WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4107

(By Delegates Long, Perry, Caruth, R. M. Thompson and Frederick)

Passed March 13, 2004

In Effect from Passage
AN ACT to amend and reenact §47-20-11, §47-20-12a and §47-20-16 of the code of West Virginia, 1931, as amended; and to amend and reenact §47-21-12 and §47-21-16 of said code, all relating to charitable bingo and charitable raffles; allowing certain employees to operate bingo and raffle games; allowing game proceeds to be transferred, by check, between raffle and bingo accounts to offset losses; and allowing certain residents of other states to be employed by charitable bingo and charitable raffle operations.

Be it enacted by the Legislature of West Virginia:

That §47-20-11, §47-20-12a and §47-20-16 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that §47-21-12 and §47-21-16 of said code be amended and reenacted, all to read as follows:

ARTICLE 20. CHARITABLE BINGO.

(a) Except as provided in sections thirteen and twenty-two of this article, the only persons, as defined in section two of this article, that may participate in any manner in the conduct of any bingo game or operate any concession in conjunction with a bingo occasion are either:

(1) Residents of this state and who are active members of the licensee organization or its authorized auxiliary organization and who have been active members in good standing of the licensee organization or its authorized auxiliary for at least two years prior to the date of filing of the application for a charitable bingo license or the most recent filing of an application for renewal of the license; or

(2) Employees of the licensee organization or its authorized auxiliary organization who are:

(A) Residents of this state;

(B) Residents of a state bordering this state if the county of his or her residence is contiguous to the county in this state in which the bingo operation is conducted; or

(C) Residents of a bordering state who reside within thirty-five miles of the county in which the bingo operation is conducted.

(b) Notwithstanding anything contained in this article to the contrary, no individual under the age of eighteen years may directly or indirectly participate in the conduct of a bingo game, except for junior firefighters, in accordance with the provisions of this article.

§47-20-12a. Compensation of bingo operator; number of employees.
(a) Within the guidelines set forth in subsections (b), (c) and (d) of this section, a licensee may pay a salary, the minimum of which is the federal minimum wage and the maximum of which is six dollars and fifty cents per hour, to operators of bingo games who are either:

(1) Active members of the licensee organization and who have been active members in good standing for at least two years prior to the date of filing of the application for a charitable bingo license or the most recent filing of an application for renewal of the license; or

(2) Employees of the licensee organization or its authorized auxiliary organization who are:

(A) Residents of this state;

(B) Residents of a state bordering this state if the county of his or her residence is contiguous to the county in this state in which the bingo operation is conducted; or

(C) Residents of a bordering state who reside within thirty-five miles of the county in which the bingo operation is conducted.

(b) If the licensee’s gross receipts from bingo occasions equal or exceed one hundred thousand dollars for the licensee’s most recently filed annual financial report, a salary may be paid to not more than eight operators.

(c) If the licensee’s gross receipts from bingo occasions are less than one hundred thousand dollars, but equal or exceed fifty thousand dollars for the licensee’s most recently filed annual financial report, a salary may be paid to not more than five operators.
(d) If the licensee’s gross receipts from bingo occasions are less than fifty thousand dollars for the licensee’s most recently filed annual financial report, a salary may be paid to not more than three operators.

(e) If the licensee also possesses a super bingo license, it may pay a salary to not more than fifteen operators during the super bingo occasion.

(f) In the case of a licensee lawfully holding a charitable bingo occasion simultaneously with a charitable raffle occasion, the number of paid charitable bingo operator employees allowed under this limitation for bingo licensees is in addition to the number of charitable raffle operator employees allowed under section fifteen, article twenty-one of this chapter. Licensees holding simultaneous occasions shall pay bingo operators from the proceeds of bingo operations and shall pay raffle operators from the proceeds of raffle operations and the charitable bingo fund and the charitable raffle fund and payments from the funds may not be commingled.

(g) For purposes of the limitations set forth in this section, the term “operator” or “bingo operator” or “raffle operator” does not include concession stand workers. Wages paid to concession workers may not exceed six dollars and fifty cents per hour.

§47-20-16. Records; commissioner audit.

Any licensee which holds a bingo occasion as provided by this article shall maintain a separate checking account and separate book-keeping procedure for its bingo operations: Provided, That nothing in this article restricts a licensee from transferring moneys in the account from a bingo occasion to an account created under section sixteen, article twenty-one of this chapter in an amount not to exceed the actual loss of the raffle.
occasion receiving the transfer: *Provided, however*, That money transferred shall be withdrawn only by checks having preprinted consecutive numbers and made payable to the account created under section sixteen, article twenty-one of this code. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to a specific person, firm or corporation and at no time shall a check be made payable to cash. A licensee shall maintain all records required by this article for at least three years and the records shall be open to the commissioner for reasonable inspection. Whenever the tax commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee’s books and records: *Provided further*, That the tax commissioner shall perform or cause to be performed an audit of the books and records of any licensee that has awarded total prizes in excess of one hundred seventy-five thousand dollars. The tax commissioner shall file a copy of the completed audit with the county commission of the county wherein the licensee holds bingo occasions.

ARTICLE 21. CHARITABLE RAFFLES.


(a) A licensee may pay a salary, the minimum of which is the federal minimum wage and the maximum of which is six dollars and fifty cents per hour, to operators of charitable raffle games who are either:

(1) Active members of the licensee organization and who have been active members in good standing for at least two years prior to the date of filing of the application for a charitable raffle license or the most recent filing of an application for renewal of the license; or
(2) Employees of the licensee organization or its authorized auxiliary organization who are:

(A) Residents of this state;

(B) Residents of a state bordering this state if the county of his or her residence is contiguous to the county in this state in which the raffle operation is conducted; or

(C) Residents of a bordering state who reside within thirty-five miles of the county in which the raffle operation is conducted.

(b) If the licensee’s gross receipts from raffle occasions equal or exceed one hundred thousand dollars for the licensee’s most recently filed annual financial report, a salary may be paid to not more than eight operators.

(c) If the licensee’s gross receipts from charitable raffle occasions are less than one hundred thousand dollars, but equal or exceed fifty thousand dollars for the licensee’s most recently filed annual financial report, a salary may be paid to not more than five operators.

(d) If the licensee’s gross receipts from charitable raffle occasions are less than fifty thousand dollars for the licensee’s most recently filed annual financial report, a salary may be paid to no more than three operators.

(e) In the case of a licensee lawfully holding a charitable bingo occasion simultaneously with a charitable raffle occasion, the number of paid charitable raffle operator employees allowed under this limitation for charitable raffle licensees is in addition to the number of charitable bingo operator employees allowed under section twelve-a, article twenty of this chapter. Licensees holding simultaneous occasions shall pay bingo operators from the proceeds of bingo operations and shall pay raffle operators
from the proceeds of raffle operations and the charitable bingo
fund and the charitable raffle fund and payments from the funds
may not be commingled.

(f) For purposes of the limitations set forth in this section,
the term “operator” or “bingo operator” or “raffle operator” do
not include concession stand workers. Wages paid to conces-
sion workers may not exceed six dollars and fifty cents per
hour.

§47-21-16. Records; commissioner audit.

Any licensee which holds a raffle occasion as provided by
this article shall maintain a separate account and separate book-
keeping procedure for its raffle operations: Provided, That
nothing in this article restricts a licensee from transferring
moneys in the account from a raffle occasion to an account
created under section sixteen, article twenty of this chapter in
an amount not to exceed the actual loss of the bingo occasion
receiving the transfer: Provided, however, That money trans-
ferred shall be withdrawn only by checks having preprinted
consecutive numbers and made payable to the account created
under section sixteen, article twenty of this code. All records
required by this article shall be maintained for at least three
years and shall be open to the commissioner for reasonable
inspection. Whenever the commissioner has reasonable cause
to believe a licensee has violated any of the provisions of this
article, he may perform or cause to be performed an audit of the
licensee’s books and records.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 1st day of April, 2004.

Governor