingo equipment is:

18 (1) purchased by an organization licensed to conduct
19 bingo under Chapter 2001, Occupations Code, that is exempt from the
20 payment of federal income taxes under Section 501(a), Internal
21 Revenue Code of 1986, as amended, by being listed as an exempt
22 organization under Section 501(c)(3), (4), (8), (10), or (19),
23 Internal Revenue Code of 1986, as amended; and

24 (2) used exclusively to conduct bingo authorized under
25 Chapter 2001, Occupations Code.

26 SECTION 33. Section 2001.409(b), Occupations Code, is
27 repealed.

1 SECTION 34. (a) The changes in law made by this Act
2 governing eligibility of a person for a license apply only to the
3 issuance or renewal of a license by the Texas Lottery Commission
4 under Chapter 2001, Occupations Code, as amended by this Act, on or
5 after the effective date of this Act. A license issued by the Texas
6 Lottery Commission under those laws before the effective date of
7 this Act is governed by the applicable licensing requirements in
8 effect when the license was last issued or renewed until the license
9 expires or is renewed as provided by Chapter 2001, Occupations
10 Code, as amended by this Act.

11 (b) The change in law made by this Act to Section 2001.457,
12 Occupations Code, applies to the charitable disbursements made by a
13 licensed authorized organization beginning with disbursements for
14 the second quarter of 2004. A charitable disbursement made by a
15 licensed authorized organization for a quarter before the second
16 quarter of 2004 is governed by the law in effect immediately before
17 the effective date of this Act, and the former law is continued in
18 effect for that purpose.

19 (c) An authorized organization licensed to conduct bingo
20 before the effective date of this Act may renew its license,
21 notwithstanding that the organization has not been in existence for
22 the time required under a rule of the Texas Lottery Commission
23 adopted under Section 2001.101, Occupations Code, if the
24 organization meets all other requirements for the renewal of the
25 license.

26 SECTION 35. (a) Except as provided by Subsection (b) of
27 this section, this Act takes effect September 1, 2003.

1 (b) Section 151.3105, Tax Code, as added by this Act, takes
2 effect January 1, 2004.

David Swisher

President of the Senate

Jim Cusick

Speaker of the House

I certify that H.B. No. 2519 was passed by the House on May 8, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2519 on May 30, 2003, by a non-record vote.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2519 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 30, Nays 1.

Datsy Gaur

Secretary of the Senate

APPROVED:

20 JUN '03

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:30 PM O'CLOCK

JUN 20 2003
Ann Shea
Secretary of State