

LEGISLATIVE BILL 164

Approved by the Governor April 20, 1979

Introduced by Johnson, 8

AN ACT to amend sections 9-126, 9-136, 9-139, 9-144, 9-145, 9-146, 9-148, 9-152, 9-153, 9-158, 9-160, 9-163, 9-165, 9-172, 9-173, and 28-1113, Revised Statutes Supplement, 1978, relating to bingo; to redefine terms; to change provisions relating to the number of bingo occasions and the location and manner such occasions are conducted; to allow compensation for security services; to provide provisions relating to nonalcoholic beverages and food; to change provisions relating to standing to sue; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 9-126, Revised Statutes Supplement, 1978, be amended to read as follows:

9-126. (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. 2. That section 9-136, Revised Statutes Supplement, 1978, be amended to read as follows:

9-136. 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, security services, license fees, taxes, and rent.

Sec. 3. That section 9-139, Revised Statutes Supplement, 1978, be amended to read as follows:

9-139. 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. 4. That section 9-144, Revised Statutes Supplement, 1978, be amended to read as follows:

9-144. 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 sections 9-124 to 9-173 and 28-1115. No licensed organization may conduct a bingo occasion outside of the county in which the licensed organization has its principal office.

Sec. 5. That section 9-145, Revised Statutes Supplement, 1978, be amended to read as follows:

9-145. No compensation shall be paid to any person for the conduct of, or in connection with, a bingo occasion, either directly or indirectly, except for security services.

Sec. 6. That section 9-146, Revised Statutes Supplement, 1978, be amended to read as follows:

9-146. (1) Not more than ten bingo occasions per month per license may be held at any one premises by a licensed organization. Bingo occasions held as part of a limited period bingo shall not be counted in determining whether a licensed organization has exceeded the limitation provided in this subsection.

(2) Irrespective of the number of licensed organizations authorized to hold bingo occasions within a single structure or building, not more than two limited period bingos per year and, with the exception of a limited period bingo, not more than two bingo occasions per week may be held within such structure or building. The governing board of the incorporated city or village in which such structure or building is situated or the governing board of the county in which such structure or building is situated, if it be situated outside the limits of an incorporated city or village, may allow, following actual notice to all licensed organizations within the boundaries of the political subdivision and published notice to the public and public hearing on such allowance, more than two bingo occasions per week within such structure or building. Such allowance may be granted for a period not to exceed three years and only upon an affirmative showing that no building or structure suitable for the conduct of a bingo occasion is available for lease or rental within such political subdivision, except the structure or building for which the allowance is sought, and that no injury to the public welfare will result from such allowance.

Sec. 7. That section 9-148, Revised Statutes Supplement, 1978, be amended to read as follows:

9-148. No Irrespective of whether a bingo game or a bingo occasion is conducted jointly by two or more licensed organizations, 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. 8. That section 9-152, Revised Statutes Supplement, 1978, be amended to read as follows:

9-152. No alcoholic beverages shall be sold or served to the public during a bingo occasion unless it is a limited period bingo occasion. Nonalcoholic beverages, as well as food, may be served and sold during any bingo occasion with all profits from such beverages and food being paid to the licensed organization conducting the bingo occasion. No expenses shall be incurred in the preparation, serving, or sale of such beverages and food except those reasonably expended for supplies, containers, utensils, preparation, storage, equipment, and utilities.

Sec. 9. That section 9-153, Revised Statutes Supplement, 1978, be amended to read as follows:

9-153. 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, security services 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 sections 9-124 to 9-173 and 28-1115.

Sec. 10. That section 9-158, Revised Statutes Supplement, 1978, be amended to read as follows:

9-158. 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 sections 9-124 to 9-173 and 28-1115 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 or her duly appointed agents for investigation.

Sec. 11. That section 9-160, Revised Statutes Supplement, 1978, be amended to read as follows:

9-160. 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 except that nothing in this section shall allow a licensed organization to hold a bingo game or conduct a bingo occasion on any day, at any time, or in any manner different from that described in its most recent filing with the treasurer.

Sec. 12. That section 9-163, Revised Statutes Supplement, 1978, be amended to read as follows:

9-163. 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) (2) 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) (3) 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) (4) 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) (5) 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) (6) 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} (7) 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} (8) 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)~~ (9) 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)~~ (10) 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. 13. That section 9-165, Revised Statutes Supplement, 1978, be amended to read as follows:

9-165. 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. Such tax shall be paid to the clerk of the political subdivision imposing the tax and the clerk shall transmit the tax to the treasurer of such subdivision. The tax shall be remitted quarterly, not later than thirty days from the close of the preceding quarter, together with such reports as may be required by the political subdivision imposing the tax.

Sec. 14. That section 9-172, Revised Statutes Supplement, 1978, be amended to read as follows:

~~9-172. Any citizen shall have standing to sue a person issued a license pursuant to sections 9-124 to 9-173 and 28-4445. 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. Any person in this state, including any law enforcement official, who has cause to~~



believe that (1) any licensed organization, (2) any lessor of facilities or bingo equipment and supplies used for a bingo occasion, (3) any person conducting any game of bingo, (4) any employee or agent of such licensed organization, lessor, or person, or (5) any person acting in concert with such licensed organization, lessor, or person, has engaged in or is engaging in any conduct in violation of the Nebraska Bingo Act or has aided or is aiding another in any conduct in violation of the Nebraska Bingo Act may commence a civil action in any district court of this state.

Sec. 15. In any civil action commenced pursuant to section 9-172 a court may allow:

(1) A temporary restraining order or injunction, with or without a bond as the court may direct, prohibiting a party to the action from continuing or engaging in such conduct, aiding in such conduct, or doing any act in furtherance of such conduct;

(2) A declaration that the conduct by a licensed organization or employee or agent of a licensed organization, which is a party to the action, constitutes a violation of the Nebraska Bingo Act and a determination of the number and times of violations for certification to the treasurer for appropriate license revocation purposes;

(3) A permanent injunction under principles of equity and on reasonable terms;

(4) An accounting of the profits, earnings, or gains resulting directly and indirectly from such violations, with a distribution of such profits, earnings, or gains to all licensed organizations existing at the time of such violations which apply to the court and show that they suffered monetary losses by reason of such violations and with distribution of any remaining profits, earnings, or gains to the state; and

(5) Reasonable attorneys' fees and court costs.

Sec. 16. Proceedings under sections 14 to 17 of this act shall be subject to and governed by the district court civil procedure statutes. Issues properly raised shall be tried and determined as in other civil actions in equity.

Sec. 17. All orders, judgments, and decrees rendered under sections 14 to 17 of this act may be reviewed as other orders, judgments, and decrees.

Sec. 18. That section 9-173, Revised Statutes Supplement, 1978, be amended to read as follows:

9-173. Sections 9-124 to 9-173 and sections 15 to 17 of this act shall be known as and may be cited as the Nebraska Bingo Act.

Sec. 19. That section 28-1113, Revised Statutes Supplement, 1978, be amended to read as follows:

28-1113. Nothing in this article shall be construed to:

(1) Apply to or prohibit wagering on the results of horse races by the pari-mutuel or certificate method when conducted by licensees within the race track enclosure at licensed horse race meetings; or

(2) Prohibit or punish the playing of bingo when conducted by any licensee operating pursuant to sections 9-104 to 9-124 Chapter 9, article 1.

Sec. 20. That original sections 9-126, 9-136, 9-139, 9-144, 9-145, 9-146, 9-148, 9-152, 9-153, 9-158, 9-160, 9-163, 9-165, 9-172, 9-173, and 28-1113, Revised Statutes Supplement, 1978, are repealed.

Sec. 21. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.