

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

—●—

## ENROLLED

*Com Sub. for*

HOUSE BILL No. 259

*(By Mr. Originating in the Committee  
on the Judiciary)*

—●—

PASSED February 8, 1968

In Effect Twenty days from Passage



FILED IN THE OFFICE

ROBERT D. BAILEY

SECRETARY OF STATE

THIS DATE 2-16-68

# 259

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**House Bill No. 259**

(Originating in the Committee on the Judiciary)

---

[Passed February 8, 1968; in effect ninety days from passage.]

---

AN ACT to amend chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, relating to findings of the Legislature; authorizing the playing of bingo games; providing definitions, designating the state tax commissioner as the licensing authority; authorizing the licensing authority to exercise certain powers and providing him with certain duties; providing for the promulgation of rules and regulations; authorizing the holding of hearings and the filing of petitions of appeal; authorizing the issuance of licenses

to conduct bingo games to certain organizations; providing for an application for license and a form of license; detailing the persons who shall be permitted to operate and conduct bingo games, and the premises, equipment, expenses and compensation in connection therewith; providing for a statement of receipts and expenses; providing for the payment of a license fee and a percentage of the net proceeds of any bingo game; providing for the forfeiture of license and the enforcement of the article; providing penalties and relating to the severability of the provisions of the article.

*Be it enacted by the Legislature of West Virginia:*

That chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

**ARTICLE 13. BINGO GAMES.**

**§61-13-1. Short title.**

1 This article shall be known and may be cited and  
2 referred to as the "Bingo Law."

**§61-13-2. Findings of Legislature.**

1 The Legislature hereby finds, determines and declares  
2 that this article is necessary for the raising of revenue,  
3 for the regulation of trade and the regulation of social  
4 games as hereinafter prescribed and that bingo, when  
5 the operation thereof complies with the provisions of  
6 this article and the rules and regulations to be promul-  
7 gated, is not a lottery or gift enterprise.

**§61-13-3. Definitions.**

1 The following words and phrases as used in this article,  
2 unless a different meaning is clearly indicated by the  
3 context, shall have the following meanings:

4 (1) "Bingo" means that specific kind of game com-  
5 monly known as bingo or lotto, in which prizes are  
6 awarded on the basis of designated numbers or symbols  
7 on a card conforming to numbers or symbols selected  
8 at a meeting at which all of the participants are  
9 present.

10 (2) "Qualified organization" means any bona fide  
11 chartered branch or lodge or chapter of a national or  
12 state organization, or any bona fide religious, charitable,

13 labor, fraternal, educational, or veteran's organization  
14 or a nonprofit social club or a volunteer fire depart-  
15 ment which operates without profit to its members.

16 (3) "Licensee" means any qualified organization to  
17 which a license has been issued by the licensing  
18 authority.

19 (4) "Dues-paying membership" means those mem-  
20 bers of an organization who pay regular monthly, annual  
21 or other periodic dues or who are excused from paying  
22 such dues by the bylaws, articles of incorporation, or  
23 charter of the organization, and those who contribute  
24 voluntarily to the corporation or organization to which  
25 they belong for the support of such corporation or or-  
26 ganization.

27 (5) "Licensing authority" means the state tax com-  
28 missioner of West Virginia or his duly authorized  
29 deputy.

30 (6) "Person" means a natural person, firm, associa-  
31 tion, corporation, or other legal entity.

32 (7) "Chartered branch or lodge or chapter of a  
33 national or state organization" means any branch or

34 lodge or chapter of a national or state organization which  
35 is a civic or service organization, not for pecuniary  
36 profit, and authorized by its written constitution, charter,  
37 articles of incorporation, or bylaws to engage in a  
38 fraternal, civic or service purpose within this state.

39 (8) "Religious organization" means any organization,  
40 church, body of communicants, or group, not for pecu-  
41 niary profit, gathered in common membership for  
42 mutual support and edification in piety, worship and  
43 religious observances, or a society, not for pecuniary  
44 profit, of individuals united for religious purposes at a  
45 definite place or places.

46 (9) "Charitable organization" means any organiza-  
47 tion, not for pecuniary profit, which is operated for the  
48 relief of poverty, distress, or other condition of public  
49 concern within the state.

50 (10) "Labor organization" means any organization,  
51 not for pecuniary profit, within the state which exists  
52 for the purpose, in whole or in part, of dealing with  
53 employers concerning grievances, labor disputes, wages,  
54 rates of pay, hours of employment or conditions of work,

55 and which has existed for such purpose and has been  
56 so engaged.

57 (11) "Fraternal organization" means any organiza-  
58 tion within the state except college and high school  
59 fraternities, not for pecuniary profit, which is a branch  
60 or lodge or chapter of a national or state organization  
61 and exists for the common business, brotherhood, or  
62 other interests of its members.

63 (12) "Educational organization" means any organ-  
64 ization within the state, not for pecuniary profit, whose  
65 primary purpose is educational in nature and designed  
66 to develop the capabilities of individuals by instruction.

67 (13) "Veterans' organization" means any organization  
68 within the state, or any branch or lodge or chapter  
69 of a national or state organization within the state, not  
70 for pecuniary profit, the membership of which consists  
71 of individuals who were members of the armed services  
72 or forces of the United States.

73 (14) "Nonprofit social club" means any corporation  
74 or unincorporated association operated exclusively for  
75 the benefit of its members, which pays no part of its

76 income to its shareholders or individual members, which  
77 owns or leases a building or other premise to which club  
78 are admitted only duly elected or approved dues paying  
79 members in good standing and their guests.

80 (15) "Gross receipts" means receipts from the sale  
81 of shares, tickets or rights in any manner connected  
82 with participation in a game of bingo or the right to  
83 participate therein including any admission fee or  
84 charge, the sale of equipment or supplies and all other  
85 miscellaneous receipts.

86 (16) "Net proceeds" means the gross receipts less  
87 such expenses, charges, fees and deductions as are  
88 specifically authorized under this article.

89 (17) "Premises" means any building, room, hall,  
90 enclosure or outdoor area used for the purpose of playing  
91 a game of bingo.

92 (18) "Lawful purposes" means educational, charitable,  
93 patriotic, religious or public-spirited purposes, which  
94 terms are defined to be the benefiting of an indefinite  
95 number of persons either by bringing their minds or  
96 hearts under the influence of education or religion, by



97 relieving their bodies from disease, suffering or con-  
98 straint, by assisting them in establishing themselves in  
99 life, by erecting or maintaining public buildings or works  
100 or otherwise lessening the burden of government. Such  
101 terms do not include the erection, acquisition, improve-  
102 ment, maintenance or repair of property, real, personal,  
103 or mixed, unless such property is and shall be used ex-  
104 clusively for one or more of the purposes stated in this  
105 article.

106 (19) "Lawful use" means the devotion of the entire  
107 net proceeds of a game of bingo exclusively to a lawful  
108 purpose or to lawful purposes.

109 (20) "Member" means an individual who has qualified  
110 for membership in a qualified organization pursuant to  
111 its bylaws, articles of incorporation, charter, rules or  
112 other written statement.

113 (21) "Occasion" means a single gathering or session  
114 at which a series of successive bingo games is played,  
115 not to exceed thirty-five games in number.

116 (22) "Equipment" means the receptacle and num-  
117 bered objects drawn from it, the master board upon

118 which such objects are placed as drawn, the cards or  
 119 sheets bearing numbers or other designations to be cov-  
 120 ered and the objects used to cover them, the boards  
 121 or signs, however operated, used to announce or display  
 122 the numbers or designations as they are drawn, public  
 123 address system and all other articles essential to the  
 124 operation, conduct and playing of bingo.

**§61-13-4. Licensing authority; powers; duties.**

1 The state tax commissioner is hereby designated as the  
 2 “licensing authority” of this article. The state tax com-  
 3 missioner shall be the executive in charge of enforce-  
 4 ment of the terms and provisions of this article, and as  
 5 state licensing authority, his powers and duties shall be  
 6 as follows:

7 (1) To grant or refuse licenses under this article. In  
 8 addition, the licensing authority shall have the power on  
 9 his own motion, based on reasonable grounds or on com-  
 10 plaint made and after investigation and public hearing  
 11 at which the licensee shall be afforded an opportunity  
 12 to be heard, to suspend or revoke any license issued by  
 13 the licensing authority for any violation by the licensee

14 or any officer, director, agent, member or employee of  
15 such licensee of the provisions of this article or any rule  
16 or regulation authorized hereunder. Upon final conviction of a licensee, or any employee thereof acting within  
17 the scope of his employment, of any violation of any  
18 municipal ordinance or statute of the state of West Virginia relating to the regulation and control of alcoholic  
19 liquors, gambling or the sale, possession or distribution  
20 of narcotics or dangerous drugs, before any justice of  
21 the peace, municipal court or court of record, the licensing authority shall forthwith revoke the licensee's license.  
22 Notice of suspension or revocation, as well as notice of  
23 such hearing, shall be given by certified mail of same  
24 to the licensee at the address contained in such license.  
25 Any license may be temporarily suspended for a period  
26 not to exceed thirty days pending any prosecution, investigation or public hearing.

31 (2) It shall be the duty of the licensing authority to  
32 supervise the administration of this article and to adopt,  
33 amend and repeal rules and regulations governing the  
34 holding, operating and conducting of bingo games, the

35 rental of premises and the purchase of equipment, to the  
36 end that bingo games shall be held, operated and con-  
37 ducted only by licensees for the purposes in conformity  
38 with the state constitution and the provisions of this  
39 article.

40 (3) To hear and determine at public hearing all com-  
41 plaints against any licensee, and to administer oaths and  
42 issue subpoenas to require the presence of persons and  
43 production of papers, books and records necessary to the  
44 determination of any hearing so held.

45 (4) To keep records of all actions and transactions of  
46 the licensing authority.

47 (5) To report on request to the governor or the Legis-  
48 lature respecting the administration of this article, and  
49 to make such recommendations in regard to legislation as  
50 the licensing authority shall deem necessary and proper.

51 (6) The provisions of chapter twenty-nine-a of this  
52 code shall apply to and govern all hearings and pro-  
53 ceedings to suspend or to revoke a license brought by  
54 the licensing authority and all other matters pertaining  
55 to the provisions of this article whether brought by the

56 licensing authority, the licensee or any other person.  
57 The licensing authority may issue an order prohibiting  
58 the operation of a bingo game pending hearing, in which  
59 case the hearing shall be held within ten days after the  
60 licensee is notified of any such order.

61 (7) The licensing authority shall cause a notice of  
62 hearing to be served personally upon an officer of the  
63 licensee, or other person, or the member in charge of  
64 the conduct of the bingo game, or to be sent by regis-  
65 tered or certified mail to the licensee at the address  
66 shown in the license or to the last known address of any  
67 person other than a licensee.

68 (8) When the suspension or revocation proceedings  
69 are begun before the licensing authority, it shall hear  
70 the matter and make written findings in support of its  
71 decision. The licensee or other person involved shall be  
72 informed immediately of the decision and in the event  
73 of a suspension or revocation, the effective date of the  
74 suspension or revocation.

75 (9) When a license is ordered suspended or revoked,  
76 the licensee shall surrender up the license to the licensing

77 authority on or before the effective date of the suspen-  
 78 sion or revocation. No license shall be valid beyond the  
 79 effective date of the suspension or revocation, whether  
 80 surrendered or not.

81 (10) Upon the finding of a violation of this article or  
 82 the rules and regulations promulgated hereunder, or both  
 83 or all, such as would warrant the suspension or revocation  
 84 of a license, the licensing authority may, in addition to  
 85 any other penalties which may be imposed, declare the  
 86 violator ineligible to conduct a game of bingo and to  
 87 apply for a license under said laws for a period not  
 88 exceeding twelve months thereafter. Such declaration  
 89 of ineligibility may be extended to include, in addition  
 90 to the violator, any of its subsidiary organizations, its  
 91 parent organization or otherwise affiliated with the vio-  
 92 lator when, in the opinion of the licensing authority, the  
 93 circumstances of the violation warrant such action.

94 (11) Upon receipt by a licensee or other person in-  
 95 volved of a notice of a hearing from the licensing au-  
 96 thority, the licensee or other person shall answer said  
 97 notice and inform the licensing authority whether oral

98 argument is desired and whether the licensee desires  
99 to produce witnesses.

100 (12) At the request of any party and for good cause  
101 shown, the licensing authority shall issue subpoenas for  
102 the attendance of witnesses and the production of books,  
103 records and other documents.

104 (13) Whenever oral testimony of witnesses is taken  
105 at the hearing, the licensing authority shall have a certi-  
106 fied shorthand reporter present to take a stenographic  
107 record of the proceedings. The original transcript shall  
108 be filed with the licensing authority. Any party shall be  
109 entitled to secure a copy from the reporter at his own  
110 expense.

111 (14) Hearings may be adjourned by the licensing au-  
112 thority from time to time at the request of any party,  
113 but only for good cause shown, but hearings shall be  
114 held and concluded with reasonable dispatch and without  
115 unnecessary delay.

116 (15) The licensing authority shall decide any matter  
117 within thirty days after the conclusion of the hearing.

118 (16) Upon the determination of any matter heard, the

119 licensing authority shall state its findings. All parties  
 120 shall be notified by the licensing authority of the action  
 121 of the licensing authority and shall be furnished a copy  
 122 of the findings.

123 (17) Applicants for a license or licensee may be repre-  
 124 sented by counsel.

125 (18) Any person appearing before the licensing au-  
 126 thority in a representative capacity shall be required to  
 127 show his authority to act in such capacity.

128 (19) No person shall be excused from testifying or  
 129 producing any book or document in any investigation or  
 130 hearing, when ordered so to do by the licensing authority,  
 131 upon the ground that testimony or documentary evi-  
 132 dence required of him may tend to incriminate or subject  
 133 him to penalty or forfeiture, but no person shall be prose-  
 134 cuted, punished or subjected to any penalty or forfeiture  
 135 on account of any matter or thing concerning which he  
 136 shall, under oath, have testified or produced documentary  
 137 evidence, except that he shall not be exempt from prose-  
 138 cution or punishment for any perjury committed by him  
 139 in his testimony.



140 (20) If a person subpoenaed to attend in any such  
141 investigation or hearing fails to obey the command of  
142 the subpoena without reasonable cause or if a person in  
143 attendance in any such investigation or hearing refuses  
144 without lawful cause to be examined or to answer a  
145 legal or pertinent question or to exhibit any book, ac-  
146 count, record or other document when ordered so to  
147 do by the representative of the licensing authority hold-  
148 ing such investigation or hearing, the licensing author-  
149 ity may apply to the judge of any circuit court in the  
150 state, upon proof by affidavit of the facts, for an order  
151 returnable in not less than two nor more than ten days  
152 directing such person to show cause before the judge  
153 why he should not comply with such subpoena or such  
154 order.

155 (21) Upon return of the order, the judge before  
156 whom the matter shall come on for hearing shall ex-  
157 amine such person under oath and if the judge shall  
158 determine, after giving such person an opportunity to  
159 be heard, that he refused without legal excuse to comply  
160 with such subpoena or such order of the licensing au-

161 thority holding such investigation, the judge may order  
 162 such person to comply therewith forthwith and any fail-  
 163 ure to obey the order of the judge may be punished as a  
 164 contempt of the court.

165 (22) Every witness shall be entitled to be paid for  
 166 attendance or attendance and travel by the party on  
 167 whose behalf he is subpoenaed at the rates prescribed  
 168 by law before being required to testify.

169 (23) The decision of the licensing authority in sus-  
 170 pending or revoking any license under this article or  
 171 adversely affecting any licensee or other parties shall be  
 172 subject to review. Any licensee or other person ag-  
 173 grieved by any such decision may, within thirty days  
 174 after receipt of a copy of the decision of the licensing  
 175 authority, file a petition seeking review of the decision  
 176 of the licensing authority in either the circuit court of  
 177 Kanawha county, West Virginia, or with the judge thereof  
 178 in vacation, or in the circuit courts of the counties in  
 179 which the petitioners or any one of the petitioners reside  
 180 or do business, or with the judge thereof in vacation.  
 181 A copy of the petition shall be served on the licensing  
 182 authority and all other parties of record by registered or

183 certified mail. Any such circuit court shall have juris-  
184 diction to hear and determine said petition and to affirm,  
185 reverse, vacate or modify the order of the licensing au-  
186 thority complained of if, upon consideration of the record,  
187 such court is of the opinion that such order was unlawful  
188 or unreasonable. In any such petition, the petitioner  
189 shall be denominated as petitioner and the licensing  
190 authority shall be denominated as respondent. The peti-  
191 tion shall set forth the errors complained of. Upon such  
192 service of a petition being made, the licensing authority,  
193 within twenty days thereafter or within such further  
194 time as the court may grant, shall serve an answer or  
195 other pleading on petitioner and on all other parties of  
196 record in the manner provided in the West Virginia  
197 rules of civil procedure for those courts of record, and  
198 with its answer, the licensing authority shall serve a  
199 transcript of the records and orders of the licensing  
200 authority and a transcript of all papers and of all evi-  
201 dence adduced upon the hearing before the licensing au-  
202 thority in the proceedings complained of. No proceeding  
203 to vacate, reverse or modify any final order rendered by

204 the licensing authority shall operate to stay the execu-  
205 tion or effect of such final order unless the court or the  
206 judge thereof, on application and three days' notice to  
207 the licensing authority, shall allow such stay. In the  
208 event a stay is ordered, the petitioner shall be required  
209 to execute his bond in such sum as the court or judge  
210 may prescribe with sufficient surety to be approved by  
211 the judge or clerk of the court, which bond shall be con-  
212 ditioned upon the faithful performance by such petitioner  
213 of his obligation as a licensee, and upon the prompt pay-  
214 ment of all damages arising from or caused by the delay  
215 in the taking effect of or enforcement of the order com-  
216 plained of, and for all costs that may be assessed or re-  
217 quired to be paid in connection with such proceeding.

**§61-13-5. Organizations entitled to licenses.**

1 (1) Any bona fide chartered branch or lodge or  
2 chapter of a national or state organization or any bona  
3 fide religious, charitable, labor, fraternal, educational  
4 or veterans' organization, any nonprofit social club,  
5 or a volunteer fire department which operated without  
6 profit to its members and has had dues-paying  
7 members engaged in carrying out the objects of said

8 corporation or organization shall be eligible for li-  
9 cense to be issued by the licensing authority hereunder.  
10 In the event any license is revoked the licensee and  
11 holder thereof shall not be eligible to apply for another  
12 license hereunder until after the expiration of the  
13 period of one year from the date of such revocation.  
14 (2) The licenses issued pursuant to the provisions  
15 of this article shall be issued by the licensing authority  
16 to applicants qualified under this article upon payment  
17 of a fee of twenty-five dollars: *Provided, however, That*  
18 a special license shall be issued hereunder to an appli-  
19 cant to conduct not more than fifteen occasions of oper-  
20 ation hereunder in any calendar year, the fee for such  
21 special license shall be five dollars. The licenses shall  
22 expire at the end of the calendar year in which they  
23 were issued by the licensing authority and may be re-  
24 newed by the licensing authority upon the filing of an  
25 application and the payment of the fee of twenty-five  
26 dollars for such renewal. No license granted under this  
27 article or any renewal thereof shall be transferrable.

**§61-13-6. Application for license.**

1     (1) Each applicant for a license to be issued under  
2 the provisions of this article shall file with the licensing  
3 authority a written application in duplicate in the form  
4 prescribed by the licensing authority, duly executed  
5 and verified, and in which shall be stated (a) the name  
6 and address of the applicant; (b) sufficient facts relating  
7 to its incorporation and organization to enable the licens-  
8 ing authority to determine whether or not it is a bona fide  
9 chartered branch or lodge or chapter of a national or  
10 state organization or a bona fide religious, charitable,  
11 labor, fraternal, educational or veterans' organization,  
12 a nonprofit social club or a volunteer fire department  
13 which operates without profit to its members and  
14 has dues-paying members engaged in carrying out  
15 the objectives of said applicant; (c) the names and  
16 addresses of its officers; (d) the specific details of the  
17 bingo games intended to be held, operated and con-  
18 ducted by the applicant; (e) the place or places where  
19 such bingo games are intended to be held, operated  
20 and conducted by the applicant under the license applied

21 for; the items of expense intended to be incurred or  
22 paid in connection with the holding, operating and con-  
23 ducting of such bingo games and the names and addresses  
24 of the persons to whom and the purposes for which  
25 they are to be paid; (f) a statement that no commission,  
26 salary, compensation, reward or recompense will be  
27 paid to any person for holding, operating or conducting  
28 such bingo games or for assisting therein except as in  
29 this article otherwise provided; (g) and such other  
30 information as shall be deemed advisable by the  
31 licensing authority to insure that the applicant falls  
32 within the restrictions set forth by the constitution  
33 of the state, this article and the rules and regulations  
34 promulgated hereunder.

35 (2) In each application there shall be designated an  
36 active member or members of the applicant organiza-  
37 tion under whom the bingo games described in the  
38 application are to be held, operated and conducted and  
39 to the application shall be appended a statement signed  
40 and verified by the applicant and by the member or  
41 members so designated that he or they will be respon-

42 sible for the holding, operation and conduct of such  
43 bingo games in accordance with the terms of the license  
44 and the provisions of this article and the rules and reg-  
45 ulations promulgated hereunder.

46 (3) In the event any premises are to be leased or  
47 rented in connection with the holding, operating or  
48 conducting any bingo games under this article, a written  
49 statement shall accompany the application signed and  
50 verified by such person stating his or its address and  
51 the amount of rent which will be paid for said premises,  
52 and that such person, or its officers and directors if a  
53 corporation, is of good moral character and has not been  
54 convicted of any crime involving moral turpitude.

**§61-13-7. Form of license; display of license.**

1 Each license shall contain a statement of the name  
2 and address of the licensee, of the names and addresses  
3 of the member or members of the licensee under whom  
4 such bingo games will be held, operated or conducted,  
5 and the place or places where such bingo games are to  
6 be held. Each license issued for the conduct of any  
7 such bingo game or games shall be conspicuously dis-



8 played at the place where the same is to be conducted  
9 or the drawings held at all times during the conduct  
10 thereof.

**§61-13-8. Persons who shall be permitted to operate and conduct bingo games; premises; equipment; expenses; compensation.**

1 (1) No person shall hold, operate or conduct any  
2 bingo game or games under any license issued under  
3 this article except an active member of the organization  
4 to which the license is issued, and no person shall assist  
5 in the holding, operating or conducting of any bingo  
6 game or games under such license except such an active  
7 member or a member of an organization or associa-  
8 tion which is an auxiliary to the licensee or a member  
9 of an organization or association of which such licensee  
10 is an auxiliary or a member of an organization or  
11 association which is affiliated with the licensee by being,  
12 with it, auxiliary to another organization or associa-  
13 tion and except bookkeepers or accountants as herein-  
14 after provided. No item of expense shall be incurred  
15 or paid in connection with the holding, operating or  
16 conducting of any bingo game held, operated or con-

17 ducted pursuant to any license issued under this article  
 18 except bona fide expenses in reasonable amount for  
 19 goods, wares and merchandise furnished or services  
 20 rendered reasonably necessary for the holding, operating  
 21 or conducting thereof. No such bingo game or games  
 22 shall be conducted with any equipment except such  
 23 as shall be owned by the licensee.

24 (2) The officers of a licensee shall designate a bona  
 25 fide, active member of the licensee to be in charge and  
 26 primarily responsible for the conduct of the bingo games  
 27 on each occasion. The member in charge shall supervise  
 28 all activities on the occasion for which he is in  
 29 charge and shall be responsible for the making of the  
 30 required report thereof. The member in charge shall  
 31 be familiar with the provisions of the state laws, the  
 32 rules and regulations of the licensing authority and the  
 33 provisions of the license. He shall be present on the  
 34 premises continuously during the bingo games and for  
 35 a period of at least thirty minutes after the last bingo  
 36 game.

37 (3) The officers of a licensee shall designate an

38 officer to be in full charge and primarily responsible  
39 for the proper utilization of the entire net proceeds  
40 of any game in accordance with the state law.

41 (4) The entire net proceeds of any bingo game shall  
42 be devoted to a lawful use or uses.

43 (5) Each license issued for the conduct of bingo  
44 games shall be conspicuously displayed at the place  
45 where any bingo game is being conducted at all times  
46 during the conduct of the game and for at least thirty  
47 minutes after the last game has been concluded.

48 (6) The premises where any bingo game is being  
49 held, operated or conducted, or where it is intended  
50 that any bingo game shall be held, operated or conducted  
51 or where it is intended that any equipment be used  
52 shall at all times be open to inspection by the licensing  
53 authority, its agents and employees, members of the  
54 department of public safety, sheriffs or deputy sheriffs  
55 of the county and by police officers of the municipality  
56 if the premises are located in one.

57 (7) No licensee may hold, operate or conduct a bingo  
58 game more often than on ninety-six occasions in any

59 calendar year, and in no case shall a bingo game be con-  
60 ducted from twelve midnight on Saturday to twelve mid-  
61 night on Sunday.

62 (8) When any merchandise prize is awarded in a  
63 game of bingo, its value shall be its current retail price.  
64 No merchandise prize shall be redeemable or convertible  
65 into cash directly or indirectly.

66 (9) Equipment, prizes and supplies for games of  
67 bingo shall not be purchased or sold at prices in excess  
68 of the usual price thereof.

69 (10) The net profits derived from the holding of  
70 bingo games shall be devoted within one year to the  
71 lawful purposes of the organization permitted to con-  
72 duct the same. Any organization desiring to hold  
73 the net profits of bingo games for a period in excess  
74 of one year shall apply to the licensing authority for  
75 special permission and upon good cause shown, the  
76 authority may grant any such request.

77 (11) Any licensee which does not report during  
78 any one-year period net profits shall be required to  
79 show cause before the licensing authority why its right  
80 to conduct games of bingo should not be revoked.

81 (12) No person shall assist in the holding, operating  
82 or conducting of a bingo game under any license except  
83 bona fide active members of the licensee, active mem-  
84 bers of any organization which is an auxiliary to the  
85 licensee, active members of an organization of which  
86 the licensee is an auxiliary, or active members of an  
87 organization which is affiliated with the licensee by  
88 being with it auxiliary to another organization.

89 (13) No prize greater in the amount or value than  
90 one hundred dollars shall be offered or given in any  
91 single game of bingo conducted under any such license  
92 and the aggregate amount of all prizes offered or given  
93 in all games played on a single occasion shall not  
94 exceed three hundred dollars.

95 (14) The equipment used in the playing of bingo  
96 and the method of play shall be such that each card  
97 shall have an equal opportunity to be a winner. The  
98 objects or balls to be drawn shall be essentially the  
99 same as to size, color, shape, weight, balance and all  
100 other characteristics that may influence their selection.  
101 All objects or balls shall be present in the receptacle

102 before each game is begun. All numbers announced  
103 shall be plainly and clearly audible to all the players  
104 present. Where more than one room is used for any  
105 one game, the receptacle and the caller must be present  
106 in the room where the greatest number of players is  
107 present, and all numbers announced shall be plainly  
108 audible to the players in the aforesaid room and also  
109 audible to the players in the other room or rooms. The  
110 cards or sheets of the players shall be part of a deck,  
111 group or series of cards, no two of which shall be alike,  
112 and which deck, group or series shall not be so prepared  
113 or arranged as to prefer any card.

114 (15) The receptacle and the caller must be visible  
115 to all the players at all times except where more than  
116 one room is used for any one game wherein the provisions  
117 of subsection fourteen shall prevail.

118 (16) The particular arrangement of numbers required  
119 to be covered in order to win the game and the amount  
120 of the prize shall be clearly and audibly described and  
121 announced to the players immediately before each game  
122 is begun.

123     (17) Any player shall be entitled to call for a verifi-  
124 cation of all numbers drawn at the time a winner is  
125 determined and for a verification of the objects or balls  
126 remaining in the receptacle and not yet drawn. The  
127 verification shall be made in the immediate presence  
128 of the member designated to be in charge of the occasion,  
129 but if such member be also the caller, then in the  
130 immediate presence of an officer of the licensee.

131     (18) No game of any kind other than bingo, whether  
132 lawful or unlawful and whether any separate or addi-  
133 tional charge or wager is required or not, shall be con-  
134 ducted or allowed on any occasion when bingo is  
135 played.

136     (19) In the playing of bingo, no person who is not  
137 physically present on the premises where the game is  
138 actually conducted shall be allowed to participate as a  
139 player in the game.

140     (20) No person shall act as a caller or assistant  
141 caller in the conduct of any game of bingo unless he  
142 has been a member in good standing of the licensee  
143 conducting such game or one of its licensed auxiliaries

144 for at least one year immediately prior to the date of  
145 such game unless he is of good moral character and  
146 never been convicted of a felony.

147 (21) No owner, co-owner or lessee of premises, or  
148 if a corporation is the owner of the premises, any officer,  
149 director or stockholder owning more than ten percent  
150 of the outstanding stock shall be a person responsible  
151 for or assisting in the holding, operating or conducting  
152 of any game of bingo.

**§61-13-9. Statement of receipts; expenses.**

1 (1) On or before April fifteen, July fifteen, October  
2 fifteen and January fifteen of each year, the licensee shall  
3 file with the licensing authority upon forms prescribed  
4 by the licensing authority a duly verified statement cov-  
5 ering the preceding calendar quarter showing the amount  
6 of the gross receipts derived during said periods from  
7 bingo games, the expenses incurred or paid, and a brief  
8 description of the classification of such expenses, the  
9 name and address of each person to whom has been paid  
10 three hundred dollars or more and the purpose of such  
11 expenditure, the net proceeds derived from each such  
12 bingo game, and the uses to which such net proceeds



13 have been or are to be applied; and it shall be the duty  
14 of each licensee to maintain and keep such books and  
15 records as may be necessary to substantiate the par-  
16 ticulars of each such report.

17 (2) If a licensee fails to file reports within the time  
18 required or if reports are not properly verified or not  
19 fully, accurately and truthfully completed, any existing  
20 license may be suspended until such time as the de-  
21 fault has been corrected.

22 (3) All moneys collected or received from the sale of  
23 admission, extra regular cards, special game cards, sale  
24 of supplies and all other receipts from the games of  
25 bingo shall be deposited in a special account of the licensee  
26 which shall contain only such money. All expenses for  
27 said game shall be withdrawn from said account by con-  
28 secutively numbered checks duly signed by a specified  
29 officer or officers of the licensee and payable to a specific  
30 person or organization. There shall also be written on  
31 the check the nature of the expense for which the check  
32 is drawn. No check shall be drawn to "cash" or a fic-  
33 titious payee.

34 (4) No part of the net profits after they have been  
35 given over to another organization shall be used by the  
36 donee organization to pay any person for services ren-  
37 dered or materials purchased in connection with the  
38 conducting of bingo by the donor organization.

39 (5) No items of expense shall be incurred or paid in  
40 connection with the holding, operating or conducting any  
41 bingo game pursuant to any license except bona fide ex-  
42 penses of a reasonable amount. Expenses may be in-  
43 curred for only the following purposes: (a) The pur-  
44 chase of goods, wares and merchandise furnished; (b)  
45 payment for services rendered which are reasonably  
46 necessary for repairs of equipment, operating or conduct-  
47 ing the game of bingo; (c) for rent if the premises are  
48 rented or for janitorial services if not rented; (d) for  
49 accountant's fees; (e) license fees.

50 For this purpose, the following terms shall have the  
51 following meanings: "Goods, wares and merchandise"  
52 means prizes, equipment as defined in section three,  
53 articles of a minor nature such as pencils, crayons, tick-  
54 ets, envelopes, paper clips and coupons necessary to the

55 conduct of bingo games; "services rendered" means re-  
56 pair to equipment, reasonable compensation to a book-  
57 keeper and/or accountant, for services in preparing  
58 financial reports for an amount not exceeding the total  
59 amount of fifteen dollars for each occasion, rental of  
60 premises not exceeding the amount of twenty-five dollars  
61 for each occasion except upon prior approval of a greater  
62 amount by the licensing authority, and a reasonable  
63 amount for janitorial services not exceeding a total  
64 amount of fifteen dollars for each occasion. On the day  
65 the statement of receipts is filed, as provided for in sub-  
66 section (1) of this section, the licensee shall pay to the  
67 state licensing authority an amount equal to three per-  
68 cent of the net proceeds of any bingo game held,  
69 operated or conducted under the provisions of this  
70 article, which funds together with all administra-  
71 tive receipts, including license fees, collected by the state  
72 under this article shall be deposited in the general fund.

**§61-13-10. Examination of books and records.**

1 The licensing authority and its agents shall have power  
2 to examine or cause to be examined the books and records

3 of any licensee to which any such license is issued so  
4 far as they may relate to any transactions connected  
5 with the holding, operating and conducting of any bingo  
6 game.

**§61-13-11. Forfeiture of license; ineligibility to apply for  
license.**

1 Any person who shall make any false statement in  
2 any application for any such license or in any statement  
3 annexed thereto, or shall fail to keep sufficient books and  
4 records to substantiate the quarterly reports required  
5 hereunder, or shall falsify any books or records so far  
6 as they relate to any transaction connected with the  
7 holding, operating and conducting of any bingo game  
8 under any such license or shall violate any of the pro-  
9 visions of this article or of any term of such license  
10 shall, if convicted, in addition to suffering any other  
11 penalties which may be imposed, forfeit any license  
12 issued to it under this article and shall be ineligible to  
13 apply for a license under this article for at least one  
14 year thereafter.

**§61-13-12. Enforcement.**

1 It shall be the duty of all sheriffs, constables, police  
2 officers and members of the department of public safety  
3 to enforce the provisions of this article and to arrest  
4 and complain against any person violating any provisions  
5 of this article. It shall be the duty of the prosecuting  
6 attorney of the respective counties of the state to prose-  
7 cute all violations of this article in the manner and  
8 form as is now provided by law for the prosecutions  
9 of crimes and misdemeanors and it shall be a violation  
10 of this article for any such person or persons knowingly  
11 to fail to perform his or her duty under this section.

12 Except as otherwise provided in this article, all pro-  
13 visions of article twelve, chapter eleven of this code  
14 with respect to the collection and payment of license  
15 taxes shall likewise, so far as appropriate, be applicable to  
16 the collection and payment of the license fees imposed by  
17 this article and of the portion of the proceeds of any  
18 bingo game required to be paid to the state licensing  
19 authority under the provisions of section nine of this  
20 article.

**§61-13-13. Penalties for violation.**

1 Every licensee and every officer, agent or employee  
2 of the licensee and every other person or corporation  
3 who wilfully violates or who procures, aids or abets in  
4 the wilful violation of this article or the rules and regu-  
5 lations promulgated thereunder shall be deemed guilty  
6 of a misdemeanor, and, upon conviction, shall be pun-  
7 ished by a fine of not more than one thousand dollars  
8 or imprisonment in the county jail for not more than  
9 three months, or both, in the discretion of the court.

**§61-13-14. Severability clause.**

1 If any provision of this article or the application  
2 thereof to any person or circumstance is held invalid,  
3 such invalidity shall not affect other provisions or appli-  
4 cations of the article which can be given effect without  
5 the invalid provision or application, and to this end  
6 the provisions of this article are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompa  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

William H. Hynes  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Howard W. Cason  
President of the Senate

H. Laban White  
Speaker of the House of Delegates

The within disapproved this the 16  
day of February, 1968.

Hueett C. Smith  
Governor



PRESENTED TO THE  
GOVERNOR

Date 2/13/68  
Time 3:44 P.M.

RECEIVED

FEB 13 11 13 PM '68

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA