

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-29-82

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

Committee Substitute for

SENATE BILL NO. 208

(By Mr. Ash and Mr. Howes)



PASSED MARCH 10, 1982

In Effect from Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 208

(By MR. ASH and MR. HONECKER, *original sponsors*)

[Passed March 10, 1982; in effect from passage.]

AN ACT to amend and reenact sections two, four, five, six, ten, fifteen, twenty-one and twenty-two, article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the conduct of bingo for charitable or public service activity or endeavor; defining terms; revising limits on prizes which licensees may award; eliminating age restrictions for persons who play bingo; revising licensing procedures for the state fair bingo license; and reducing license fee for state fair bingo license.

Be it enacted by the Legislature of West Virginia:

That sections two, four, five, six, ten, fifteen, twenty-one and twenty-two, article twenty, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 20. CHARITABLE BINGO.

§47-20-2. Definitions.

- 1 For purposes of this article, unless specified otherwise:
- 2 (a) "Bingo" means the game wherein participants pay
- 3 consideration for the use of one or more cards bearing several
- 4 rows of numbers no two of which cards played in any one
- 5 game contain the same sequence or pattern. When the game
- 6 commences, numbers are selected by chance, one by one, and
- 7 announced. The players cover or mark those numbers
- 8 announced as they appear on the card or cards which they are

9 using. The player who first announces that he has covered a
10 predetermined sequence or pattern which had been
11 preannounced for that game is, upon verification of such,
12 declared the winner of that game.

13 (b) "Bingo occasion" or "occasion" means a single
14 gathering or session at which a series of one or more
15 successive bingo games is conducted by a single licensee.

16 (c) "Charitable or public service activity or endeavor"
17 means any bona fide activity or endeavor which directly
18 benefits a number of people by:

19 (1) Assisting them to establish themselves in life as
20 contributing members of society through education or
21 religion; or

22 (2) Relieving them from disease, distress, suffering,
23 constraint, or the effects of poverty; or

24 (3) Increasing their comprehension of and devotion to the
25 principles upon which this nation was founded and to the
26 principles of good citizenship; or

27 (4) Making them aware of or educating them about issues
28 of public concern so long as the activity or endeavor is not
29 aimed at influencing legislation or supporting or
30 participating in the campaign of any candidate for public
31 office; or

32 (5) By lessening the burdens borne by government or
33 voluntarily supporting, augmenting or supplementing
34 services which government would normally render to the
35 people; or

36 (6) Providing or supporting nonprofit community
37 activities for youth, senior citizens or the disabled; or

38 (7) Providing or supporting nonprofit cultural or artistic
39 activities.

40 (d) "Charitable or public service organization" means a
41 bona fide, not for profit, tax-exempt, benevolent, educational,
42 philanthropic, humane, patriotic, civic, religious, fraternal, or
43 eleemosynary incorporated or unincorporated association or
44 organization; or a volunteer fire department, rescue unit or
45 other similar volunteer community service organization or
46 association; but does not include any nonprofit association or
47 organization, whether incorporated or not, which is organized
48 primarily for the purposes of influencing legislation or
49 supporting or promoting the campaign of any candidate for
50 public office.

51 An organization or association is tax-exempt if it is, and has
52 received from the Internal Revenue Service a determination
53 letter that is currently in effect stating that the organization is,
54 exempt from federal income taxation under subsection 501(a)
55 and described in subsection 501(c) (3), 501(c) (4), 501(c) (8),
56 501(c) (10), 501(c) (19) or 501(d) of the Internal Revenue Code.

57 (e) "Commissioner" means the state tax commissioner.

58 (f) "Concession" means any stand, booth, cart, counter or
59 other facility, whether stationary or movable, where
60 beverages, both alcoholic and nonalcoholic, food, snacks,
61 cigarettes or other tobacco products, newspapers, souvenirs
62 or any other items are sold to patrons by an individual
63 operating the facility. Notwithstanding anything contained in
64 subdivision (2), subsection (a), section twelve, article seven,
65 chapter sixty of this code to the contrary, "concession"
66 includes beverages which are regulated by and shall be
67 subject to the provisions of chapter sixty of this code:
68 *Provided*, That in no case may the sale or the consumption of
69 alcoholic beverages or nonintoxicating beer be permitted in
70 any area where bingo is conducted.

71 (g) "Conduct" means to direct the actual playing of a
72 bingo game by activities including, but not limited to,
73 handing out bingo cards, collecting fees, drawing the
74 numbers, announcing the numbers, posting the numbers,
75 verifying winners and awarding prizes.

76 (h) "Expend net proceeds for charitable or public service
77 purposes" means to devote the net proceeds of a bingo
78 occasion or occasions to a qualified recipient organization or
79 as otherwise provided by this article and approved by the
80 commissioner pursuant to section fifteen of this article.

81 (i) "Gross proceeds" means all moneys collected or
82 received from the conduct of bingo at all bingo occasions held
83 by a licensee during a license period; this term shall not be
84 deemed to include any moneys collected or received from the
85 sale of concessions at bingo occasions.

86 (j) "Joint bingo occasion" means a single gathering or
87 session at which a series of one or more successive bingo
88 games is conducted by two or more licensees.

89 (k) "Licensee" means any organization or association
90 granted an annual, limited occasion or state fair bingo license
91 pursuant to the provisions of this article.

92 (l) "Net proceeds" means all moneys collected or received
93 from all the conduct of bingo at ^{all} ~~bingo occasions held by a~~ 

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94 licensee during a license period after payment of expenses
95 authorized by sections ten, thirteen, fifteen and twenty-two of
96 this article; this term shall not be deemed to include moneys
97 collected or received from the sale of concessions at bingo
98 occasions.

99 (m) "Person" means any individual, association, society,
100 incorporated or unincorporated organization, firm,
101 partnership or other nongovernmental entity or institution.

102 (n) "Patron" means any individual who attends a bingo
103 occasion other than an individual who is participating in the
104 conduct of the occasion or in the operation of any concession,
105 whether or not the individual is charged an entrance fee or
106 plays any bingo games.

107 (o) "Qualified recipient organization" means any bona
108 fide, not for profit, tax-exempt, as defined in subdivision (d)
109 of this section, incorporated or unincorporated association or
110 organization which is organized and functions exclusively to
111 directly benefit a number of people as provided in
112 subparagraphs (1) through (7), subdivision (c) of this section.
113 "Qualified recipient organization" includes without
114 limitation any licensee which is organized and functions
115 exclusively as provided in this subdivision.

§47-20-4. Annual license; conditions on holding of games.

1 A charitable or public service organization or any of its
2 auxiliaries or other organizations otherwise affiliated with it
3 may apply for an annual license. Only one license per year in
4 the aggregate may be granted to a charitable or public service
5 organization and all of its auxiliaries or other associations or
6 organizations otherwise affiliated with it: *Provided*, That for
7 purposes of this section the various branches, chapters or
8 lodges of any national association or organization or local
9 churches of a nationally organized church are not considered
10 affiliates or auxiliaries of each other. The commissioner shall
11 by regulation provide for the manner for determining to
12 which organization, whether the parent organization, an
13 affiliate or an auxiliary, the one license allowed under this
14 section is granted. An annual license is valid for one year from
15 the date of issuance and entitles only the licensee to hold no
16 more than two bingo occasions per week. No two or more
17 organizations may hold a joint bingo occasion under any
18 annual licenses. No bingo occasion held pursuant to an
19 annual license may exceed six hours' duration.

20, A licensee shall display its annual bingo license
21 conspicuously at the location where the bingo occasion is
22 held.

23 All bingo occasions shall be open to the general public.

§47-20-5. Limited occasion license; conditions on holding of games.

1 A limited occasion license is valid only for the time period
2 specified in the application and entitles only the licensee to
3 hold a bingo occasion once every twenty-four hours for a time
4 period not to exceed two weeks. Two or more organizations
5 may hold a joint bingo occasion provided each participating
6 organization has been granted a limited occasion bingo
7 license for such jointly held occasion. No bingo occasion held
8 pursuant to a limited occasion license may exceed twelve
9 hours in duration. Each charitable or public service
10 organization which desires to hold bingo occasions pursuant
11 to this section, or any of its auxiliaries or other organizations
12 otherwise affiliated with it shall obtain a limited occasion
13 license notwithstanding the fact that it holds a valid annual
14 license: *Provided*, That no licensee which holds an annual
15 license may obtain more than one limited occasion license.

16 Only three limited occasion licenses per year in the
17 aggregate may be granted to a charitable or public service
18 organization and all of its auxiliaries or other associations or
19 organizations otherwise affiliated with it, none of which hold
20 an annual license. For purposes of this section the various
21 branches, chapters or lodges of any national association or
22 organization or local churches of a nationally organized
23 church are not considered affiliates or auxiliaries of each
24 other. The commissioner shall by regulation provide the
25 manner for determining to which organization, whether the
26 parent organization, an affiliate or an auxiliary, the three
27 licenses allowed under this section are granted.

28 A licensee shall display its limited occasion license
29 conspicuously at the location where the bingo occasion is
30 held.

31 All bingo occasions shall be open to the general public.

§47-20-6. License fee and exemption from taxes.

1 (a) A license fee shall be paid to the tax commissioner for
2 annual licenses in the amount of one hundred dollars, except
3 that for bona fide senior citizen organizations the fee is fifty
4 dollars. A license fee shall be paid to the tax commissioner for

5 a limited occasion license in the amount of twenty-five
6 dollars. A license fee of five hundred dollars shall be paid to
7 the tax commissioner for a state fair license as provided in
8 section twenty-two of this article. The license fee imposed by
9 this section is in lieu of all other license or franchise taxes or
10 fees of this state, and no county or municipality or other
11 political subdivision of this state is empowered to impose a
12 license or franchise tax or fee.

13 (b) The gross proceeds derived from the conduct of bingo
14 occasions are exempt from state and local business and
15 occupation taxes, income taxes, excise taxes and all special
16 taxes. The licensee is exempt from payment of consumers
17 sales and service taxes and use taxes on all purchases for use
18 or consumption in the conduct of a bingo occasion and is
19 exempt from collecting consumers sales taxes on any
20 admission fees and sales of bingo cards: *Provided*, That the
21 exemption provided in this subsection does not apply to state
22 fair bingo proceeds.

§47-20-10. Limits on prizes awarded—General provisions.

1 Except as provided otherwise in section twenty-two of this
2 article, the total prizes awarded by a licensee during the
3 period of a license may not exceed in value fifty percent of the
4 gross proceeds collected during said period or one hundred
5 thousand dollars, whichever amount shall be less: *Provided*,
6 That notwithstanding the foregoing limitation, the total
7 prizes awarded by a licensee during the period of a license
8 may be equal to or less than five dollars times the number of
9 games played. The total prizes awarded by a licensee, or in the
10 aggregate by two or more limited occasion licensees holding a
11 joint bingo occasion, for any bingo occasion held pursuant to
12 an annual or limited occasion license may not exceed in value
13 two thousand dollars.

14 Prizes may be money or merchandise other than beer,
15 nonintoxicating beer, wine, spirits or alcoholic liquor as
16 defined in section five, article one of chapter sixty of this code.
17 If the prizes are merchandise, the value assigned to them is
18 their fair market value at the time they are won.

§47-20-15. Payment of reasonable expenses from proceeds; net proceeds disbursement.

1 (a) The reasonable, necessary and actual expenses
2 incurred in connection with the conduct of bingo occasions,

3 not to exceed ten percent of the gross proceeds collected
4 during a license period, may be paid out of the gross proceeds
5 of the conduct of bingo, including, but not limited to:

6 (1) Rent paid for the use of the premises, provided that a
7 copy of the rental agreement was filed with the bingo license
8 application and any changes thereto were filed within ten
9 days of being made;

10 (2) The cost of custodial services;

11 (3) The cost to the licensee organization for equipment
12 and supplies used to conduct the bingo occasion;

13 (4) The cost to the licensee organization for advertising the
14 bingo occasion; and

15 (5) The cost of hiring security personnel.

16 (b) The actual cost to the licensee for prizes, not to exceed
17 the amounts as specified in section ten of this article, may be
18 paid out of the gross proceeds of the conduct of bingo.

19 (c) The cost of any refreshments, souvenirs, or any other
20 item sold or otherwise provided through any concession to
21 the patrons may not be paid for out of the gross proceeds
22 from the bingo occasion. The licensee shall expend all net
23 bingo proceeds and any interest earned thereon for the
24 charitable or public service purposes stated in the application
25 within one year after the expiration of the license under
26 which the bingo occasions were conducted. A licensee which
27 does not qualify as a qualified recipient organization may
28 apply to the commissioner at the time it applies for a bingo
29 license or as provided in subsection (e) of this section for
30 permission to apply any or all of its net proceeds to directly
31 support a charitable or public service activity or endeavor
32 which it sponsors.

33 (d) No gross proceeds from any bingo operation may be
34 devoted or in any manner used by any licensee or qualified
35 recipient organization for the construction, acquisition,
36 improvement, maintenance or repair of real or personal
37 property except that which is used exclusively for one or
38 more charitable or public service purposes or as provided in
39 subdivision (3), subsection (a) of this section.

40 (e) Any licensee which, in good faith, finds itself unable to
41 comply with the requirements of this provision shall apply to
42 the commissioner for permission to expend its net proceeds
43 for one or more charitable or public service purposes other
44 than that stated in its license application or for permission to

45 expend its net proceeds later than the one-year time period
46 specified in this section. The application shall be on a form
47 furnished by the commissioner and shall include the
48 particulars of the requested changes and the reasons for the
49 changes. The application shall be filed no later than sixty
50 days before the end of the one-year period specified in this
51 section. In the case of an application to extend the time in
52 which the net proceeds are to be expended for a charitable or
53 public service purpose, the licensee shall file such periodic
54 reports with the commissioner as the commissioner directs
55 until the proceeds are so expended.

§47-20-21. Proceeds of state fair.

1 The Legislature declares that the net proceeds of any bingo
2 game which accrue to the West Virginia state fair are
3 considered used for charitable or public service purposes as
4 defined in section two of this article. Any proceeds allowed
5 by the state fair board to be paid to or retained by persons
6 who conduct bingo occasions at the state fair are deemed to
7 be expenses incurred by the state fair board.

§47-20-22. State fair bingo license; rules and regulations.

1 The West Virginia state fair board may apply annually to
2 the tax commissioner for a state fair bingo license to provide
3 for the conduct of bingo occasions at the state fair. The
4 license shall permit the state fair board to have one or more
5 persons conduct bingo occasions at the state fair who have
6 conducted bingo occasions on a regular basis for at least two
7 years prior to the date of the state fair board's application. A
8 license fee of five hundred dollars shall be paid to the tax
9 commissioner for the state fair bingo license. The provisions
10 of sections ten, eleven, twelve, fourteen, fifteen and
11 twenty-eight of this article do not apply to a state fair bingo
12 license. No state fair bingo license may be issued unless the
13 application includes a copy of any lease or agreement entered
14 into between the state fair board and the persons who are to
15 conduct bingo occasions at the state fair. The state fair board
16 may adopt reasonable rules and regulations, not inconsistent
17 with or in violation of the provisions of this article, to govern
18 the holding of bingo occasions at the state fair.

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

R. P. Baylor

Chairman Senate Committee

Jonny E. Whitlow

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Todd C. Nichols

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Waverly R. McInnis

President of the Senate

Wayne M. See, Jr.

Speaker House of Delegates

The within *is approved* this the *29*
day of *March*, 1982.

John R. Roper

Governor



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SECY. OF STATE