WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED

Committee Substitute for
SENATE BILL NO. 288

(By Mr. Ash and Mr. Houck, Jr.)

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 consideration for the use of one or more cards bearing several rows of numbers no two of which cards played in any one game contain the same sequence or pattern. When the game commences, numbers are selected by chance, one by one, and announced. The players cover or mark those numbers announced as they appear on the card or cards which they are
using. The player who first announces that he has covered a
predetermined sequence or pattern which had been
preannounced for that game is, upon verification of such,
declared the winner of that game.
(b) "Bingo occasion" or "occasion" means a single
gathering or session at which a series of one or more
successive bingo games is conducted by a single licensee.
(c) "Charitable or public service activity or endeavor"
means any bona fide activity or endeavor which directly
benefits a number of people by:
(1) Assisting them to establish themselves in life as
contributing members of society through education or
religion; or
(2) Relieving them from disease, distress, suffering,
constraint, or the effects of poverty; or
(3) Increasing their comprehension of and devotion to the
principles upon which this nation was founded and to the
principles of good citizenship; or
(4) Making them aware of or educating them about issues
of public concern so long as the activity or endeavor is not
aimed at influencing legislation or supporting or
participating in the campaign of any candidate for public
office; or
(5) By lessening the burdens borne by government or
voluntarily supporting, augmenting or supplementing
services which government would normally render to the
people; or
(6) Providing or supporting nonprofit community
activities for youth, senior citizens or the disabled; or
(7) Providing or supporting nonprofit cultural or artistic
activities.
(d) "Charitable or public service organization" means a
bona fide, not for profit, tax-exempt, benevolent, educational,
philanthropic, humane, patriotic, civic, religious, fraternal, or
eleemosynary incorporated or unincorporated association or
organization; or a volunteer fire department, rescue unit or
other similar volunteer community service organization or
association; but does not include any nonprofit association or
organization, whether incorporated or not, which is organized
primarily for the purposes of influencing legislation or
supporting or promoting the campaign of any candidate for
public office.
An organization or association is tax-exempt if it is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c) (3), 501(c) (4), 501(c) (8), 501(c) (10), 501(c) (19) or 501(d) of the Internal Revenue Code.

(e) “Commissioner” means the state tax commissioner.

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

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

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

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

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

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

(l) “Net proceeds” means all moneys collected or received from all the conduct of bingo at bingo occasions held by a.
licensee during a license period after payment of expenses authorized by sections ten, thirteen, fifteen and twenty-two of this article; this term shall not be deemed to include moneys collected or received from the sale of concessions at bingo occasions.

(m) “Person” means any individual, association, society, incorporated or unincorporated organization, firm, partnership or other nongovernmental entity or institution.

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

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

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

A charitable or public service organization or any of its auxiliaries or other organizations otherwise affiliated with it may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it: Provided, That for purposes of this section the various branches, chapters or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall by regulation provide for the manner for determining to which organization, whether the parent organization, an affiliate or an auxiliary, the one license allowed under this section is granted. An annual license is valid for one year from the date of issuance and entitles only the licensee to hold no more than two bingo occasions per week. No two or more organizations may hold a joint bingo occasion under any annual licenses. No bingo occasion held pursuant to an annual license may exceed six hours' duration.
20. A licensee shall display its annual bingo license conspicuously at the location where the bingo occasion is held.

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

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

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

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

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

1. A license fee shall be paid to the tax commissioner for annual licenses in the amount of one hundred dollars, except that for bona fide senior citizen organizations the fee is fifty dollars. A license fee shall be paid to the tax commissioner for
a limited occasion license in the amount of twenty-five
dollars. A license fee of five hundred dollars shall be paid to
the tax commissioner for a state fair license as provided in
section twenty-two of this article. The license fee imposed by
this section is in lieu of all other license or franchise taxes or
fees of this state, and no county or municipality or other
political subdivision of this state is empowered to impose a
license or franchise tax or fee.

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

§47-20-10. Limits on prizes awarded—General provisions.
1 Except as provided otherwise in section twenty-two of this
article, the total prizes awarded by a licensee during the
period of a license may not exceed in value fifty percent of the
gross proceeds collected during said period or one hundred
thousand dollars, whichever amount shall be less: Provided,
That notwithstanding the foregoing limitation, the total
prizes awarded by a licensee during the period of a license
may be equal to or less than five dollars times the number of
games played. The total prizes awarded by a licensee, or in the
aggregate by two or more limited occasion licensees holding a
joint bingo occasion, for any bingo occasion held pursuant to
an annual or limited occasion license may not exceed in value
two thousand dollars.
14 Prizes may be money or merchandise other than beer,
nonintoxicating beer, wine, spirits or alcoholic liquor as
defined in section five, article one of chapter sixty of this code.
17 If the prizes are merchandise, the value assigned to them is
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
incurred in connection with the conduct of bingo occasions,
not to exceed ten percent of the gross proceeds collected
during a license period, may be paid out of the gross proceeds
of the conduct of bingo, including, but not limited to:
(1) Rent paid for the use of the premises, provided that a
copy of the rental agreement was filed with the bingo license
application and any changes thereto were filed within ten
days of being made;
(2) The cost of custodial services;
(3) The cost to the licensee organization for equipment
and supplies used to conduct the bingo occasion;
(4) The cost to the licensee organization for advertising the
bingo occasion; and
(5) The cost of hiring security personnel.
(b) The actual cost to the licensee for prizes, not to exceed
the amounts as specified in section ten of this article, may be
paid out of the gross proceeds of the conduct of bingo.
(c) The cost of any refreshments, souvenirs, or any other
item sold or otherwise provided through any concession to
the patrons may not be paid for out of the gross proceeds
from the bingo occasion. The licensee shall expend all net
bingo proceeds and any interest earned thereon for the
charitable or public service purposes stated in the application
within one year after the expiration of the license under
which the bingo occasions were conducted. A licensee which
does not qualify as a qualified recipient organization may
apply to the commissioner at the time it applies for a bingo
license or as provided in subsection (e) of this section for
permission to apply any or all of its net proceeds to directly
support a charitable or public service activity or endeavor
which it sponsors.
(d) No gross proceeds from any bingo operation may be
devoted or in any manner used by any licensee or qualified
recipient organization for the construction, acquisition,
 improvement, maintenance or repair of real or personal
property except that which is used exclusively for one or
more charitable or public service purposes or as provided in
subsection (3), subsection (a) of this section.
(e) Any licensee which, in good faith, finds itself unable to
comply with the requirements of this provision shall apply to
the commissioner for permission to expend its net proceeds
for one or more charitable or public service purposes other
than that stated in its license application or for permission to
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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.

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.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within [illegible] this the 29th day of March, 1982.

Governor