

## LEGISLATIVE BILL 351

Approved by the Governor April 24, 1978

Introduced by Revenue Committee, Keyes, 3, Chmn.;  
Burrows, 30; Dworak, 22; Newell, 13; Clark, 47

AN ACT to adopt the Nebraska Bingo Act; to amend section 28-1115, Revised Statutes Supplement, 1977; to limit expenses; to provide penalties; and to repeal the original section, and also sections 9-101 to 9-123, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The purpose of this act is to protect the health and welfare of the public, to protect the economic welfare and interests in fair play of bingo participants, to insure that the profits derived from the operation of bingo are accurately reported in order that its revenue-raising potential be fully exposed, to insure that profits from bingo are used for legitimate purposes, and to prevent the purposes bingo is to be used for from being subverted by improper elements.

(2) The intent of this act is that, (a) if facilities used for bingo occasions are leased or rented pursuant to the provisions of this act, they shall be leased or rented at not more than their fair market value, (b) no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation, and (c) rental or lease agreements entered into for facilities be separate and apart from lease and rental agreements for bingo equipment and supplies.

(3) The intent of this act is that if equipment and supplies used for bingo occasions are leased or rented, they shall be leased or rented at not more than their fair market value and that no lease or rental agreement shall provide a means for obtaining a percentage of the receipts or a portion of the profits from the bingo operation.

Sec. 2. For purposes of this act, unless the context otherwise requires, the definitions found in sections 3 to 17 of this act shall be used.

Sec. 3. (1) Lawful purpose shall mean one or more of the following:

(a) Benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; and

(c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Lawful purpose shall not include the erection, acquisition, improvement, maintenance, or repair of any real property, unless the license issuing authority specifically authorizes such expenditures after finding that the property will be used exclusively for charitable purposes or one or more of the purposes specified in subsection (1) of this section, and lawful purpose shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

Sec. 4. Bingo shall mean that form of gambling in which:

(1) The winning chances are determined by a random drawing of a subset of numbered objects among a total set of seventy-five numbered objects consecutively numbered from one to seventy-five; and

(2) The card or cards held by the player is sold, rented, or used only at the time and place of the gambling activity, and each card contains five rows of five spaces each, each space printed with a number between one and seventy-five, inclusive, except the central space, which is marked FREE.

Sec. 5. Bingo occasion shall mean a single gathering or session at which a series of successive bingo games are played.

Sec. 6. Bingo supplies and equipment shall mean all cards, boards, sheets, markers, pads, or other supplies, devices, or equipment designed for use in the play of bingo.

Sec. 7. Treasurer shall mean the State Treasurer.

Sec. 8. Extra regular card shall mean a nondisposable card which affords additional opportunities to play in a regular bingo game to be played at a bingo occasion.

Sec. 9. Gross receipts shall mean total receipts received from the conduct of bingo including, but not limited to, receipts from the sale, rental, or use of regular bingo cards, extra regular cards, special bingo cards, and bingo supplies.

Sec. 10. Licensed organization shall mean an organization licensed under the provisions of this act to conduct bingo.

Sec. 11. Limited period bingo shall mean the conduct of bingo for a period of not more than four nonconsecutive days or seven consecutive days in any one year at a festival, bazaar, picnic, carnival, or similar special function conducted by a licensed organization.

Sec. 12. Premises shall mean any room, hall, enclosure, or area in which bingo is being played.

Sec. 13. Profit shall mean the gross receipts collected from one or more bingo occasions, less reasonable sums necessarily and actually expended for bingo supplies and equipment, prizes, utilities, license fees, taxes, and rent.

Sec. 14. Regular bingo card shall mean a nondisposable card issued to a person upon payment of the admission fee which affords a person the opportunity to participate in all regular games played at a bingo occasion.

Sec. 15. Regular bingo game shall mean a bingo game in which a person, upon payment of an admission, is issued a regular bingo card and may purchase or rent extra regular cards.

Sec. 16. Special bingo card shall mean a disposable, specially marked bingo card which affords a person the opportunity to participate in a special bingo game to be played at a bingo occasion.

Sec. 17. Special bingo game shall mean any bingo game which is not a regular bingo game and which is played with special bingo cards.

Sec. 18. (1) Any organization existing for charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purpose, to which contributions are deductible for federal or state income tax purposes, may apply to the State Treasurer for a license to conduct bingo.

(2) Prior to applying for a license, an organization listed under subsection (1) of this section shall:

(a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization;

(b) Have at least ten members in good standing;

(c) Conduct activities within this state in addition to the conduct of bingo;

(d) Be authorized by its constitution, articles, charter, or by-laws to further in this state a lawful purpose;

(e) Operate without profit to its members, and no part of the net earnings of such organization shall inure to the benefit of any private shareholder or individual;

(f) Have been in existence for five years immediately preceding its application for a license, and shall have had during that five-year period a bona fide membership actively engaged in furthering a lawful purpose; and

(g) None of the provisions of this section shall prohibit senior citizens groups from organizing and conducting bingo pursuant to this act.

Sec. 19. Each applicant for a license to conduct bingo shall file with the treasurer an application on a form prescribed by the treasurer. The application shall include:

(1) The name and address of the applicant;

(2) Sufficient facts relating to the incorporation or organization of the applicant to enable the treasurer to determine if the applicant is eligible for a license under this section;

(3) The name and address of each officer of the applicant organization;

(4) The place and date of each bingo occasion proposed to be conducted during the effective period of the license;

(5) The name and address of the owner of the premises in which bingo will be conducted and the approximate capacity of the premises;

(6) A list of expenses proposed to be incurred in connection with the conduct of bingo, the name and address of each payee, the purposes for which each payee is proposed to be paid, and the estimated amount of each payment;

(7) The name, date of birth, and address of each supervising member for each bingo occasion who shall be a bona fide and active member of the applicant organization and of good moral character and one or more of whom shall be responsible for the conduct of bingo games at each bingo occasion;

(8) The name of any licensed organization cosponsoring any bingo occasion;

(9) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for the proper utilization of the gross receipts derived from the conduct of bingo;

(10) The specific purposes to which the profits from the conduct of bingo are to be devoted;

(11) A roster of members, if the treasurer deems it necessary and proper; and

(12) Other information which the treasurer deems necessary.

Sec. 20. All bingo licenses may be renewed annually and each annual application for a license shall be accompanied by:

(1) A sworn statement of each designated supervising member that he will be responsible for compliance with rules and regulations for each bingo occasion which he supervises;

(2) A sworn statement by the member designated as responsible for the proper utilization of gross receipts that no commission, fee, rent, salary, profits, compensation, reward, or recompense will be paid to any person or organization except payments sanctioned by the

treasurer and that all profits will be spent for a lawful purpose; and

(3) A ten dollar license fee, one dollar for an annual license for each designated supervising member, and one dollar for an annual license for each designated member responsible for the proper utilization of gross receipts.

Sec. 21. No bingo occasion shall be conducted at a facility other than a facility owned by the licensed organization or at a facility leased or rented by the licensed organization pursuant to the requirements for such arrangements set forth in this act.

Sec. 22. No compensation shall be paid to any person for the conduct of, or in connection with, a bingo occasion, either directly or indirectly.

Sec. 23. Not more than ten bingo occasions per month per license may be held at any one premises.

Sec. 24. No bingo occasion shall last for longer than six consecutive hours.

Sec. 25. No prize in a single bingo game shall exceed one thousand dollars and the aggregate value of bingo prizes at any bingo occasion shall not exceed three thousand five hundred dollars. At least fifty per cent of the gross receipts from each bingo occasion shall be awarded as prizes. Merchandise prizes shall be valued at their fair market retail value.

Sec. 26. A licensed organization may purchase or rent bingo supplies or equipment from another licensed organization or from any person who sells or distributes bingo supplies and equipment. Such purchase or rental shall be for the fair market value of the supplies or equipment and shall not include any services rendered.

Sec. 27. No person under eighteen years of age shall play any bingo game. No such person shall be present at a bingo occasion unless such person's parent or legal guardian is present and approves such person's presence during the bingo occasion, except that the organization may prohibit the presence of any person under eighteen years of age from being present at its bingo occasion.

Sec. 28. Any licensed organization conducting a bingo occasion within a building or other enclosed area shall provide designated smoking and nonsmoking areas, except that such provision shall not apply when all

participants in such occasion are either smokers or nonsmokers.

Sec. 29. No alcoholic beverages shall be sold or served to the public during a bingo occasion unless it is a limited period bingo occasion.

Sec. 30. No expense shall be incurred or amounts paid in connection with the conduct of bingo by an organization, except those reasonably expended for bingo supplies and equipment, prizes, utilities used during the bingo occasion, bingo license fees, taxes related to bingo; and the rental or lease of facilities and bingo equipment and supplies rented or leased pursuant to this act.

Sec. 31. Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted.

Sec. 32. Except for limited period bingo, the location of a bingo occasion, the time it is to be or has been conducted, and the prizes awarded or to be awarded shall not be advertised, except as follows:

(1) Two signs not exceeding six square feet in area, may be displayed on the premises where the bingo occasion is to be conducted;

(2) An organization may make an advance announcement of the bingo occasion in its regular bulletin or publication; and

(3) An organization may distribute flyers not exceeding eight and one half inches by eleven inches in size to announce their future bingo occasions.

Sec. 33. No organization shall lease any premises with rental payments based on a percentage of receipts or profits from bingo or on the number of persons participating in any bingo occasion. Rent shall be at a fixed monthly rate not subject to change during the term of the lease. All bingo occasions shall be conducted only by the licensee who holds such lease. All lease agreements shall be subject to approval by the treasurer.

Sec. 34. Any organization conducting bingo shall clearly post the percentage of the gross receipts for the last preceding quarter that has been paid out in prizes and the percentage of the gross receipts, if any, that has been paid to charitable organizations. Such reports shall be posted within thirty days after the

close of the quarter.

Sec. 35. Bingo gross profits shall be segregated from other revenue of an organization and placed in a separate checking account. Separate books of its bingo operations shall be maintained by an organization. The person who accounts for bingo gross receipts and profits shall be a different person than the person who accounts for other revenue of an organization. Records required by this act shall be preserved for two years. Any law enforcement agency, or other agency of government, shall have the authority to investigate the bingo records of an organization at any time. Organizations shall, upon request, deliver their bingo records to the treasurer or his duly appointed agents for investigation.

Sec. 36. An organization shall report annually to its membership its gross receipts from bingo, its profits from bingo, and the itemized distribution of those profits.

Sec. 37. An organization shall file the following with the treasurer before conducting a bingo occasion, and on an annual basis thereafter:

(1) U.S. Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, Form 990, if the organization is required to file such form with the Department of the Treasury;

(2) U.S. Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, Form 990-T, if the organization is required to file such form with the Department of the Treasury; and

(3) A report signed by an officer of the organization and notarized, which contains the following information:

(a) A roster of the membership of the organization, if required by the treasurer;

(b) The address of the organization;

(c) The period of time the organization has been in existence;

(d) The purpose for which the organization is organized;

(e) Whether the group is authorized and existing under the laws of the state;



(f) The names and home addresses of all officers and the bingo chairman of the organization;

(g) The location where the games are to be held, including the floor, the name of the owner of the property where the games are to be held, and a copy of the lease agreement, if any, and such lease agreement shall be subject to approval by the treasurer;

(h) The days of the week bingo is to be played;

(i) The date of the first occasion and the date of the last occasion;

(j) The hours when the games will be played;

(k) The price to be charged per person for each card;

(l) The minimum number of players per game;

(m) The nature of the prizes, money, or merchandise;

(n) The name of the member who will have charge of distribution of the profits of the game;

(o) Whether any refreshments will be served or allowed to be consumed during the time the games are being conducted and, if so, whether there will be a charge for such refreshments; and

(p) The terms and conditions of all rental or lease agreements entered into for facilities used for bingo or for bingo supplies and equipment.

The information required by this section shall be kept current. An organization shall notify the treasurer within thirty days if any information in the report is no longer correct and shall supply the correct information including all information required pursuant to subdivision (p) of subsection (3) of this section.

Sec. 38. (1) Any number of cards may be purchased by a licensed organization and sold or rented to players at any bingo occasion. Each card in use by the organization at any bingo occasion shall differ from all others in use with respect to the distribution of playing numbers.

(2) The twenty-five playing spaces on a regular bingo card and an extra regular card shall be contained within an area not less than four inches square. The

twenty-five playing spaces on a special bingo card shall be contained within an area not less than three inches square.

Sec. 39. One of the following methods shall be used in securing the numbers called in the conduct of the game:

(1) An electrically operated blower machine containing balls which the operator may take from the air one at a time while the blower is in operation, or which provides a trap or other mechanical means for automatically catching not more than one ball at a time while the blower is in operation; or

(2) A mechanically or manually operated cage which provides a trap or other mechanical means for automatically catching not more than one ball at a time while the cage is in operation.

Sec. 40. Bingo games shall be conducted in the following manner:

(1) All bingo cards used in a regular bingo game shall be purchased at a price established before the start of the regular bingo session;

(2) Bingo should be called immediately. If a bingo is overlooked, the very next number will be declared the winner, if indeed there is a winner. If a subsequent number, or numbers, produce no bingo, then the overlooked bingo shall be the winner;

(3) At any bingo occasion except limited period bingo, any player buying or renting an extra regular card is entitled to use such card in all regular games conducted after he buys or rents the card;

(4) Each person admitted to a bingo occasion, other than limited period bingo, is furnished with a regular bingo card enabling him to play in all regular bingo games conducted at such bingo occasion;

(5) The value of any merchandise prize awarded in a bingo game shall be its current retail price. The current retail price of merchandise prizes donated to a licensed organization shall not be reported as an expenditure in its financial statement of bingo operations. No merchandise prize shall be redeemable or convertible into cash directly or indirectly by the licensed organization;

(6) The licensed organization shall keep an accurate, separate count of the number of regular bingo cards, extra regular cards, and special bingo cards which are sold, rented, or used. Such information shall be available for inspection at the close of the bingo occasion;

(7) Method of play:

(a) The method of play in any bingo game and the utilization of bingo equipment and supplies shall be such that each player is afforded an equal opportunity to win;

(b) The objects to be drawn shall be essentially the same in size, color, shape, weight, balance, and all other characteristics, so that at all times during the conduct of bingo, each object possesses the capacity for equal agitation with any other object within the receptacle;

(c) All seventy-five objects shall be present in the receptacle at the beginning of each bingo game;

(d) The announcement of all numbers drawn shall be clearly audible to the players present;

(e) When more than one room is used for any one bingo game, the receptacle and the caller and any assistant shall be in the room where the greatest number of players are present, and all numbers shall be announced in a manner clearly audible to the players in each room;

(f) Once removed, no object shall be returned to the receptacle until after the conclusion of the game; and

(g) The receptacle and the caller shall be visible to the majority of players at all times;

(8) The particular arrangement of numbers required to be covered in order to win and the amount of the prize for each game shall be clearly described and audibly announced to the players immediately before each game. The amount of the prize for each bingo game also shall be posted where the regular bingo cards are distributed;

(9) Verification of winner:

(a) The numbers appearing on the winning card at the time a winner is determined shall be verified in such a manner that all present can hear; and

(b) At the time a winner is determined, any player may call for a verification of all numbers and of the objects remaining in the receptacle and not yet drawn. This verification shall be made in the immediate presence of the supervising member and at least one disinterested player;

(10) When more than one player is found to be the winner on the call of the same number in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among the winners. When equal division of a merchandise prize is not possible, identical substitute prizes whose aggregate retail value is approximately equal to that of the designated prize shall be awarded; and

(11) No licensed organization shall permit any person who is conducting or assisting in the conduct of bingo on a bingo occasion to participate as a player on that occasion.

Sec. 41. A copy of all information filed with the treasurer pursuant to sections 19, 20, 35, and 36 of this act shall also be filed with the county clerk of the county in which the bingo is to be conducted and if the bingo is conducted within the limits of an incorporated city or village, a copy shall also be filed with the city or village clerk. Such information shall be filed within five days after its filing with the treasurer.

Sec. 42. Any city or village is hereby directed to impose a tax of five per cent on the gross receipts received from the conducting of bingo within such city or village. Where bingo is conducted within the limits of any incorporated city or village the county within which such bingo is conducted shall also impose a tax of five per cent on the gross receipts from the conducting of such bingo. Where bingo is conducted outside the limits of any incorporated city or village, the county in which such bingo is conducted shall impose a tax of ten per cent on the gross receipts from the conducting of bingo outside the corporate limits of such city or village. Such tax shall be credited to the general fund of the county and city or village, if the bingo was conducted within the limits of such city or village, which issued the permit.

Sec. 43. Upon payment of an annual permit fee of ten dollars, the licensee shall obtain a permit from the city or village clerk or finance department when bingo is to be conducted within the limits of any incorporated city or village and from the county clerk when bingo is to be conducted outside the limits of any

incorporated city or village. Such annual permit fee of ten dollars shall be paid before bingo is played and shall be paid to the city or village clerk or finance director or county clerk at the time of obtaining the annual permit. When bingo is to be conducted jointly by two or more licensees, such licensees shall obtain a permit therefor by paying a fee of ten dollars. All permits shall expire on March 31 of each year. Such permit shall be displayed conspicuously at the place where bingo is conducted at all times during the conduct thereof.

Sec. 44. The voters of any city or incorporated village shall have the right to vote on the question of prohibiting the conducting of bingo within such city or village. The question may be submitted at any general state, city, or village election whenever petitions calling for its submission, signed by at least twenty per cent of the number of persons voting in the latest preceding general state, city, or village election, are presented to the city or village clerk or election commissioner not less than thirty days prior to the date of such election, except that such question may not be submitted more often than once in four years. The question shall be placed on the ballot in substantially the following form:

SHALL THE CONDUCTING OF BINGO  
BE PROHIBITED IN THE CITY (VILLAGE)  
OF .....  
FOR BINGO  
AGAINST BINGO

A majority of the voters voting on the issue shall determine such issue. Where bingo is conducted outside the limits of any city or incorporated village, the voters of a county shall have the right to vote on the question of prohibiting the conducting of bingo outside the limits of any incorporated city or village within such county in the same fashion as that hereinbefore provided for voting upon such question by voters within such city or village.

Sec. 45. The proceeds from the tax levied pursuant to section 42 of this act, shall be used to pay for the costs of regulation and enforcement of this act.

Sec. 46. The treasurer shall adopt and promulgate such rules and regulations and prescribe all forms as are necessary to carry out this act.

Sec. 47. Any licensee or employee or agent of any licensee who shall violate any provision of this act shall be guilty of a Class II misdemeanor. Any licensed organization guilty of violating any provision of this act more than once in a twelve-month period shall have its license revoked for a period of not less than three months.

Sec. 48. (1) No person, except a licensee operating pursuant to sections 1 to 43 of this act, shall conduct any game of bingo for which a charge is made or to the winner of which any money, property, or other prize is awarded. Any such game conducted in violation of this subsection is hereby declared to be a public nuisance. Any person violating the provisions of this subsection shall be guilty of a Class IV misdemeanor.

(2) No person shall play at any game of bingo conducted in violation of subsection (1) of this section. Any person violating the provisions of this subsection shall be guilty of a Class IV misdemeanor.

Sec. 49. Any citizen shall have standing to sue a person issued a license pursuant to this act. Such suit may challenge the legitimacy of any bingo game operation, including but not limited to, the distribution of gross proceeds, the awarding of prizes, and the conduct of such game. Any citizen bringing an action under this section shall, if successful, be entitled to recover court costs and reasonable attorneys' fees.

Sec. 50. Sections 1 to 50 of this act shall be known as and may be cited as the Nebraska Bingo Act.

Sec. 51. That section 28-1115, Revised Statutes Supplement, 1977, be amended to read as follows:

28-1115. Any bona fide nonprofit organization whose primary activities are conducted for charitable and community betterment purposes may conduct lotteries, raffles, and gift enterprises when the proceeds of such activities are used solely for charitable or community betterment purposes and the awarding of prizes to participants. No expense shall be incurred or amounts paid in connection with the conduct of a lottery except those reasonably expended for lottery supplies and equipment, prizes, license fees, rent, and taxes related to such lottery.

Sec. 52. That original section 28-1115, Revised Statutes Supplement, 1977, and also sections 9-101 to 9-123, Reissue Revised Statutes of Nebraska, 1943, are repealed.