

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1018

Introduced by
Senator Borrelli

AN ACT

AMENDING SECTIONS 5-403, 5-404, 5-406 AND 5-407, ARIZONA REVISED STATUTES; REPEALING SECTION 5-413, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 5-413; AMENDING SECTION 5-414, ARIZONA REVISED STATUTES; REPEALING SECTION 5-415, 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 5-403, Arizona Revised Statutes, is amended to
3 read:

4 5-403. Qualification for license; renewal; transfer

5 A. A person shall not conduct or assist in conducting AN activity
6 for which a license is required under this article unless the person
7 conducting the activity first obtains ~~the specific class of A license for~~
8 ~~the activity.~~

9 B. A license prescribed by this article shall not be issued to an
10 applicant qualified under this article until the licensing authority
11 receives an original or certified copy of the application from the local
12 governing body and the nonrefundable license fee prescribed in section
13 5-414 is paid to the licensing authority. The license expires one year
14 ~~from~~ AFTER the date it is issued and may be renewed ~~upon~~ ON the filing
15 with the licensing authority of an application for renewal of the license
16 provided by the licensing authority and the payment of the license fee
17 prescribed in section 5-414. A ~~thirty-day~~ THIRTY-DAY grace period shall
18 be allowed during which the license may be renewed if a late filing
19 penalty equal to the license fee is submitted with the regular license
20 fee. A licensee filing late shall not conduct occasions of bingo until
21 the licensing authority has renewed the license for the next ~~one-year~~
22 ONE-YEAR period. If the licensee fails to apply to the licensing
23 authority within the ~~thirty-day~~ THIRTY-DAY grace period, the licensee must
24 reapply for a new license under section 5-404.

25 C. If a license is revoked, the licensing authority shall not issue
26 a new license to the licensee for a period of five years ~~from~~ AFTER the
27 effective date of the revocation.

28 D. A license issued pursuant to this article is not transferable to
29 another person.

30 E. The licensing authority shall not issue more than one license to
31 an applicant or licensee.

32 Sec. 2. Section 5-404, Arizona Revised Statutes, is amended to
33 read:

34 5-404. Application for license

35 A. Each applicant for an initial license to be issued pursuant to
36 ~~the provisions of~~ this section shall submit to the local governing body
37 the local governing body fee and the license fee prescribed in section
38 5-414 together with a written application in the form prescribed by the
39 licensing authority, duly executed and verified, and in which shall be
40 stated:

41 1. The name, telephone number and address of the applicant.

42 2. Sufficient facts to enable the licensing authority to determine
43 whether or not the applicant is qualified for ~~the specific class of~~
44 ~~license for which the applicant is applying~~ A LICENSE.

1 3. If the applicant is a qualified organization, the names and
2 addresses of its officers.

3 4. The place where and day and time when such games of bingo are to
4 be held, operated and conducted by the applicant, under the license
5 applied for.

6 5. The items of expense intended to be incurred or paid in
7 connection with the holding, operating and conducting of such games of
8 bingo and the names and addresses of the persons to whom, and the purposes
9 for which, they are to be paid.

10 6. The specific projected use of the net proceeds.

11 7. Such other information as ~~shall be deemed advisable by~~ the
12 licensing authority **REQUIRES**.

13 B. The applicant shall designate in the application:

14 1. One or two persons who will serve as manager.

15 2. One person who will serve as proceeds coordinator.

16 3. At least one person who will serve as supervisor.

17 4. At least one person who will serve as assistant.

18 C. A person **WHO IS** designated as a manager, proceeds coordinator or
19 supervisor on a license shall not serve in any of these positions under
20 any other license.

21 D. The applicant shall attach affidavits to the application ~~which~~
22 **THAT** are executed by each manager and state that the manager:

23 1. Will conduct all bingo games in compliance with the license,
24 this article and the rules of the licensing authority.

25 2. Is of good moral character.

26 3. Has never been convicted of a misdemeanor involving moral
27 turpitude or a felony.

28 E. The applicant shall attach an affidavit to the application ~~which~~
29 **THAT** is executed by the proceeds coordinator and **THAT** states that the
30 proceeds coordinator:

31 1. Will use the net proceeds in compliance with the terms of the
32 license, this article and the rules of the licensing authority.

33 2. Is of good moral character.

34 3. Has never been convicted of a misdemeanor involving moral
35 turpitude or a felony.

36 F. A person may serve as supervisor for more than one occasion for
37 the same licensee. The supervisor shall be continuously present on the
38 premises during the bingo games and until all associated activities have
39 been completed. The applicant shall attach affidavits to the application
40 ~~which~~ **THAT** are executed by each supervisor and **THAT** state that the
41 supervisor:

42 1. Will comply with the terms of the license, this article and the
43 rules of the licensing authority in supervising each occasion.

44 2. Is of good moral character.

3. Has never been convicted of a misdemeanor involving moral turpitude or a felony.

G. ~~Except in an application for a class A license,~~ The applicant shall attach affidavits to the application ~~which~~ THAT are executed by each assistant and THAT state that the assistant:

1. Will comply with the terms of the license, this article and the rules of the licensing authority in assisting in the conduct of all bingo games.

2. Is of good moral character.

3. Has never been convicted of a misdemeanor involving moral turpitude or a felony.

H. If any premises are to be leased or rented in connection with holding, operating or conducting any game of bingo pursuant to this article, an affidavit by the lessor shall accompany the application stating the lessor's name and address, the amount of rent, stated in a specific dollar amount and not relating to any percentage or portion of gross or net revenue, ~~which~~ THAT will be paid for such premises and that the lessor ~~is~~, or its officers and directors are, of good moral character and have not been convicted of any misdemeanor involving moral turpitude or a felony.

I. The local governing body, ~~shall upon~~ ON receipt of the application, SHALL immediately set a hearing on the application to be held within forty-five days.

J. Following the receipt of the application and the hearing the local governing body shall recommend approval or disapproval of the application and forward the original or a certified copy of the application endorsed with its approval or disapproval to the licensing authority. If the application is disapproved by the local governing body, the endorsement shall contain the specific reasons for disapproval.

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

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

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

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

1 C. ~~Except for a class A licensee,~~ A person shall not hold, operate,
2 conduct or assist in conducting any game or games of bingo under any
3 license if the person or the person's spouse has a proprietary, equitable
4 or credit interest, or is an officer, director, agent or employee of an
5 individual or company that has a proprietary, equitable or credit
6 interest, in the licensee.

7 D. Bookkeepers or accountants need not be members of the
8 organization.

9 E. An item of expense shall not be incurred or paid in connection
10 with holding, operating or conducting any game of bingo held, operated or
11 conducted pursuant to any license issued under this article, except bona
12 fide expenses in a reasonable amount for purposes described in section
13 5-407, subsection G. A game of bingo shall not be conducted with any
14 equipment except equipment owned solely by the licensee, or jointly by
15 not more than six licensees. No portion of the ownership of such
16 equipment may be held by any person or organization not licensed pursuant
17 to this chapter. A game of bingo shall not be conducted with rented
18 equipment. This subsection does not apply to technological aids for bingo
19 games that function only as electronic substitutes for bingo cards or a
20 contractor's personnel who are needed to operate technological aids
21 prescribed in subsection Y of this section.

22 F. An applicant or a licensee shall not enter into any purchase
23 agreement other than a bona fide purchase agreement. The seller may
24 repurchase equipment only on default of the buyer and then only at a price
25 equal to or greater than ninety percent of any money paid for equipment
26 from buyer to seller. The seller may repurchase a building only on
27 default of the buyer at a fair market value per licensee.

28 G. A licensee shall not conduct or operate more than ~~five~~ SEVEN
29 occasions of bingo during any calendar week. Not more than twelve hours
30 of bingo shall be conducted in any building or on any premises during any
31 calendar day.

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

35 1. Compensation and expenses of directors, officers and management
36 personnel.

37 2. Fees or commissions of consultants.

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

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

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

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

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

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

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

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

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

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

P. Except as otherwise provided by this section, a prize greater in amount or value than ~~one thousand dollars~~ **\$1,000** shall not be offered or given in any single game of bingo conducted under any such license, and total prizes shall not exceed an amount or value greater than ~~three thousand dollars~~ **\$3,000** for any occasion. Door prizes, discounts or other inducements with a value exceeding ~~two hundred fifty dollars~~ **\$250** per occasion shall not be offered or given away.

Q. ~~Except for a class A licensee,~~ On application to the licensing authority by the licensee the licensing authority may authorize one special bonus game to be played at weekly consecutive occasions with a quarterly prize limit of ~~twelve thousand dollars~~ **\$12,000**. A weekly consecutive occasion is an occasion played on the same day of each week during the quarter. The special bonus game may be played at each weekly

1 consecutive occasion subject to the rules adopted by the licensing
2 authority. The special bonus game is not subject to the prize limits
3 prescribed by subsection P of this section.

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

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

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

35 U. Any players shall be entitled to call for a verification of all
36 numbers drawn at the time a winner is determined, ~~and~~ and for a verification
37 of the objects or balls remaining in the receptacle and not yet drawn.
38 The verification shall be made in the immediate presence of the supervisor
39 and in full view of any player requesting the verification.

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

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

5 X. A person shall not conduct a lottery or raffle within a
6 twelve-hour period before or after a bingo occasion or game on any
7 premises used for bingo games or within one thousand feet of the bingo
8 game. This subsection does not affect any legally conducted activity
9 related to the state lottery.

10 Y. The operator of a bingo game shall offer assistance to players
11 with disabilities, subject to the following:

12 1. The operator of a bingo game may offer players technological
13 aids for bingo games that function only as electronic substitutes for
14 bingo cards and shall reserve at least two of these technological aids for
15 use by players with disabilities. If no requests are made for the use of
16 these technological aids within fifteen minutes after the scheduled start
17 of a game of bingo, these reserved technological aids may be made
18 available to any other player.

19 2. If the operator of a bingo game, or any other person that is
20 involved in the conduct of a bingo game, charges players a fee for the use
21 of technological aids for bingo games that function only as electronic
22 substitutes for bingo cards or requires players to comply with a minimum
23 purchase requirement for the use of these technological aids, players with
24 disabilities may not be required to pay that fee or to comply with that
25 minimum purchase requirement. This paragraph does not prohibit the
26 operator of a bingo game or any other person that is involved in the
27 conduct of a bingo game from requiring a player with a disability to
28 comply with a minimum purchase requirement that is imposed on all players.

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

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

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

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

1 Sec. 4. Section 5-407, Arizona Revised Statutes, is amended to
2 read:

3 5-407. Statement of receipts; expenses; penalty

4 A. On or before the twentieth day after the end of every reporting
5 period, ~~designated for the class of the license~~ each licensee shall file
6 with the licensing authority ~~upon~~ ON forms prescribed by the licensing
7 authority a financial report ~~which~~ THAT is signed and sworn to by the
8 proceeds coordinator showing the amount of the gross receipts derived
9 during the reporting period from games of bingo, the expenses paid, a
10 brief description of the classification of such expenses, the ratio of net
11 proceeds to the adjusted gross receipts received by the licensee during
12 the reporting period, the name and address of each person to whom has been
13 paid ~~three hundred dollars~~ \$300 or more and the purpose of such
14 expenditure, the net proceeds derived from each such game of bingo and the
15 uses to which such net proceeds have been or are to be applied. Each
16 licensee shall maintain and keep such books and records as may be
17 necessary to substantiate the particulars of each such report.

18 B. ~~Except for class A licensees,~~ If the net proceeds derived from
19 the games of bingo for any six consecutive months do not amount to at
20 least fifty percent of adjusted gross receipts for those months in total,
21 it shall be presumed that the expenses incurred for goods, wares,
22 merchandise and services rendered are not bona fide and reasonable, and
23 the operation of the game is deemed to be against public policy. If the
24 net proceeds of the games operated by a licensee are less than fifty
25 percent of the adjusted gross receipts in any six consecutive months, the
26 license may be revoked.

27 C. The failure to file reports within forty-five days after their
28 due date, or filing reports that are not fully, accurately and truthfully
29 completed, may be the basis of the revocation of the license. If the
30 licensee fails to make and file a return on or before the due date, unless
31 the failure is due to reasonable cause, a penalty equal to five percent of
32 the amount found to be due or remaining due under subsection ~~H~~ I of this
33 section shall be added to that amount for each month or fraction of a
34 month between the due date of the return and the date on which THE RETURN
35 IS filed, plus interest at a rate determined pursuant to section 42-1123.
36 The total penalty shall not exceed twenty-five percent of the amount found
37 to be remaining due. The penalty is due and payable on notice and demand
38 from the licensing authority. If an action has been filed by the
39 licensing authority for revocation of a license, the court shall award
40 reasonable attorney fees to the licensing authority as a part of the
41 proceedings if the licensing authority prevails in the proceedings.

42 D. ~~Except for a class A licensee,~~ All monies collected or received
43 from the sale of admission, extra regular cards, special game cards, sale
44 of supplies and all other receipts from the games of bingo shall be
45 deposited in a special account of the licensee ~~which~~ THAT shall contain

1 only such money. ~~Except for a class A licensee,~~ All expenses for bingo
 2 games, except cash prizes in the amount of less than ~~one hundred fifty~~
 3 ~~dollars~~ \$150, shall be withdrawn from the licensee's special account by
 4 consecutively numbered checks duly signed by a specified officer or
 5 officers of the licensee or the supervisor and payable to a specific
 6 person or organization. ~~Class A licensees shall pay all bingo game~~
 7 ~~prizes, except cash prizes in an amount less than one hundred fifty~~
 8 ~~dollars, by check duly signed by a specified person or persons or the~~
 9 ~~supervisor.~~ A check shall not be drawn to "cash" or a fictitious
 10 payee. A check drawn on a licensee's special account shall not be payable
 11 to the licensee. Checks drawn against the net proceeds in the special
 12 account shall be drawn only for lawful uses and purposes. The licensee
 13 may establish interest bearing accounts ~~which~~ THAT shall contain only
 14 monies transferred from the licensee's special account, but all monies,
 15 interest and other proceeds shall be redeposited to the special account
 16 before being used for lawful uses and purposes.

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

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

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

- 28 1. The purchase of goods, wares and merchandise furnished.
- 29 2. Payment for services rendered.
- 30 3. Rent.
- 31 4. Accountants' fees.
- 32 5. License fees.
- 33 6. Utility expenses.
- 34 7. Security guards.
- 35 8. Compensation not to exceed the current federal minimum wage plus
 36 twenty percent.
- 37 9. Mortgage payments when a nonprofit charitable organization
 38 licensee is using the building or premises for both bingo and for the
 39 licensee's bona fide charity.
- 40 10. Advertising.

41 H. ~~In this~~ FOR THE PURPOSES OF subsection G OF THIS SECTION:

42 ~~(a)~~ 1. "Goods, wares and merchandise" means prizes, equipment and
 43 articles of a minor nature such as pencils, crayons, tickets, envelopes,
 44 paper clips and coupons necessary for the conduct of games of bingo.

~~(b)~~ 2. "Services rendered" means repair to equipment, reasonable compensation to bookkeepers or accountants, not more than two in the aggregate, for services in preparing financial reports and a reasonable amount for janitorial service and security guards. Services rendered do not include and no item of expense may be incurred or paid for service of any nature whatever rendered by a member or new member, including, without limitation except as provided by **SUBSECTION G**, paragraph 8 of this ~~subsection~~ **SECTION**, equipment repair, bookkeeping, accounting, janitorial service, security guard service or operating, conducting or managing a bingo game or providing any professional or consultation service related to bingo.

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

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

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

Sec. 5. Repeal

Section ~~5-413~~, Arizona Revised Statutes, is repealed.

Sec. 6. Title 5, chapter 4, article 1, Arizona Revised Statutes, is amended by adding a new section 5-413, to read:

~~5-413~~. License requirements

A. A LICENSE MAY BE ISSUED TO A PERSON OR A QUALIFIED ORGANIZATION FOR THE CONDUCT OF BINGO GAMES.

B. FOR A QUALIFIED ORGANIZATION:

1. THE MANAGER AND SUPERVISOR SHALL BE MEMBERS OF THE LICENSEE.

2. THE PROCEEDS COORDINATOR SHALL BE AN OFFICER OR DIRECTOR AND A MEMBER OF THE LICENSEE AND IS RESPONSIBLE FOR COMPLETION OF THE REQUIRED FINANCIAL REPORT.

3. AN ASSISTANT SHALL BE A MEMBER OR NEW MEMBER OF THE LICENSEE.

C. THERE ARE FOUR REPORTING PERIODS COINCIDING WITH THE QUARTERS OF THE TERM OF THE LICENSE.

1 Sec. 7. Section 5-414, Arizona Revised Statutes, is amended to
2 read:

3 5-414. Fees; tax
4 The following fees and tax shall be assessed as prescribed in this
5 article ~~for the different license classes:~~

6 Local Governing

| License Class | Body Fee | License Fee | Bingo Tax |
|--------------------------|---------------------|------------------------|--|
| A | \$ 5.00 | \$ 10.00 | 2.5% of adjusted gross receipts |
| B | 25.00 | 50.00 | 1.5% of gross receipts |
| C | 50.00 | 200.00 | 2.0% of gross receipts |
| | BODY FEE | LICENSE FEE | BINGO TAX |
| | \$25.00 | \$ 50.00 | 2.0% OF GROSS RECEIPTS |

11 Sec. 8. Repeal
12 Section 5-415, Arizona Revised Statutes, is repealed.

13 Sec. 9. Emergency
14 This act is an emergency measure that is necessary to preserve the
15 public peace, health or safety and is operative immediately as provided by
16 law.
17
18