

ARTICLE 2B

Bingo & Raffle

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60-2B-1. Short title. (1981)

Statute text

This act [60-2B-1 to 60-2B-14 NMSA 1978] may be cited as the "Bingo and Raffle Act".

History

History: Laws 1981, ch. 259, § 1.

Annotations

ANNOTATION

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 Am. Jur. 2d Gambling §§ 5, 6, 52, 55.

38 C.J.S. Gaming § 2 et seq.; 54 C.J.S. Lotteries § 1 et seq.

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60-2B-2. Purpose of act. (1981)

Statute text

The purpose of the Bingo and Raffle Act [60-2B-1 NMSA 1978] is to make lawful and regulate the conducting of certain games of chance by certain nonprofit organizations.

History

History: Laws 1981, ch. 259, § 2.

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60-2B-3. Definitions. (2007)

Statute text

As used in the Bingo and Raffle Act [60-2B-1 NMSA 1978]:

A. "charitable organization" means any organization, not for pecuniary profit, that is operated for the relief of poverty, distress or other condition of public concern in New Mexico and that has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act and that has been granted an exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501 (c) of the United States Internal Revenue Code of 1954, as amended or renumbered;

B. "chartered branch, lodge or chapter of a national or state organization" means any branch, lodge or chapter that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose

in New Mexico and that has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act;

C. "commercial lessor" means an entity that leases space to a qualified organization;

D. "distributor" means a person who supplies equipment to a qualified organization but does not manufacture equipment;

E. "educational organization" means any organization within the state, not organized for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

F. "fraternal organization" means any organization within the state, except college and high school fraternities, not for pecuniary profit, that is a branch, lodge or chapter of a national or state organization and exists for the common business, brotherhood or other interests of its members and that has existed in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

G. "labor organization" means any organization, not for pecuniary profit, within the state, that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work and that has existed in New Mexico for that purpose and has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act;

H. "qualified organization" means any bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, environmental, fraternal, educational or veterans' organization operating without profit to its members that has been in existence in New Mexico continuously for a period of three years immediately prior to the making of an application for a license under the Bingo and Raffle Act and that has had, during the entire three-year period, a dues-paying membership engaged in carrying out the objects of the corporation or organization. A voluntary firemen's organization is a qualified organization and a labor organization is a qualified organization for the purpose of the Bingo and Raffle Act if it uses the proceeds from a game of chance solely for scholarship or charitable purposes;

I. "environmental organization" means any organization primarily concerned with the protection and preservation of the natural environment and that has existed in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

J. "religious organization" means any organization, church, body of communicants or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place, which organization, church, body of communicants, group or society has been so gathered or united in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

K. "veterans' organization" means any organization within the state or any branch, lodge or chapter of a national or state organization within this state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

L. "voluntary firemen's organization" means any organization for firefighting within the state, not for pecuniary profit, established by the state or any of its political subdivisions, that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

M. "dues-paying membership" means those members of an organization who pay regular monthly, annual or other periodic dues or who are excused from paying such dues by the charter, articles of incorporation or bylaws of the organization and those who contribute voluntarily to the corporation or organization to which they belong for the support of the corporation or organization;

N. "equipment" means:

(1) with respect to bingo or lotto:

(a) the receptacle and numbered objects drawn from it;

(b) the master board upon which the numbered objects are placed as drawn;

(c) the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them;

(d) the board or signs, however operated, used to announce or display the numbers or designations as they are drawn;

(e) the public address system; and

(f) all other articles essential to the operation, conduct and playing of bingo or lotto; and

(2) with respect to a raffle, implements, devices and machines designed, intended or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence or right to participate in raffles;

O. "game of chance" means that specific kind of game of chance commonly known as bingo or lotto in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and that specific kind of game of chance commonly known as a raffle that is conducted by drawing for prizes or the allotment of prizes by chance or by the selling of shares, tickets or rights to participate in the game;

P. "gross receipts" means receipts from the sale of shares, tickets or rights in any manner connected with participation in a game of chance or the right to participate in a game of chance, including any admission fee or charge, the sale of equipment or supplies and all other miscellaneous receipts;

Q. "lawful purposes" means:

(1) educational, charitable, patriotic, religious or public-spirited purposes, which terms are defined to be the benefiting of an indefinite number of persons either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them in establishing themselves in life, by erecting or maintaining public buildings or works, by providing legal assistance to peace officers or firemen in defending civil or criminal actions arising out of the performance of their duties or by otherwise lessening the burden of government. These terms include the erection, acquisition, improvement, maintenance, insurance or repair of property, real, personal or mixed, if the property is used for one or more of the purposes stated in this subsection; or

(2) to augment the revenue of and promote the New Mexico state fair;

R. "lawful use" means the devotion of the entire net proceeds of a game of chance exclusively to lawful purposes;

S. "licensee" means any qualified organization to which a license has been issued by the licensing authority;

T. "licensing authority" means the gaming control board;

U. "manufacturer" means a person who manufactures, fabricates, assembles, produces, programs or makes modifications to equipment for use or play in New Mexico or for sale or distribution outside of New Mexico;

V. "member" means an individual who has qualified for membership in a qualified organization pursuant to its charter, articles of incorporation, bylaws, rules or other written statement;

W. "net proceeds" means the receipts less the expenses, charges, fees and deductions as are specifically authorized under the Bingo and Raffle Act;

X. "New Mexico state fair" means the fair created in Section 16-6-14 NMSA 1978;

Y. "occasion" means a single gathering or session at which a series of successive bingo or lotto games are played;

Z. "person" means a natural person, firm, association, corporation or other legal entity; and

AA. "premises" means any room, hall, enclosure or outdoor area used for the purpose of playing a game of chance.

History

History: Laws 1981, ch. 259, § 3; 1987, ch. 254, § 21; 2005, ch. 349, § 1; 2007, ch. 30, § 1.

Annotations

Cross references. — For Section 501(c) of the United States Internal Revenue Code, see 26 U.S.C. § 501(c).

The 2005 amendment, effective June 17, 2005, adds Subsection C to define "commercial lessor"; adds Subsection D to define "distributor"; deletes the former definition of "equipment"; adds Subsections N(1) and (2) to define "equipment"; changes "regulation and licensing department" to "gaming control board" in Subsection T; and adds Subsection U to define "manufacturer".

The 2007 amendment, effective March 15, 2007, amends the definition of "lawful purpose" to add the state fair and to define "New Mexico state fair".

ANNOTATION

Games of chance. — Club's practice of awarding cash or merchandise prizes for free games won on electronic video machines did not constitute the operation of "games of chance." State ex rel. Rodriguez v. American Legion Post No. 99, 106 N.M. 784, 750 P.2d 1110 (Ct. App. 1987).

The practice of exchanging pull tabs for free games won on electronic video games is impermissible under the Bingo and Raffle Act since to permit operation of the machines for such purpose would be to sanction commercial gambling. American Legion Post No. 49 v. Hughes, 120 N.M. 255, 901 P.2d 186 (Ct. App. 1994).

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60-2B-4. Licensing authority; powers; duties; hearings; appeals. (2005)

Statute text

A. The licensing authority has the powers and duties as follows:

(1) to grant or refuse licenses under the Bingo and Raffle Act [60-2B-1 NMSA 1978]. In addition, the licensing authority has the power, on its own motion based on reasonable grounds or on complaint made and after investigation by the licensing authority or by the special investigations division of the department of public safety and public hearing at which the licensee shall be afforded an opportunity to be heard, to assess administrative fines to the licensee and to suspend or revoke any license issued by the licensing authority for any violation by the licensee or any officer, director, agent, member or employee of the licensee of the provisions of that act or any rule authorized under that act. Notice of suspension or revocation, as well as notice of the hearing, shall be given by certified mail to the licensee at the address contained in the license. Any license may be temporarily suspended for a period not to exceed thirty days pending any prosecution, investigation or public hearing;

(2) to supervise the administration of the Bingo and Raffle Act and to adopt, amend and repeal rules governing the holding, operating and conducting of games of chance, the rental of premises and the purchase of equipment to the end that games of chance shall be held, operated and conducted only by licensees for the purposes and in conformity with the constitution of New Mexico and the provisions of that act;

(3) to hear and determine at public hearings all complaints against any licensee and to administer oaths and issue subpoenas to require the presence of persons and production of papers, books and records necessary to the determination of any hearing held;

- (4) to keep records of all actions and transactions of the licensing authority;
- (5) to prepare and transmit annually, in the form and manner prescribed by the licensing authority pursuant to the provisions of law, a report accounting to the governor and the legislature for the efficient discharge of all responsibilities assigned by law or directive to the licensing authority;
- (6) to issue publications of the licensing authority intended for circulation in quantity outside the executive branch in accordance with fiscal rules promulgated by the licensing authority;
- (7) to adopt rules establishing a system of licensing governing commercial lessors, distributors, manufacturers and qualified organizations;
- (8) to adopt rules establishing a system of permits for all individuals employed or engaged in the conduct of games of chance or the manufacture or distribution of equipment;
- (9) to adopt rules establishing reasonable amounts for expenses; and
- (10) to develop, adopt and promulgate all rules necessary to implement and administer the provisions of the Bingo and Raffle Act.

B. Proceedings brought against a licensee for a violation of the Bingo and Raffle Act shall be brought by the licensing authority by serving, in the manner provided in the rules of civil procedure, a complaint upon the licensee and notifying the licensee of the place and date, not less than twenty days after the date of service, at which a hearing shall be held. The complaint shall set forth, in the manner of complaints in civil action, the violations of the Bingo and Raffle Act or the rules of the licensing authority that the licensing authority alleges the licensee has committed. The licensing authority or the department of public safety may stop the operation of a game of chance pending hearing, in which case the hearing shall be held within ten days after notice.

C. The licensing authority shall cause the notice of hearing to be served personally upon an officer of the licensee or the member in charge of the conduct of the game of chance or to be sent by registered or certified mail to the licensee at the address shown in the license.

D. When proceedings are brought against a licensee for a violation of the Bingo and Raffle Act, the licensing authority shall hear the matter and make written findings in support of its decision. The licensee shall be informed immediately of the decision and, in the event of a suspension or revocation, the effective date of the suspension or revocation.

E. For the first violation by a licensee of the Bingo and Raffle Act, the licensing authority may assess an administrative fine of not to exceed one thousand dollars (\$1,000). For a second or subsequent violation by the licensee of that act, the licensing authority may assess an administrative fine of not to exceed two thousand five hundred dollars (\$2,500). The amount of the administrative fine shall be determined by the severity and nature of the violation of the Bingo and Raffle Act and by the number of prior violations of that act.

F. When a license is ordered suspended or revoked, the licensee shall surrender the license to the licensing authority on or before the effective date of the suspension or revocation. No license is valid beyond the effective date of the suspension or revocation, whether surrendered or not.

G. Upon the finding of a violation of the Bingo and Raffle Act or the rules that would warrant the suspension or revocation of a license, the licensing authority, in addition to any other penalties that may be imposed, may declare the violator ineligible to conduct a game of chance and to apply for a license under that act for a period not exceeding twelve months. The declaration of ineligibility may be extended to include, in addition to the violator, any of its subsidiary organizations, its parent organization or an organization otherwise affiliated with the violator when in the opinion of the licensing authority the circumstances of the violation warrant that action.

H. Upon receipt by a licensee of a complaint signed by the licensing authority and notice of a hearing, the licensee shall answer, in the manner of civil actions, the complaint and inform the licensing authority whether oral argument is desired and whether the licensee desires to produce witnesses.

I. At the request of any party and for good cause shown, the licensing authority shall issue subpoenas for the attendance of witnesses and the production of books, records and other documents, but in no case shall a subpoena be made returnable more than five days after service.

J. Whenever oral testimony of witnesses is taken at the hearing, the licensing authority shall have a certified reporter present to prepare a record of the proceedings. The original transcript shall be filed with the licensing authority. Any party is entitled to secure a copy from the reporter at the party's own expense.

K. Hearings may be convened by the licensing authority from time to time at the request of any party, but only for good cause shown. Hearings shall be held and concluded with reasonable dispatch and without unnecessary delay. The licensing authority shall decide any matter within thirty days of the hearing.

L. Upon the determination of any matter heard, the licensing authority shall state its findings. All parties shall be notified by the licensing authority of the action of the licensing authority and shall be furnished a copy of the findings.

M. Applicants for a license or the licensee may be represented by counsel.

N. Any person appearing before the licensing authority in a representative capacity shall be required to show his authority to act in that capacity.

O. No person shall be excused from testifying or producing any book or document in any investigation or hearing when ordered to do so by the licensing authority upon the ground that testimony or documentary evidence required of the person may tend to incriminate or subject the person to penalty or forfeiture, but no person may be prosecuted, punished or subjected to any penalty or forfeiture on account of any matter or thing concerning which the person, under oath, testified or produced documentary evidence, except that the person shall not be exempt from prosecution or punishment for any perjury committed by the person in the person's testimony.

P. If a person subpoenaed to attend in any investigation or hearing fails to obey the command of the subpoena without reasonable cause or if a person in attendance in any investigation or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered to do so by the representative of the licensing authority

holding the hearing or by either the licensing authority or the department of public safety performing the investigation, the licensing authority may apply to any judge of the district court, upon proof by affidavit of the facts, for an order returnable in not less than five nor more than ten days directing the person to show cause before the judge why the person should not comply with the subpoena or order.

Q. Upon return of the order, the judge before whom the matter comes for hearing shall examine the person under oath. If the judge determines after giving the person an opportunity to be heard that the person refused without lawful excuse to comply with the subpoena of the licensing authority or refused without lawful authority to comply with the order of the licensing authority or the department of public safety holding the investigation, the judge may order the person to comply with the subpoena or order forthwith, and any failure to obey the order of the judge may be punished as a contempt of the district court.

R. Every witness is entitled to be paid for attendance or attendance and travel by the party on whose behalf he is subpoenaed, at the rates prescribed by law, before being required to testify.

S. The decision of the licensing authority in suspending or revoking any license under the Bingo and Raffle Act shall be subject to review. A licensee aggrieved by a decision of the licensing board may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

T. No proceeding to vacate, reverse or modify any final order rendered by the licensing authority shall operate to stay the execution or effect of any final order unless the district court, on application and three days' notice to the licensing authority, allows the stay. In the event a stay is ordered, the petitioner shall be required to execute his bond in a sum the court may prescribe, with sufficient surety to be approved by the judge or clerk of the court, which bond shall be conditioned upon the faithful performance by the petitioner of his obligation as a licensee and upon the prompt payment of all damages arising from or caused by the delay in the taking effect or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with the proceedings.

History

History: Laws 1981, ch. 259, § 4; 1983, ch. 248, § 1; 1987, ch. 254, § 22; 1998, ch. 55, § 70; 1999, ch. 265, § 73; 2005, ch. 349, § 2.

Annotations

Cross references. — For Rules of Civil Procedure for the District Courts, see Rule 1-001 NMRA et seq.

The 1998 amendment, effective September 1, 1998, inserted "; hearings; appeals" in the section heading; substituted "department of safety" for "safety department" in Paragraph A(1) and Subsections B through J, P and Q; in Paragraph A(3), deleted "so" following "hearing"; rewrote Subsection S; deleted Subsections T and U; redesignated Subsection V as Subsection T; and made minor stylistic changes throughout the section.

The 1999 amendment, effective July 1, 1999, substituted "Section 39-3-1.1" for "Section 12-8A-1" in Subsection S.

The 2005 amendment, effective June 17, 2005, deletes the former provision of Subsection A which provided that the regulation and licensing department is the "licensing authority" of the act and that the superintendent of regulation and licensing is the executive in charge of enforcement of the act; provides in Subsection A(1) that the licensing authority may file complaints and make investigations; adds Subsections A(7) through (10) to provide that the licensing authority has power to adopt rules to establish a system of licensing and permits; to establish reasonable amounts for expenses; and to implement and administer the act; deletes from Subsection I the former provision that the department of public safety may issue subpoenas; deletes from Subsection J the former provision that the department of public safety may have a reporter prepare a record of proceedings; and provides in Subsection Q that if a judge determines that a person refused without lawful authority to comply with the order of the licensing authority, the judge may order the person to comply with the order.

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60-2B-5. Organizations entitled to licenses; fees. (2007)

Statute text

A. Any bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, labor, environmental, fraternal, educational or veterans' organization that operates without profit to its members and that has been in existence in New Mexico continuously for a period of three years immediately prior to the making of application for a license under the Bingo and Raffle Act [60-2B-1 NMSA 1978] and has had, during the making of application for a license under that act and during the entire three-year period, dues-paying membership engaged in carrying out the objects of the corporation or organization is eligible for a license to be issued by the licensing authority under the Bingo and Raffle Act. In the event any license is revoked, the licensee and holder of the license is not eligible to apply for another license under Subsection B of this section until after the expiration of the period of one year from the date of revocation. Any voluntary firemen's organization established by the state or any political subdivision and that has been in existence in New Mexico for three years shall also be an organization entitled to a license under the provisions of that act.

B. The licenses provided by the Bingo and Raffle Act shall be issued by the licensing authority to applicants qualified under that act upon payment of a fee of one hundred dollars (\$100). The licenses shall expire at the end of the calendar year in which they are issued by the licensing authority and may be renewed by the licensing authority upon the filing of an application for renewal provided by the licensing authority and the payment of a fee of one hundred dollars (\$100) for the renewal. A license or renewal granted under that act is not transferable.

C. The New Mexico state fair:

(1) may apply to the licensing authority for and shall be issued a license pursuant to the Bingo and Raffle Act to conduct games of chance on the grounds of the New Mexico state fair during the state fair; and

(2) shall pay a licensing fee to the licensing authority of one hundred dollars (\$100) per calendar year at the time of application for or renewal of a license issued pursuant to the Bingo and Raffle Act.

D. A qualified organization may conduct a raffle on the grounds of the New Mexico state fair during the state fair only after obtaining express prior approval of the state fair commission and the licensing authority.

History

History: Laws 1981, ch. 259, § 5; 2007, ch. 30, § 2.

Annotations

The 2007 amendment, effective March 15, 2007, adds Subsections C and D to provide for the state fair to license qualified organizations to conduct games of chance during the state fair pursuant to the Bingo and Raffle Act.

ANNOTATIONS

Constitutionality. — The Bingo and Raffle Act does not discriminate between fraternal and charitable organizations and Indian groups, nor does the state discriminate in the enforcement thereof. *American Legion Post No. 49 v. Hughes*, 120 N.M. 255, 901 P.2d 186 (Ct. App. 1994).

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60-2B-6. Application for license. (1981)

Statute text

A. Each applicant for a license to be issued under the provisions of this section shall file with the licensing authority a written application in duplicate in the form prescribed by the licensing authority, duly executed and verified, and in which shall be stated:

- (1) the name and address of the applicant;
- (2) sufficient facts relating to its incorporation and organization to enable the licensing authority to determine whether or not it is a bona fide chartered branch, lodge or chapter of a national or state organization or a bona fide religious charitable, labor, environmental, fraternal, educational, voluntary firemen's or veterans' organization which operates without profits to its members and which has been in existence continuously in New Mexico for a period of three years immediately prior to the making of application for a license, and has had during the entire three-year period dues-paying members engaged in carrying out the objectives of the applicant;
- (3) the names and addresses of its officers;
- (4) the specific kind of games of chance intended to be held, operated and conducted by the applicant;
- (5) the place where the games of chance are intended to be held, operated and conducted by the applicant under the license applied for;

(6) the items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of chance and the names and addresses of the persons to whom and the purposes for which they are to be paid;

(7) a statement that no commission, salary, compensation, reward or recompense shall be paid to any person for holding, operating or conducting such games of chance or for assisting therein except as otherwise provided in the Bingo and Raffle Act [60-2B-1 NMSA 1978]; and

(8) such other information deemed advisable by the licensing authority to ensure that the applicant falls within the restrictions set forth by the Bingo and Raffle Act.

B. In each application there shall be designated active members of the applicant organization under whom the games of chance described in the application are to be held, operated and conducted, and to the application shall be appended a statement executed by the applicant and by the members so designated that they will be responsible for the holding, operation and conduct of games of chance in accordance with the terms of the license and the provisions of the Bingo and Raffle Act.

C. In the event any premises are to be leased or rented in connection with the holding, operating or conducting of any game of chance under the Bingo and Raffle Act, a written statement shall accompany the application signed and verified by the person stating his address and the amount of rent which will be paid for the premises and that the person, or its officers and directors if a corporation, is of good moral character and has not been convicted of any crime involving moral turpitude.

History

History: Laws 1981, ch. 259, § 6.

Annotations

Cross references. — For the Parental Responsibility Act, see Chapter 40, Article 5A NMSA 1978.

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60-2B-7. Form of license; display. (1981)

Statute text

Each license shall contain a statement of the name and address of the licensee, the names and addresses of the members of the licensee under whom the games of chance will be held, operated and conducted and the place where the bingo or lotto games or the drawing of the raffles are to be held. Each license issued for the conduct of any games of chance shall be conspicuously displayed at the place where the games are to be conducted or the drawings held.

History

History: Laws 1981, ch. 259, § 7.

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60-2B-8. Persons permitted to conduct games; premises; equipment; expenses; compensation. (1981)

Statute text

A. No person shall hold, operate or conduct any games of chance under any license issued under the Bingo and Raffle Act [60-2B-1 NMSA 1978] except an active member of the organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any games of chance under that license except an active member or a member of an organization or association which is an auxiliary to the licensee, a member of an organization or association of which the licensee is an auxiliary or a member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association and except bookkeepers or accountants as provided in this section. No item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of chance held, operated or conducted pursuant to any license issued under that act except bona fide expenses in reasonable amount for goods, wares and merchandise furnished or services rendered, reasonably necessary for the holding, operating or conducting thereof. No games of chance shall be conducted with any equipment except that which is owned or leased by the licensee.

B. The officers of a licensee shall designate a bona fide, active member of the licensee to be in charge and primarily responsible for the conduct of the games of bingo or lotto on each occasion. The member in charge shall supervise all activities on the occasion for which he is in charge and be responsible for the making of the required report. The member in charge shall be familiar with the provisions of the state laws, the rules and regulations of the licensing authority and the provisions of the license. He shall be present on the premises continuously during the games and for a period of at least thirty minutes after the last game.

C. The officers of a licensee shall designate an officer to be in full charge and primarily responsible for the proper utilization of the entire net proceeds of any game in accordance with state law.

D. The entire net proceeds of any game shall be devoted to a lawful use or uses.

E. Each license issued for the conduct of games of chance shall be conspicuously displayed at the place where any game is being conducted at all times during the conduct of the game and for at least thirty minutes after the last game has been concluded.

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

G. No licensee may hold, operate or conduct a game of bingo or lotto more often than on two hundred sixty occasions in any calendar year.

H. When any merchandise prize is awarded in a game of bingo, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash directly or indirectly.

- I. Equipment, prizes and supplies for games of bingo shall not be purchased or sold at prices in excess of the usual price thereof.
- J. The aggregate amount of all prizes offered or given in all games played on a single occasion shall not exceed one thousand five hundred dollars (\$1,500) which shall be exclusive of pull tabs.
- K. No games shall be conducted more than five times in any one calendar week, with no game lasting more than four hours on each occasion and not more than two occasions in one calendar day by any one licensee.
- L. The net profits derived from the holding of games of chance must be devoted to the lawful purposes of the organization permitted to conduct the games. Any organization desiring to hold the net profits of games of chance for a period longer than one year must apply to the licensing authority for special permission and, upon good cause shown, the authority shall grant the request.
- M. Any licensee which does not report, during any one-year period, net profits will be required to show cause before the licensing authority why its right to conduct games of bingo should not be revoked.
- N. No person shall assist in the holding, operating or conducting of a bingo game under any license except bona fide active members of the licensee, active members of any organization which is an auxiliary to the licensee or active members of an organization which is affiliated with the licensee by being, with it, auxiliary to another organization.
- O. The equipment used in the playing of bingo and the method of play shall be such that each card has an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection. All objects or balls shall be present in the receptacle before each game is begun. All members announced shall be plainly and clearly audible to all the players present. Where more than one room is used for any one game the receptacle and the caller must be present in the room where the greatest number of players are present, and all numbers announced shall be plainly audible to the players in the aforesaid room and also audible to the players in the other rooms. A fair and equal chance shall be given to all participants, and any licensee, its representative, agent or employees whose acts or action may tend to negate the "right of equal chance" shall constitute grounds for revoking such license.
- P. The receptacle, the caller who removes the objects or balls from the receptacle must be visible to all the players at all times except where more than one room is used for any one game, in which case the provisions of Subsection O of this section shall prevail.
- Q. The particular arrangement of numbers required to be covered in order to win the game and the amount of the prize shall be clearly and audibly described and announced to the players immediately before each game is begun.
- R. Any player is entitled to call for a verification of all numbers drawn at the time a winner is determined and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the member designated to be in charge of the occasion, but if such member is also the caller, then in the immediate presence of any officer of the licensee.

S. In the playing of bingo, no person who is not physically present on the premises where the game is actually conducted shall be allowed to participate as a player in the game.

T. No person shall act as a caller in the conduct of any game of bingo unless he has been a member in good standing of the licensee conducting the game or one of its licensed auxiliaries for at least six months immediately prior to the date of such game, is of good moral character and has never been convicted of a felony.

U. No owner, co-owner or lessee of the premises or, if a corporation is the owner of the premises, any officer, director or stockholder owning more than ten percent of the outstanding stock shall be a person responsible for or assisting in the holding, operating or conducting of any game of bingo.

History

History: Laws 1981, ch. 259, § 8.

Annotations

ANNOTATION

Electronic machines prohibited. — Electronic pull-tab simulations are electromechanical gambling devices and are therefore prohibited. Citation *Bingo, Ltd. v. Otten*, 1996-NMSC-003, 121 N.M. 205, 910 P.2d 281.

Hand held electronic devices known as "Power Bingo" are "gambling devices" within the meaning of 30-19-2 and 30-19-3 NMSA 1978 and such units may not be used in New Mexico. Citation *Bingo, Ltd. v. Otten*, 1996-NMSC-003, 121 N.M. 205, 910 P.2d 281.

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60-2B-9. Reports required; criteria. (2005)

Statute text

A. On April 15, July 15, October 15 and January 15 of each year, the licensee shall file with the licensing authority upon forms prescribed by the licensing authority a duly verified statement covering the preceding calendar quarter showing the amount of the gross receipts derived during that period from games of chance, the expenses incurred or paid and a brief description of the classification of the expenses, the name and address of each person to whom has been paid two hundred fifty dollars (\$250) or more and the purpose of the expenditure, the net proceeds derived from each game of chance and the uses to which the net proceeds have been or are to be applied. It is the duty of each licensee to maintain and keep the books and records necessary to substantiate the particulars of each report.

B. If a licensee fails to file reports within the time required or if the reports are not properly verified or not fully, accurately and truthfully completed, any existing license may be suspended until the default has been corrected.

C. All money collected or received from the sale of admission, extra regular cards, special game cards, sale of supplies and all other receipts from the games of bingo shall be deposited in a special

account of the licensee which shall contain only such money. All expenses for the game shall be withdrawn from the account by consecutively numbered checks duly signed by specified officers of the licensee and payable to a specific person or organization. There shall be written on the check the nature of the expense for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee.

D. No part of the net profits, after they have been given over to another organization, shall be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting of games of bingo by the donor organization.

E. No item of expense shall be incurred or paid in connection with holding, operating or conducting any game of chance pursuant to any license except bona fide expenses of a reasonable amount as determined by the licensing authority. Expenses may be incurred only for the following purposes:

- (1) the purchase of goods, wares and merchandise furnished;
- (2) payment for services rendered that are reasonably necessary for repairs of equipment, operating or conducting the game of bingo;
- (3) for rent if the premises are rented or for janitorial services if not rented;
- (4) for accountant's fees;
- (5) for license fees; and
- (6) for utilities.

History

History: Laws 1981, ch. 259, § 9; 1991, ch. 216, § 1; 2005, ch. 349, § 3.

Annotations

The 1991 amendment, effective July 1, 1991, substituted "60-2B-3 NMSA 1978" for "2 of the Bingo and Raffle Act" in Paragraph (1) of Subsection F; and deleted the former second and third sentences in Subsection G, which read "The revenue collected is to be used for the administration of the Bingo and Raffle Act only. All administrative receipts, including license fees, collected by the state hereunder shall be deposited in the general fund".

The 2005 amendment, effective June 17, 2005, provides in Subsection E that the reasonableness of expenses shall be as determined by the licensing authority; deletes former Subsection F which defined "goods, wares and merchandise" and "services rendered"; and deletes former Subsection G which provided for a tax of three percent of net proceeds of games of chance.

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60-2B-9.1. Bingo and raffle tax. (2005)

Statute text

- A. A bingo and raffle tax equal to three percent of the net proceeds of any game of chance held, operated or conducted for or by a qualified organization shall be imposed on the qualified organization pursuant to the Bingo and Raffle Act [60-2B-1 NMSA 1978].
- B. No other state or local gross receipts tax shall apply to a qualified organization's gross receipts or net proceeds generated by a game of chance authorized by the Bingo and Raffle Act.
- C. The tax imposed pursuant to this section shall be submitted monthly to the taxation and revenue department on or before the twenty-fifth day of the month following the month in which the gross receipts or net proceeds that are taxable were generated by the taxpayer.
- D. The taxation and revenue department shall administer the tax imposed in this section pursuant to the Tax Administration Act [7-1-1 NMSA 1978].
- E. For purposes of this section, "gross receipts" means the total amount of money or the value of consideration received from selling, leasing or otherwise transferring equipment or leasing premises for use by or for a qualified organization for offering games of chance pursuant to the Bingo and Raffle Act.

History

History: Laws 2005, ch. 349, § 4.

Annotations

Effective dates. — Laws 2005, ch. 349 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective June 17, 2005, 90 days after adjournment of the legislature.

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60-2B-10. Examination of books and records. (1981)

Statute text

The licensing authority and its agents have power to examine or cause to be examined the books and records of any licensee to which any license is issued insofar as they may relate to any transactions connected with the holding, operating and conducting of any game of chance.

History

History: Laws 1981, ch. 259, § 10.

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60-2B-11. Forfeiture of license; ineligibility to apply for license. (1981)

Statute text

Any person who makes any false statement in any application for any license or in any statement annexed thereto, fails to keep sufficient books and records to substantiate the quarterly reports required under Section 8 [9] [60-2B-9 NMSA 1978] of the Bingo and Raffle Act, falsifies any books or records insofar as they relate to any transaction connected with the holding, operating and conducting of any game of chance under any such license or violates any of the provisions of the Bingo and Raffle Act [60-2B-1 NMSA 1978] or of any term of the license, if convicted, in addition to suffering any other penalties which may be imposed, shall forfeit any license issued to him under that act and shall be ineligible to apply for a license under that act for at least one year thereafter.

History

History: Laws 1981, ch. 259, § 11.

Annotations

Bracketed material. — The reference to "Section 8 of the Bingo and Raffle Act" in this section seems incorrect, as that section (60-2B-8 NMSA 1978) relates to conducting games of chance. Section 9 of the act (60-2B-9 NMSA 1978) relates to required reports. The bracketed material was not enacted by the legislature and is not part of the law.

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60-2B-12. Enforcement. (1983)

Statute text

It is the duty of all sheriffs and police officers to enforce the provisions of the Bingo and Raffle Act [60-2B-1 NMSA 1978]. It is the duty of the district attorney of the county in which a violation is committed to prosecute such violation of that act in the manner and form as is now provided by law for the prosecutions of crimes and misdemeanors.

History

History: Laws 1981, ch. 259, § 12; 1983, ch. 248, § 2.

Annotations

Cross references. — For division of state into judicial districts, see 34-6-1 NMSA 1978.

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60-2B-13. Exemptions. (2007)

Statute text

Nothing in the Bingo and Raffle Act [60-2B-1 NMSA 1978] shall be construed to apply to:

- A. a drawing or a prize at a fair or fiesta held in New Mexico under the sponsorship or authority of the state or any of its political subdivisions, or for the benefit of a church situated in this state or for charitable purposes when all the proceeds of the sale or drawing shall be expended within New Mexico for the benefit of that church or charitable purpose; or
- B. bingo or a raffle held by a group or organization as defined in Section 60-2B-3 NMSA 1978 that holds bingo or a raffle only once during three consecutive calendar months and not exceeding four occasions in one calendar year.

History

History: Laws 1981, ch. 259, § 13; 2005, ch. 349, § 5; 2007, ch. 30, § 3.

Annotations

The 2005 amendment, effective June 17, 2005, adds the statutory reference to Section 3 of the act.

The 2007 amendment, effective March 15, 2007, deletes the provision in Subsection A that the fair or fiesta have been held on an annual basis for not less than two years immediately preceding and for a period of not more than fourteen consecutive calendar days in each year.

ANNOTATIONS

An individual cannot legally conduct bingo games for profit at the State Fair, since the exemptions contained in Subsection A were not designed to aid individuals to conduct what would otherwise be illegal gambling for profit. 1987 Op. Att'y Gen. No. 87-46.

60-2B-14. Penalties. (1981)

Statute text

Every licensee and every officer, agent or employee of the licensee and every other person or corporation who willfully violates or who procures, aids or abets in the willful violation of the Bingo and Raffle Act [60-2B-1 NMSA 1978] is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

History

History: Laws 1981, ch. 259, § 14.

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