

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SUBSTITUTE HOUSE BILL
NO. 2383**

As Recommended by House Committee on
Federal and State Affairs

Brief*

Sub. for HB 2383 would create the Charitable Bingo and Raffle Act (Act) by amending the text of the Bingo Act and adding new law concerning the regulation of charitable raffles. Specific information about changes that would be made to charitable bingo laws, as well as the purpose, regulation, licensure, taxation, and enforcement of charitable raffles as proposed by the bill is discussed below.

BINGO

The bill would make several substantive changes to the Bingo Act.

Concerning the regulation of bingo, the bill would do the following:

General Requirements and Restrictions

- Remove restrictions regulating the way bingo premises can be divided;
- Remove restrictions prohibiting the advertising of bingo, (currently may only advertise pursuant to rules and regulations);

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Remove restrictions prohibiting other games of chance or contests where prizes are awarded from being conducted on a premise where bingo is being conducted; and
- Remove language excepting payment of prizes of less than \$200 from the requirement that licensees with gross receipts of \$1,000 or more must make all payments related to the management, operation, or conduct of bingo games from a Bingo Trust Bank Account.

Time, Location, and Number of Days Bingo May Be Conducted

- Remove restrictions regulating to the number of days bingo games can be conducted at a premise other than the premise listed on the license (current limit is five days per year on a premise other than the premise listed on the license);
- Allow licensees to conduct bingo games in adjoining counties to the county where the licensee is located;
- Remove restrictions limiting the number of days bingo games can be managed, operated, or conducted per week (current limit is two days per week);
- Remove restrictions limiting number of times a premise can be used for bingo each week (current limit is three days per week);
- Remove restrictions limiting the number of regular, special, and progressive call bingo games that can be conducted in one bingo session (current limit is 25 games per session, not more than five of which are special games);

- Remove restrictions limiting number of licensees that may conduct bingo games at a given location in any one session (current limit is one licensee);
- Remove restrictions requiring a waiting period between bingo sessions (current requirement is 44 hours between bingo games on a premise or within 1,000 feet of a premise where bingo has been conducted);
- Remove restrictions limiting where progressive bingo sessions can be conducted (currently cannot be conducted at a location other than that specified in the license); and
- Allow progressive bingo games to be conducted in conjunction with a session of bingo.

Number of Games Allowed in a Session of Bingo

- Remove restrictions limiting the number of progressive bingo games conducted during a single session of bingo (current limit is 2 games per session, with entire progressive bingo game not to exceed 20 bingo sessions);
- Remove restrictions prohibiting limits on the number of instant bingo games that can be played in one session and the number of instant bingo tickets sold in a game of instant bingo (currently no limit); and
- Remove restrictions limiting the number of mini games of bingo during a session (current limit is 30 games) and time that mini bingo can be conducted (currently cannot be more than two hours prior to first regular or special game or one hour after last regular or special game of bingo of a session).

Sale of Bingo Tickets and Supplies

- Remove restrictions limiting when instant bingo tickets can be sold (currently cannot be sold more than 2 hours prior to start of first regular or special game of call bingo or one hour after the termination of the last game of call bingo of a session) and how much sellers may charge for instant bingo tickets (current limit is \$2); Remove restrictions prohibiting the sale or use of bingo cards except as provided by rules and regulations (currently only bingo faces can be distributed except as provided in rules and regulations);
- Remove requirement that boxes of instant bingo tickets be accompanied by flare with the business name of the distributor and the license number to which the box is sold, if sold to a Kansas bingo licensee (flare with some information would still be required); and
- Allow the Administrator, upon receiving notice, to revoke or suspend the license of an organization not providing full payment to a distributor of call bingo or instant bingo supplies within 90 days of the delivery of supplies.

Restrictions on Prizes

- Remove restrictions limiting the starting amount of a progressive game of bingo (current limit is \$400);
- Remove restrictions limiting the prize amount for single games of bingo (current limit is \$50 for regular call bingo, \$500 for special call bingo);
- Allow consolation prizes of up to \$1,000 value (current limit is \$400 value);

- Allow the aggregate prize for a single session of call bingo to be increased annually based on increases on the consumer price index; and
- Require monetary prizes of \$1,199 or more to be paid by a check drawn on the Bingo Trust Bank Account of the licensee (this is currently required for monetary prizes of \$500 or more).

Bingo Premise Rent and Leases

- Remove requirement that lease documents are to be submitted to the Administrator of Charitable Gaming (Administrator) at the Kansas Department of Revenue when bingo is conducted on leased premises or leased equipment is used to conduct a bingo game; and
- Remove requirements regulating the rent that can be charged for a leased premise (current requirement is that rental cost be fair and reasonable, and rent charged must not exceed 50 percent of net proceeds for the session or the fair and reasonable rental value determined by the Administrator, whichever is less).

Restrictions on Personnel

- Remove restrictions limiting persons who lease premises and bingo licensees' ability to conduct drawings (currently limited to participating in one drawing per session, no more than four drawings per year), remove language prohibiting a requirement that persons purchase something of value to participate in a drawing conducted by a licensee or lessor, and remove language allowing only a non-monetary prize worth less than \$25 to be awarded in such a drawing; and

- Allow employees of bingo licensees to assist in the conduct of games of bingo.

RAFFLES

Purpose

The bill would state charitable raffles are an important method of raising money for charitable purposes and are in the public interest. The bill also would state the purpose and intent of the provisions concerning charitable raffles would be to:

- Define the scope of charitable raffles;
- Set standards for the conduct of raffles which insure honesty and integrity;
- Provide for means of accounting for moneys generated through raffles;
- Provide penalties for violations of laws and administrative rules and regulations related to raffles;
- Prevent commercialization of raffles;
- Prevent criminal participation in raffles; and
- Prevent diversion of funds from legitimate charitable purposes.

The bill would allow raffles to be conducted by bona fide nonprofit religious, charitable, fraternal, educational, or veterans' organizations. The definitions of "nonprofit religious," "charitable," "fraternal," "educational," or "veterans' organizations" would be the same as those definitions used for charitable bingo.

Licensure

Any bona fide nonprofit religious, charitable, fraternal, educational, or veterans' organization could apply for a license to conduct a raffle. Applications for a raffle license would be required to include:

- The name and address of the organization;
- The place or location(s) or premises for which a license is sought;
- A sworn statement verifying the applying organization is a qualifying nonprofit organization, signed by the presiding officer and secretary of the organization;
- A sworn statement the individuals signing the application have not been convicted of, pleaded guilty to, or pleaded nolo contendere to a violation of state or federal gambling laws, has not forfeited any bond to appear in court to answer charges for any such violation, and has not been convicted or pleaded guilty to or pleaded nolo contendere to a felony in any state;
- Other information as required by the Administrator; and
- A \$25 application fee.

Licenses would be issued in the name of the organization licensed and would not be transferable or assignable. No license or renewal of a license would be issued to an organization if any of its officers or directors have been convicted of, pleaded guilty to, or pleaded nolo contendere to a violation of state or federal gambling laws, or have forfeited bond to appear in court to answer charges for any such violation. Licenses would expire on June 30 following the date of issuance. No license would be required

for a qualifying organization with aggregate receipts of less than \$25,000 in the calendar year.

Restrictions on Licensees

Employees of licensees would be allowed to assist in the conduct of a raffle, but no person could receive any remuneration or profit for participating in the management, conduct, or operation of a charitable raffle.

Licensees would be required to report the name and address of any person winning a prize of \$1,199 or more, including the retail value of non-cash prizes.

Licensees would be required to keep a record of all charitable raffles managed, operated, or conducted by such licensee for three years following the date of a raffle. Because organizations raising less than \$25,000 in a calendar year would be exempt from licensure requirements, those organizations would not be licensees and also would be exempt from the records requirements.

Regulation

Structure of Raffle Regulation

The bill would specify that the State would have the exclusive power to regulate, license, and tax the management, operation, and conduct of and participation in charitable raffles.

The Secretary of Revenue (Secretary) would appoint an Administrator of Charitable Bingo and Raffles (Administrator) who would be an unclassified employee and receive a salary set by the Secretary and approved by the Governor. The Administrator would be responsible for administering and enforcing the law concerning bingo and raffles. The bill would specify that the Secretary must adopt rules and regulations

concerning the conduct of charitable raffles, including but not limited to:

- Standards for the preparation, sale, and accountability of tickets;
- The conduct of drawings; and
- The awarding of prizes.

Licensed organizations would not be able to use electronic devices to conduct raffles or sell raffle tickets, and the organizations would not be allowed to contract with a professional raffle or lottery vendor to manage, operate, or conduct a raffle.

Powers of the Administrator

To determine the receipts of licensees, the Administrator would be allowed to examine books, papers, records, or memoranda that would be required to be included in the licensee's records. The administrator would be allowed to require the attendance of the licensee in the county where the licensee resides, or where charitable raffles are conducted, and could require the attendance of any person having knowledge relating to such records, and could take testimony and require proof of such person(s). The administrator also would be allowed to issue subpoenas to compel access to records to which a licensee has access or to compel the appearance of persons, and could issue interrogatories, administer oaths and take depositions to the same extent that he or she could in a civil action in district court.

The Administrator would be authorized to enjoin and have an order restraining persons without valid licenses from managing, operating, or conducting charitable raffles.

Actions by the Administrator would be subject to review under the Kansas Judicial Review Act.

Punitive Actions by Administrator

The administrator would be allowed to revoke or suspend a raffle license, after a hearing in accordance with the provisions of the Kansas Administrative Procedures Act, for the following reasons:

- Licensee obtained the license by giving false information;
- Licensee violated any Kansas laws or provisions of the Act related to raffles; or
- Licensee has become ineligible to obtain a license under the Act.

If a license was revoked, no new license could be issued to the organization or a person acting on its behalf for six months after the revocation. A license could not be revoked or suspended for more than one year if the applicant otherwise qualified on the date the applicant made a new application for a license.

In addition to or in lieu of any civil or criminal penalty provided by law, the Administrator could impose a civil fine of not more than \$500 for each violation of the raffle provisions. No fine could be imposed without a written order from the Administrator stating the violation, the fine imposed, and the right of licensee to appeal. Money collected from fines would be credited to the State Charitable Raffle Regulation Fund.

Applicable Taxes

The bill would specify that in any raffle where the prize is a motor vehicle, the vehicle would be subject to retailer's sales tax.

All sales of charitable raffle tickets made in accordance with the Act would be exempt from sales tax.

Raffle Funds

The bill would create the State Charitable Raffle Regulation Fund, and require that all money the Administrator received from license fees be remitted to this fund. All operating expenses related to the administration and enforcement of charitable raffles would be paid from the Regulation Fund. At the end of each fiscal year, money that had not been used for raffle administration or enforcement would be transferred to the State General Fund.

The bill also would create the Charitable Raffle Refund Fund. The Administrator would be required to maintain a sufficient amount of money in the Refund Fund, to refund any license fees requiring a refund, not to exceed \$10,000.

Other Changes

The bill would amend the definition of “bet” in criminal statutes to specify that charitable raffles managed, operated, and conducted in accordance with the raffle provisions would not be considered illegal bets.

The bill would contain a severability clause, stating if any provision of the Act or any application of the Act is found to be unconstitutional or invalid, that finding would not affect the other provisions of the Act that can be given effect without the provisions found to be unconstitutional or invalid.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The Chairperson of the House Federal and State Affairs Committee appointed a Subcommittee on Raffles to make recommendations relating to the regulation of raffles in the State following the approval of a Constitutional Amendment

allowing the Legislature to authorize charitable raffles. The Subcommittee studied HB 2291, which dealt with the regulation of both bingo and raffles during its meetings. In its recommendations to the House Committee, the Subcommittee recommended a draft bill which included amended versions of the raffle regulations proposed in HB 2291. The Subcommittee's amendments included: raising the threshold for licensure from \$2,500 to \$25,000 in gross receipts; adding language to specifically exempt legal sales of charitable raffle tickets from sales tax; and changing a definition in criminal law to exclude legal charitable raffles from the definition of an "illegal bet." The draft bill was introduced as the original version of HB 2383.

The House Committee held several days of hearings on bills related to raffle and bingo regulations (HB 2291 and HB 2383). During those hearings, proponents generally testified licensees already conducting bingo games would most likely also conduct charitable raffles, and stressed the changes proposed to the bingo regulations were important to ensure uniformity in the regulation of charitable organizations and make it easier for the organizations to conduct legal bingo and raffle fundraisers.

The House Committee created a substitute bill, which included the contents of HB 2383, as well as the bingo provisions from HB 2291. The House Committee further amended the bill by striking language requiring independent verification of raffle winners, striking a one-percent enforcement tax on gross receipts of more than \$25,000, and striking language requiring disqualification of charitable organizations because of organization officials' or employees' felony convictions.

No fiscal note was available for the substitute bill.