

House Engrossed

~~bingo; licenses; taxes.~~

(now: bingo; conduct; licenses; taxes)

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HOUSE BILL 2522

AN ACT

AMENDING SECTIONS 5-406, 5-407 AND 5-413, ARIZONA REVISED STATUTES;
RELATING TO BINGO.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-406, Arizona Revised Statutes, is amended to
3 read:

4 5-406. Persons permitted to conduct games; premises;
5 equipment; expenses; compensation

6 A. A person shall not hold, operate or conduct any game of bingo
7 under any license issued pursuant to this article unless the person has
8 submitted affidavits as required in section 5-404 and has received prior
9 written approval from the licensing authority. Persons seeking to replace
10 a manager, proceeds coordinator, supervisor or assistant or to serve as an
11 additional manager, supervisor or assistant shall submit the appropriate
12 affidavit to the licensing authority as required in section 5-404.

13 B. Except as provided in section 5-413, only contractors, members
14 and new members of a licensee or an applicant may participate or apply to
15 participate in conducting any bingo game held by the licensee.

16 C. Except for a class A licensee, a person shall not hold, operate,
17 conduct or assist in conducting any game or games of bingo under any
18 license if the person or the person's spouse has a proprietary, equitable
19 or credit interest, or is an officer, director, agent or employee of an
20 individual or company that has a proprietary, equitable or credit
21 interest, in the licensee.

22 D. Bookkeepers or accountants need not be members of the
23 organization.

24 E. An item of expense shall not be incurred or paid in connection
25 with holding, operating or conducting any game of bingo held, operated or
26 conducted pursuant to any license issued under this article, except bona
27 fide expenses in a reasonable amount for purposes described in section
28 5-407, subsection G. A game of bingo shall not be conducted with any
29 equipment except equipment owned solely by the licensee, or jointly by not
30 more than six licensees. No portion of the ownership of such equipment
31 may be held by any person or organization not licensed pursuant to this
32 chapter. A game of bingo shall not be conducted with rented equipment.
33 This subsection does not apply to technological aids for bingo games that
34 function only as electronic substitutes for bingo cards or a contractor's
35 personnel who are needed to operate technological aids prescribed in
36 subsection Y of this section.

37 F. An applicant or a licensee shall not enter into any purchase
38 agreement other than a bona fide purchase agreement. The seller may
39 repurchase equipment only on default of the buyer and then only at a price
40 equal to or greater than ninety percent of any money paid for equipment
41 from buyer to seller. The seller may repurchase a building only on
42 default of the buyer at a fair market value per licensee.

43 G. A licensee shall not conduct or operate more than five occasions
44 of bingo during any calendar week. Not more than twelve hours of bingo
45 shall be conducted in any building or on any premises during any calendar
46 day.

1 H. The entire net proceeds of any game shall be devoted to a lawful
2 use or uses. In addition to other unlawful uses, the following are not
3 considered lawful uses under this subsection:

4 1. Compensation and expenses of directors, officers and management
5 personnel.

6 2. Fees or commissions of consultants.

7 3. Compensation paid for legal services incurred by a licensee
8 unsuccessfully defending against charges of violations of this article.

9 4. Donations to other than national, state or local nonprofit
10 parent organizations in excess of five percent of the net proceeds except
11 with the permission of the licensing authority.

12 5. Donations or any payment from the lessor to the lessee.

13 I. The premises where any game of bingo is being held, operated or
14 conducted, where it is intended that any game of bingo shall be held,
15 operated or conducted or where it is intended that any equipment shall be
16 used shall at all times be open to inspection by the licensing authority,
17 its agents and employees and peace officers of any political subdivision
18 of the state.

19 J. When any merchandise prize is awarded in a game of bingo, its
20 value shall be its current retail price. A merchandise prize shall not be
21 redeemable or convertible into cash directly or indirectly.

22 K. Equipment, prizes and supplies for games of bingo shall not be
23 purchased or sold at prices in excess of one hundred fifteen percent of
24 the average price paid by other licensees as reported in the reports
25 submitted to the licensing authority during the prior six-month period by
26 licensees having the same class of license. A licensee shall not enter
27 into any contract or purchase agreement whereby it agrees to limit its
28 source of supplies.

29 L. An alcoholic beverage shall not be offered or given as a prize
30 in any such game.

31 M. The net profits derived from the holding of games of bingo must
32 be devoted within one year after the date such profits were earned to the
33 lawful purposes of the organization permitted to conduct such games. Any
34 organization desiring to hold the net profits of games of bingo for a
35 period longer than one year after the date such profits were earned must
36 apply to the licensing authority for special permission and on good cause
37 shown the authority may grant the request.

38 N. Any licensee that does not report during any one-year period the
39 amount of its net profits, if any, shall be required to show cause before
40 the licensing authority why its license to conduct games of bingo should
41 not be revoked.

42 O. The licensing authority shall require a licensee that does not
43 conduct bingo games during any one-year period to show cause why its
44 license to conduct games of bingo should not be cancelled.

45 P. Except as otherwise provided by this section, a prize greater in
46 amount or value than one thousand dollars shall not be offered or given in

1 any single game of bingo conducted under any such license, and total
2 prizes shall not exceed an amount or value greater than three thousand
3 dollars for any occasion. Door prizes, discounts or other inducements
4 with a value exceeding two hundred fifty dollars per occasion shall not be
5 offered or given away.

6 Q. Except for a class A licensee, on application to the licensing
7 authority by the licensee the licensing authority may authorize one
8 special bonus game to be played at weekly consecutive occasions with a
9 quarterly prize limit of twelve thousand dollars. A weekly consecutive
10 occasion is an occasion played on the same day of each week during the
11 quarter. The special bonus game may be played at each weekly consecutive
12 occasion subject to the rules adopted by the licensing authority. The
13 special bonus game is not subject to the prize limits prescribed by
14 subsection P of this section.

15 R. The equipment used in playing bingo and the method of play shall
16 be such that each card shall have an equal opportunity to be a winner.
17 The objects or balls to be drawn shall be essentially the same as to size,
18 shape, weight, balance and all other characteristics that may influence
19 their selection. All objects or balls shall be present in the receptacle
20 before each game is begun. All numbers announced shall be plainly and
21 clearly audible or visible to all the players present. Where more than
22 one room is used for any one game, the receptacle, the person calling the
23 numbers as they are drawn and the person removing the objects or balls
24 from the receptacle must be present in the room where the greatest number
25 of players is present and all numbers announced shall be plainly audible
26 or visible to the players in that room and also audible or visible to the
27 players in the other room or rooms. The cards or sheets of the players
28 shall be part of a deck, group or series of cards, no two of which shall
29 be alike, and which deck, group or series shall not be so prepared or
30 arranged as to prefer any card. A licensee may provide braille cards for
31 legally blind persons or allow legally blind persons to supply their own
32 braille cards. A legally blind person supplying the person's own cards
33 shall pay a fee to the licensee equal to that which would be charged if
34 the legally blind person obtained the cards from the licensee. The bingo
35 game activity shall be conducted and recorded in a manner as prescribed by
36 the licensing authority to verify the gross receipts from each occasion.

37 S. The receptacle, the person calling the numbers as they are drawn
38 and the person removing the objects or balls from the receptacle must be
39 visible to all the players at all times except where more than one room is
40 used for any one game and subsection R of this section applies.

41 T. The particular arrangement of numbers required to be covered in
42 order to win the game and the amount of the prize shall be clearly and
43 audibly or visibly described and announced to the players immediately
44 before each game is begun.

1 U. Any players shall be entitled to call for a verification of all
2 numbers drawn at the time a winner is determined, and for a verification
3 of the objects or balls remaining in the receptacle and not yet drawn.
4 The verification shall be made in the immediate presence of the supervisor
5 and in full view of any player requesting the verification.

6 V. A person who is not physically present on the premises where the
7 game is actually conducted shall not be allowed to participate as a player
8 in the game.

9 W. A person who holds, operates or conducts, or assists in holding,
10 operating or conducting, a game of bingo shall not play at any occasion at
11 which such person works unless the game of bingo is conducted pursuant to
12 a class A license.

13 ~~X. A person shall not conduct a lottery or raffle within a~~
14 ~~twelve-hour period before or after a bingo occasion or game on any~~
15 ~~premises used for bingo games or within one thousand feet of the bingo~~
16 ~~game. This subsection does not affect any legally conducted activity~~
17 ~~related to the state lottery.~~

18 ~~Y.~~ X. The operator of a bingo game shall offer assistance to
19 players with disabilities, subject to the following:

20 1. The operator of a bingo game may offer players technological
21 aids for bingo games that function only as electronic substitutes for
22 bingo cards and shall reserve at least two of these technological aids for
23 use by players with disabilities. If no requests are made for the use of
24 these technological aids within fifteen minutes after the scheduled start
25 of a game of bingo, these reserved technological aids may be made
26 available to any other player.

27 2. If the operator of a bingo game, or any other person that is
28 involved in the conduct of a bingo game, charges players a fee for the use
29 of technological aids for bingo games that function only as electronic
30 substitutes for bingo cards or requires players to comply with a minimum
31 purchase requirement for the use of these technological aids, players with
32 disabilities may not be required to pay that fee or to comply with that
33 minimum purchase requirement. This paragraph does not prohibit the
34 operator of a bingo game or any other person that is involved in the
35 conduct of a bingo game from requiring a player with a disability to
36 comply with a minimum purchase requirement that is imposed on all players.

37 3. The operator of a bingo game that offers technological aids for
38 bingo games that function only as electronic substitutes for bingo cards
39 shall allow players with disabilities to claim prizes by presenting a
40 printout or other evidence of a winning card.

41 4. The operator of a bingo game shall allow players to use a form
42 of visual or audio signal to notify the operator of a winning pattern or
43 bingo, which may include a flag, paddle, light, horn, bell or whistle or
44 any other mechanical or electronic means.

1 5. If a player's disability restricts the player's ability to mark
2 cards, use technological aids for bingo games that function only as
3 electronic substitutes for bingo cards or announce bingo, the operator of
4 a bingo game shall allow another person to assist the player with a
5 disability in the bingo game.

6 6. A person with a disability who is employed by a bingo operator
7 may use technological aids for bingo games that function only as
8 electronic substitutes for bingo cards to properly carry out the person's
9 job functions as those functions apply to the conduct of bingo games.

10 Sec. 2. Section 5-407, Arizona Revised Statutes, is amended to
11 read:

12 5-407. Statement of receipts; expenses; penalty

13 A. On or before the twentieth day after the end of every reporting
14 period designated for the class of the license each licensee shall file
15 with the licensing authority upon forms prescribed by the licensing
16 authority a financial report which is signed and sworn to by the proceeds
17 coordinator showing the amount of the gross receipts derived during the
18 reporting period from games of bingo, the expenses paid, a brief
19 description of the classification of such expenses, the ratio of net
20 proceeds to the adjusted gross receipts received by the licensee during
21 the reporting period, the name and address of each person to whom has been
22 paid three hundred dollars or more and the purpose of such expenditure,
23 the net proceeds derived from each such game of bingo and the uses to
24 which such net proceeds have been or are to be applied. Each licensee
25 shall maintain and keep such books and records as may be necessary to
26 substantiate the particulars of each such report.

27 B. Except for class A licensees, if the net proceeds derived from
28 the games of bingo for any six consecutive months do not amount to at
29 least fifty percent of adjusted gross receipts for those months in total,
30 it shall be presumed that the expenses incurred for goods, wares,
31 merchandise and services rendered are not bona fide and reasonable, and
32 the operation of the game is deemed to be against public policy. If the
33 net proceeds of the games operated by a licensee are less than fifty
34 percent of the adjusted gross receipts in any six consecutive months, the
35 license may be revoked.

36 C. The failure to file reports within forty-five days after their
37 due date, or filing reports that are not fully, accurately and truthfully
38 completed, may be the basis of the revocation of the license. If the
39 licensee fails to make and file a return on or before the due date, unless
40 the failure is due to reasonable cause, a penalty equal to five percent of
41 the amount found to be due or remaining due under subsection H of this
42 section shall be added to that amount for each month or fraction of a
43 month between the due date of the return and the date on which filed, plus
44 interest at a rate determined pursuant to section 42-1123. The total
45 penalty shall not exceed twenty-five percent of the amount found to be
46 remaining due. The penalty is due and payable on notice and demand from

1 the licensing authority. If an action has been filed by the licensing
2 authority for revocation of a license, the court shall award reasonable
3 attorney fees to the licensing authority as a part of the proceedings if
4 the licensing authority prevails in the proceedings.

5 D. Except for a class A licensee, all monies collected or received
6 from the sale of admission, extra regular cards, special game cards, sale
7 of supplies and all other receipts from the games of bingo shall be
8 deposited in a special account of the licensee which shall contain only
9 such money. Except for a class A licensee, all expenses for bingo games,
10 except cash prizes in the amount of less than ~~one hundred fifty dollars~~
11 \$1,100, shall be withdrawn from the licensee's special account by
12 consecutively numbered checks duly signed by a specified officer or
13 officers of the licensee or the supervisor and payable to a specific
14 person or organization. Class A licensees shall pay all bingo game
15 prizes, except cash prizes in an amount less than ~~one hundred fifty~~
16 ~~dollars~~ \$1,100, by check duly signed by a specified person or persons or
17 the supervisor. A check shall not be drawn to "cash" or a fictitious
18 payee. A check drawn on a licensee's special account shall not be payable
19 to the licensee. Checks drawn against the net proceeds in the special
20 account shall be drawn only for lawful uses and purposes. The licensee
21 may establish interest bearing accounts which shall contain only monies
22 transferred from the licensee's special account, but all monies, interest
23 and other proceeds shall be redeposited to the special account before
24 being used for lawful uses and purposes.

25 E. A licensee shall maintain a permanent record containing the
26 signature of each player who receives a cash prize from such licensee and
27 the amount of the cash prize awarded to such player.

28 F. The net profits after they have been given over to another
29 organization shall not be used by the donee organization to pay any person
30 for services rendered or materials purchased in connection with the
31 conducting of bingo by the donor organization.

32 G. Expenses shall not be incurred or paid in connection with
33 holding, operating or conducting any game of bingo pursuant to any
34 license, except bona fide expenses of a reasonable amount. Expenses may
35 be incurred only for the following purposes:

- 36 1. The purchase of goods, wares and merchandise furnished.
- 37 2. Payment for services rendered.
- 38 3. Rent.
- 39 4. Accountants' fees.
- 40 5. License fees.
- 41 6. Utility expenses.
- 42 7. Security guards.
- 43 8. Compensation not to exceed the current federal minimum wage plus
44 twenty percent.

1 9. Mortgage payments when a nonprofit charitable organization
2 licensee is using the building or premises for both bingo and for the
3 licensee's bona fide charity.

4 10. Advertising. In this subsection:

5 (a) "Goods, wares and merchandise" means prizes, equipment and
6 articles of a minor nature such as pencils, crayons, tickets, envelopes,
7 paper clips and coupons necessary for the conduct of games of bingo.

8 (b) "Services rendered" means repair to equipment, reasonable
9 compensation to bookkeepers or accountants, not more than two in the
10 aggregate, for services in preparing financial reports and a reasonable
11 amount for janitorial service and security guards. Services rendered do
12 not include and no item of expense may be incurred or paid for service of
13 any nature whatever rendered by a member or new member, including, without
14 limitation except as provided by paragraph 8 of this subsection, equipment
15 repair, bookkeeping, accounting, janitorial service, security guard
16 service or operating, conducting or managing a bingo game or providing any
17 professional or consultation service related to bingo.

18 H. In lieu of the taxes collected under title 42, chapter 5,
19 article 1 there shall be paid to the state licensing authority a tax in
20 the amount prescribed in section 5-414. The taxes collected pursuant to
21 this section shall be deposited in the state general fund. All
22 administrative receipts, including license fees, penalties and interest,
23 collected by the state pursuant to this article shall be deposited in the
24 state general fund.

25 I. Each licensee, at the time each financial report is submitted to
26 the licensing authority, shall pay to the order of the licensing authority
27 the amount of tax provided in subsection H of this section.

28 J. For reporting periods beginning from and after December 31,
29 2019, or when the licensing authority has established an electronic filing
30 program, whichever is later, each licensee shall file electronically any
31 report or return required under this chapter. The report or return is
32 considered to be filed and received by the licensing authority on the date
33 of the electronic postmark pursuant to section 42-1105.02.

34 Sec. 3. Section 5-413, Arizona Revised Statutes, is amended to
35 read:

36 5-413. License classification: requirements

37 A. A class A license may be issued to a person for the conduct of
38 bingo games for which the gross receipts do not exceed ~~fifteen thousand~~
39 ~~six hundred dollars~~ \$75,000 per year. A class A license shall not be
40 issued to a person who holds a license issued pursuant to title 4 except a
41 club license issued pursuant to section 4-205. For a class A license:

42 1. Any person may apply as prescribed in this article.

43 2. The manager, proceeds coordinator, supervisor and assistant are
44 not required to be members or new members.

45 3. The reporting period is one year coinciding with the term of the
46 license.

1 B. A class B license may be issued to a qualified organization for
2 the conduct of bingo games for which the gross receipts do not exceed
3 ~~three hundred thousand dollars~~ \$500,000 per year. For a class B license:

- 4 1. Only a qualified organization may apply.
- 5 2. The manager and supervisor shall be members of the licensee.
- 6 3. The proceeds coordinator shall be an officer or director and a
7 member of the licensee and is responsible for completion of the required
8 financial report.
- 9 4. An assistant shall be a member or new member of the licensee.
- 10 5. There are four reporting periods coinciding with the quarters of
11 the term of the license.

12 C. A class C license may be issued to a qualified organization for
13 the conduct of bingo games for which the gross receipts exceed ~~three~~
14 ~~hundred thousand dollars~~ \$500,000 per year. For a class C license:

- 15 1. Only a qualified organization may apply.
- 16 2. The manager and supervisor shall be members of the licensee.
- 17 3. The proceeds coordinator shall be an officer or director and a
18 member of the licensee and is responsible for completion of the required
19 financial report.
- 20 4. An assistant shall be a member or new member of the licensee.
- 21 5. There are twelve reporting periods coinciding with each month of
22 the term of the license.