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B-1 Charitable Gaming: Raffles and Bingo

Senate Sub. for HB 2155 created the Kansas Charitable Gaming Act (Act). The 2015 Act includes new law concerning the regulation of charitable raffles as well as changes to the Bingo Act. This article includes detailed information about those changes to the law concerning both charitable raffles and charitable bingo.

Raffles

Purpose

The Act states that charitable raffles are an important method of raising money for charitable purposes and are in the public interest. The Act also states the purpose and intent of the law concerning charitable raffles is to:

- Define the scope of charitable raffles;
- Set standards for the conduct of raffles that ensure 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 Act allows 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 are the same as those definitions used in continuing law for charitable bingo.

The Kansas Department of Revenue (KDOR) is required to report to both the House and Senate Federal and State Affairs Committees on the status of raffles and raffle licensees in the State by January 15 each year through 2018.

Licensure

Any *bona fide* nonprofit religious, charitable, fraternal, educational, or veterans' organization may apply for a license to conduct a raffle.

An application for a raffle license is 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 verifying that such organization is a *bona fide* nonprofit religious, charitable, fraternal, educational, or veterans' organization authorized to operate within the State of Kansas signed by the presiding officer and secretary of the organization;
- Other information as required by the Administrator of Charitable Gaming (Administrator); and
- An application fee, determined as follows:
 - Less than \$25,000 in annual gross raffle receipts - no application fee;
 - \$25,000 to \$50,000 in annual gross raffle receipts - \$25 license fee;
 - \$50,000 to \$75,000 in annual gross raffle receipts - \$50 license fee;
 - \$75,000 to \$100,000 in annual gross raffle receipts - \$75 license fee; and
 - More than \$100,000 in annual gross raffle receipts - \$100 license fee.

A license will be issued in the name of the organization licensed and will not be transferable or assignable. No license or renewal of a license will be issued to an organization if any of its officers, directors, officials, or persons employed on the premises 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, or have been convicted of, pleaded guilty to, or pleaded *nolo contendere* to a crime that is a felony in any state. Licenses will expire on June 30 following the date of issuance.

A license will be required for each affiliated organization of any state or national nonprofit religious, charitable, fraternal, educational, or veterans' organization.

Restrictions on Licensees

Employees of licensees will be allowed to assist in the conduct of a raffle, but no person can receive any remuneration or profit for participating in the management, conduct, or operation of a charitable raffle, unless the remuneration or profit goes to the benefit of another nonprofit group.

Licensees will be required to report the name and address of any person winning a prize with a retail value of \$1,199 or more.

Each licensee will 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 are exempt from licensure requirements, those organizations are not licensees and also are exempt from the records requirements.

Structure of Raffle Regulation

The bill specifies the State has the exclusive power to regulate, license, and tax the management, operation, and conduct of and participation in charitable raffles. The Secretary of Revenue (Secretary) will appoint the Administrator who will be an unclassified employee and receive a salary set by the Secretary and approved by the Governor. The Administrator will be responsible for administering and enforcing the law concerning bingo and raffles. The bill requires the Secretary to adopt rules and regulations concerning the conduct of charitable raffles, including, but not limited to:

- Standards for the preparation, sale, and accountability of tickets;
- Conduct of drawings; and
- Awarding of prizes.

Licensed organizations will not be able to use electronic devices to conduct raffles or sell raffle tickets, and an organization will 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 will be allowed to examine books, papers, records, or memoranda required to be included in the licensee's records.

The Administrator will be allowed to require the attendance of the licensee in the county where the licensee resides, or where charitable raffles are conducted, and can require the attendance of any person having knowledge relating to such records, and can take testimony and require proof of such person(s).

The Administrator also will 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 will be authorized to enjoin and have an order restraining persons without valid licenses from managing, operating, or conducting charitable raffles. Actions by the Administrator will be subject to review under the Kansas Judicial Review Act.

Punitive Actions by Administrator

The Administrator will be allowed to revoke or suspend a raffle license, after a hearing in accordance with the provisions of the Kansas Administrative Procedure Act, if the licensee:

- Obtained the license by giving false information;
- Violated any Kansas laws or provisions of the Act related to raffles; or
- Has become ineligible to obtain a license under the Act.

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

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

Upon the recommendation of the Administrator, the Secretary will be required to adopt rules and regulations to implement the license requirements for nonprofit organizations conducting raffles.

Applicable Taxes

The bill specifies that in any raffle for which the prize is a motor vehicle, the vehicle will be subject to retailer's sales tax. All sales of charitable raffle tickets made in accordance with the Act will be exempt from sales tax.

Raffle Funds

The bill creates the State Charitable Raffle Regulation Fund and requires all moneys the Administrator receives from license fees to be remitted to this fund. All operating expenses related to the administration and enforcement of charitable raffles will be paid from the Regulation Fund. At the end of each fiscal year, money not used for raffle administration or enforcement will be transferred to the State General Fund.

The bill also creates the Charitable Raffle Refund Fund, which will be maintained by the Administrator from the license and registration fees and taxes collected under the Act. The Refund Fund will have a limit of \$10,000.

Other Changes

The bill amends the definition of "bet" in criminal statutes to specify that charitable raffles managed, operated, and conducted in accordance with the raffle provisions cannot be considered illegal bets.

The bill contains a severability clause, stating if any provision of the Act or any application of the Act is found to be unconstitutional or invalid, the finding will not affect the other provisions of the Act.

Bingo

Concerning changes to the Bingo Act, the bill does the following:

General Requirements and Restrictions

- Keeps license fees for bingo at \$25;
- Removes restrictions regulating the way bingo premises can be divided;
- Removes restrictions prohibiting the advertising of bingo (previously, advertising was allowed only pursuant to rules and regulations);
- Removes restrictions prohibiting other games of chance or contests where prizes are awarded from being conducted on a premise where bingo is being conducted; and
- Removes 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 Games May Be Conducted

- Removes restrictions regulating the number of days bingo games can be conducted at a premise other than the premise listed on the license (the previous limit was five days per year on a premise other than the premise listed on the license);
- Allows licensees to conduct bingo games in counties adjoining the county where the licensee is located;
- Removes restrictions limiting the number of days bingo games can be managed, operated, or conducted per week (the previous limit was two days per week);

- Removes restrictions limiting the number of times a premise can be used for bingo each week (the previous limit was three days per week);
- Removes restrictions limiting the number of regular, special, and progressive call bingo games that can be conducted in one bingo session (the previous limit was 25 games per session, no more than 5 of which could be special games);
- Removes restrictions limiting the number of licensees that may conduct bingo games at a given location in any one session (the previous limit was one licensee);
- Removes restrictions requiring a waiting period between bingo sessions (the previous requirement was 44 hours between bingo games on a premise or within 1,000 feet of a premise where bingo was conducted);
- Removes restrictions limiting where progressive bingo sessions can be conducted (previously, progressive bingo sessions could not be conducted at a location other than the specified location listed on the license); and
- Allows progressive bingo games to be conducted in conjunction with a session of bingo.

Number of Games Allowed in a Session of Bingo

- Removes restrictions limiting the number of progressive bingo games conducted during a single session of bingo (the previous limit was 2 games per session, with the entire progressive bingo game not exceeding 20 bingo sessions);
- Removes 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 (previously, there was no limit); and
- Removes restrictions limiting the number of mini games of bingo during a session (the previous limit was 30 games) and the time mini bingo can be conducted (previously, mini games could not be

conducted more than two hours prior to the 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

- Removes restrictions limiting when instant bingo tickets can be sold (previously, bingo tickets could not be sold more than 2 hours prior to the start of the first regular or special game of call bingo or 1 hour after the termination of the last game of call bingo of a session) and how much sellers may charge for instant bingo tickets (the previous limit was \$2);
- Removes restrictions prohibiting the sale or use of bingo cards except as provided by rules and regulations (previously, only bingo faces could be distributed except as provided in rules and regulations);
- Removes the requirement that boxes of instant bingo tickets must 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 is still required); and
- Allows 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

- Removes restrictions limiting the starting amount of a progressive game of bingo (the previous limit was \$400);
- Removes restrictions limiting the prize amount for single games of bingo (the previous limit was \$50 for regular call bingo, \$500 for special call bingo);
- Allows consolation prizes of up to a \$1,000 value (the previous limit was \$400 value);
- Allows the aggregate prize for a single session of call bingo to be increased annually based on increases in the Consumer Price Index; and

- Requires monetary prizes of \$1,199 or more to be paid by a check drawn on the bingo trust bank account of the licensee (previously, this was required for monetary prizes of \$500 or more).

Bingo Premise Rent and Leases

- Removes the requirement that lease documents be submitted to the Administrator at the KDOR when bingo is conducted on leased premises or leased equipment is used to conduct a bingo game; and
- Removes requirements regulating the rent that can be charged for a leased premise (the previous requirement was that rental costs be fair and reasonable, and rent charged must not exceed 50 percent of the net proceeds for the session or the fair and reasonable rental value determined by the Administrator, whichever was less).

Restrictions on Personnel

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

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