



Ohio Legislative Service Commission

Bill Analysis

Daniel M. DeSantis

H.B. 325

130th General Assembly
(As Referred by H. Rules and Reference Committee)

Reps. Perales, Buchy, Phillips, Huffman, Brenner

BILL SUMMARY

- Establishes licensure requirements for charitable video bingo game operators and charitable video bingo game distributors.
- Authorizes certain charitable organizations and certain veterans, fraternal, and sporting organizations to operate charitable video bingo games.
- Establishes the Charitable Video Bingo Council.

CONTENT AND OPERATION

Overview

The bill requires that a charitable organization, in order to conduct "charitable video bingo," must first obtain a license from the Attorney General.¹ Charitable video bingo is a form of bingo played in an electronic environment (see definitions). The bill also requires charitable video bingo distributors to obtain a license from the Attorney General.²

Definitions

The bill defines the following terms:

"Charitable video bingo" means a form of bingo played in an electronic environment in which a participant wins if the participant's charitable video bingo

¹ R.C. 2915.08.

² R.C. 2915.083.

ticket contains a number or a combination of numbers or symbols that was designated in advance of the game as a winning combination. "Charitable video bingo" must have all of the following characteristics:

(1) Games that use charitable video bingo tickets played using either player terminals or charitable video bingo devices.

(2) Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure. There may be multiple winning combinations in each deal and multiple winning tickets.

(3) Each player terminal or charitable video bingo device at a location utilizes the same deal until the deal is depleted. The use of multiple deals at the same location at the same time is prohibited. Each transaction or play at a location must provide the participant with an equal chance of winning.

(4) Games have the same price for each ticket in the deal and utilize a unique serial number for each deal that must not be regenerated.

(5) Games have no electro-mechanical spinning reels that mimic a slot machine.

(6) Player terminals or charitable video bingo devices may incorporate an amusement game feature as part of the charitable video bingo game, but must not require additional consideration or award any prize other than what was originally predetermined.

(7) After the participant purchases a charitable video bingo ticket, the combination of numbers or symbols on that ticket is revealed to the participant.

(8) Following play, the result must be displayed and prizes awarded. Prizes may be dispensed in the form of cash, coin, cash voucher, merchandise prize, or cashless wagering system approved by the Attorney General.

"Player terminal" means an electronic terminal housed in a cabinet with input devices and video screens or displays on which participants play charitable video bingo.

"Charitable video bingo device" means a handheld electronic device used to facilitate the play of a charitable video bingo ticket.

"Charitable video bingo supplies" means equipment and software used to conduct, manage, or record charitable video bingo or to report and transmit game results, payout, and profit, including charitable video bingo games, deals, player



terminals, charitable video bingo devices, meters, point of sale terminals, and recording, monitoring, and reporting software.

"Net profit from the proceeds of the sale of charitable video bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase or lease of charitable video bingo supplies.

"Charitable video bingo distributor" means any person who sells, offers for sale, or otherwise provides or offers to provide charitable video bingo supplies to another person for use in Ohio or who manufactures, modifies, converts, adds to, or removes parts from charitable video bingo supplies to further the promotion or sale of charitable video bingo supplies for use in Ohio.

"Report management system" means a centralized computer reporting and accounting system that receives data from each player terminal and each charitable video bingo device via a defined communication protocol by either a dedicated line, dial-up system, or other secure transmission method.³

The bill expands the definition of "gambling device" to include skill-based amusement machines, slot machines, and charitable video bingo supplies sold or otherwise provided or used in violation of the Bingo Law,⁴ and specifies that a player terminal or charitable video bingo device used to conduct licensed charitable video bingo is not a slot machine.⁵

The bill expands the definition of "bingo game operator" to include supervising the operation of charitable video bingo, and accessing player terminals and charitable video bingo devices other than as a participant. But the bill specifies that "bingo game operator" does not include licensed charitable video bingo distributors and employees of those distributors.⁶

The bill also specifies that "bingo supplies" does not include charitable video bingo supplies. Charitable video bingo supplies are separately defined as described above.⁷

³ R.C. 2915.01(CCC) to (III).

⁴ R.C. 2915.01(E)(6).

⁵ R.C. 2915.01(QQ).

⁶ R.C. 2915.01(Q).

⁷ R.C. 2915.01(Z).



Conforming changes also have been made to other definitions contained in continuing law.

Charitable video bingo

The bill requires that a charitable organization that desires to conduct charitable video bingo apply to the Attorney General for a license to do so.⁸ The license application must include a statement of how the net profit from the proceeds of charitable video bingo will be distributed in accordance with the law enacted by the bill (see "**Profit distribution**" below).⁹

Prohibitions

The bill prohibits a charitable organization that conducts charitable video bingo from doing any of the following:

(1) Conducting charitable video bingo unless the organization is a charitable organization that has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code.

(2) Conducting charitable video bingo on any day, at any time, or at any premises not specified on the organization's license.

(3) Permitting any person whom the organization knows or should have known has been convicted of a felony or a gambling offense in any jurisdiction to be a bingo game operator in the conduct of charitable video bingo.

(4) Purchasing or leasing charitable video bingo supplies from any person except a licensed charitable video bingo distributor as reflected on an invoice issued by the charitable video bingo distributor containing all of the information required by rule adopted by the Attorney General.

(5) Permitting participants to play charitable video bingo without paying the full price predetermined for each ticket in a charitable video bingo deal as reported to the Attorney General by the charitable video bingo distributor.

⁸ R.C. 2915.08(A)(1).

⁹ R.C. 2915.08(A)(2)(f).



(6) Permitting an individual who is under 21 years of age to play charitable video bingo.

(7) Paying consulting fees to any person in relation to charitable video bingo.

(8) Paying compensation to a bingo game operator for conducting charitable video bingo.

(9) Paying any fees to any person for any services performed in relation to a charitable video bingo game.

(10) Permitting a bingo game operator to play charitable video bingo.

(11) Failing to display the charitable organization's bingo license and all game flares for active charitable video bingo deals being played at the location.

(12) Failing, once a charitable video bingo deal is started, to continue to sell charitable video bingo tickets in that deal until all prizes are awarded.

(13) Possessing or using charitable video bingo supplies that have not been approved by the Attorney General.

(14) Possessing a charitable video bingo game with more than one million tickets.

(15) Possessing charitable video bingo supplies that were not obtained in accordance with the bill or in accordance with any rule adopted by under the Bingo Law.¹⁰

Criminal penalty

The bill establishes the crime of illegally operating charitable video bingo for violating any of the prohibitions listed above. Illegally operating charitable bingo is a misdemeanor of the first degree for the first offense and a felony of the fifth degree for each subsequent offense.¹¹

Limitations for veteran's, fraternal, or sporting organization's

A veteran's, fraternal, or sporting organization with a membership of fewer than 100 members may obtain up to two player terminals to conduct charitable video bingo. A veteran's, fraternal, or sporting organization with a membership of at least 100 members may obtain up to four player terminals to conduct charitable video bingo.

¹⁰ R.C. 2915.096(A).

¹¹ R.C. 2915.096(E).



Each organization may obtain one additional player terminal for each additional 100 members. No veteran's, fraternal, or sporting organization may have more than 20 player terminals.¹²

Also, the bill states that it does not prohibit an employee of a fraternal organization, veteran's organization, or sporting organization from selling charitable video bingo tickets to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.¹³

Profit distribution

A charitable organization that conducts charitable video bingo must distribute the net profit from the proceeds of the sale of charitable video bingo as follows:

(1) At least 50% must be distributed to an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or a charitable organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, or to a department or agency of the federal government, the state, or any political subdivision.

(2) Not more than 50% may be deducted and retained by the organization for reimbursement of or for the organization's expenses in conducting charitable video bingo.¹⁴

Charitable video bingo distributor

The bill requires that a charitable video bingo distributor obtain a license from the Attorney General in order lawfully to sell, offer to sell, or otherwise provide or offer to provide charitable video bingo supplies to another person, or to manufacture, modify, convert, add to, or remove parts from charitable video bingo supplies to further the promotion or sale of the charitable video bingo supplies for use in Ohio.¹⁵

An applicant for such a license must annually make out, on a form furnished by the Attorney General, an application for a charitable video bingo distributor license and deliver that application to the Attorney General, together with a license fee to be set by rule. The license is to be valid for one year. Additionally, the bill authorizes the

¹² R.C. 2915.096(B).

¹³ R.C. 2915.096(A)(8).

¹⁴ R.C. 2915.096(C).

¹⁵ R.C. 2915.083(A).



Attorney General to assess an applicant a reasonable fee in the amount necessary to process a charitable video bingo distributor application and perform an initial or renewal investigation.¹⁶

Under the bill, the Attorney General may refuse to issue a charitable video bingo distributor license to any person to which any of the following applies, or to any person that has an officer, partner, or other person who has an ownership interest of 10% or more and to whom any of the following applies:

(1) The person, officer, or partner has been convicted of a felony under the laws of Ohio, another state, or the United States.

(2) The person, officer, or partner has been convicted of any gambling offense.

(3) The person, officer, or partner has made an incorrect or false statement that is material to the granting of a license in an application submitted to the Attorney General.

(4) The person, officer, or partner has failed to correct any incorrect or false information that is material to the granting of the license in the records required to be maintained under the bill.

(5) The person, officer, or partner has had a license related to gambling revoked or suspended or an application related to gambling rejected under the laws of Ohio, another state, or the United States.

(6) The person, officer, or partner is involved in the conduct of bingo on behalf of a charitable organization or is a lessor of a premises used for the conduct of bingo or has a direct or indirect ownership interest in a premises used for the conduct of bingo. This provision does not prohibit a distributor from advising charitable organizations on the use and benefit of specific charitable video bingo supplies or prohibit a distributor from advising a customer on operational methods to improve bingo profitability.

(7) The person, officer, or partner's licensure or inclusion would undermine the integrity of charitable gaming in contravention of suitability standards set forth in rules adopted by the Attorney General under the Bingo Law.

(8) The person, officer, or partner has violated any provision of the Bingo Law or any rule adopted by the Attorney General under the Bingo Law.¹⁷

¹⁶ R.C. 2915.083(B).

¹⁷ R.C. 2915.083(C).



The Attorney General may reject, suspend, or revoke a charitable video bingo distributor license for any of the reasons for which the Attorney General may refuse to issue a license or if the charitable video bingo distributor holding the license violates any provision of the Bingo Law, including any rule adopted by the Attorney General under the Bingo Law.¹⁸

Prohibitions

The bill prohibits a charitable video bingo distributor from doing any of the following:

(1) Selling, offering to sell, or otherwise providing or offering to provide charitable video bingo supplies to any person, or manufacturing, modifying, converting, adding to, or removing parts from charitable video bingo supplies to further the promotion or sale of the charitable video bingo supplies for use in Ohio, except to or for the use of a charitable organization that is a veterans', fraternal, or sporting organization licensed by the Attorney General to conduct charitable video bingo or to another charitable video bingo distributor that has been issued a license under the bill.

(2) Accepting payment for the sale or other provision of charitable video bingo supplies other than by check or electronic funds transfer.

(3) Knowingly soliciting, offering, paying, or receiving any kickback, bribe, or undocumented rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing charitable video bingo supplies to any person in Ohio.

(4) Donating, giving, lending, leasing, or otherwise providing any charitable video bingo supplies, or manufacturing, modifying, converting, adding to, or removing parts from charitable video bingo supplies to further the promotion or sale of the charitable video bingo supplies to or for the use of a charitable organization conditioned on or in consideration for an exclusive right to provide charitable video bingo supplies to the charitable organization.

(5) Operating without an office in Ohio and not distributing all charitable video bingo devices from locations in Ohio.¹⁹

(6) Selling, offering to sell, leasing, or otherwise providing charitable video bingo supplies to any person in Ohio unless the charitable video bingo supplies have been

¹⁸ R.C. 2915.083(K).

¹⁹ R.C. 2915.083(G).



approved by the Attorney General and unless an independent testing laboratory, certified by the Ohio Casino Control Commission, has issued a report stating that the charitable video bingo supplies have been tested and analyzed and meet the standards required by the Bingo Law and rules adopted there under.

The charitable video bingo distributor must pay all costs to test, analyze, and examine charitable video bingo supplies by the certified testing laboratory.²⁰

Criminal penalties

The bill establishes two new crimes for violating the prohibitions listed above:

(1) Illegally operating as a charitable video bingo distributor is a felony of the fifth degree for the first offense and a felony of the fourth degree for each subsequent offense.²¹ A charitable bingo distributor who operates without a license or who knowingly solicits, offers, pays, or receives any kickback, bribe, or undocumented rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for providing charitable video bingo supplies to any person in this state is illegally operating as a charitable video bingo distributor.

(2) Illegal charitable electronic distribution, is a misdemeanor of the first degree for the first offense and a felony of the fifth degree for each subsequent offense.²² Violating prohibitions 1, 2, 4, 5, or 6 as described above, or operating charitable video bingo devices that are not interfaced with the centralized report management system, as described above is illegal charitable electronic distribution.

Attorney General to adopt rules and control centralized report management system

The bill requires the Attorney General to adopt rules under the Administrative Procedure Act²³ to ensure the integrity of charitable video bingo gaming, including specifying the permissible characteristics of player terminals, charitable video bingo devices, and charitable video bingo games and establishing an approval process for a cashless wagering system.²⁴ The Attorney General also must adopt rules under the Administrative Procedure Act setting forth standards and an approval process for

²⁰ R.C. 2915.083(D) to (H).

²¹ R.C. 2915.083(L).

²² R.C. 2915.083(L).

²³ Chapter 119 of the Revised Code.

²⁴ R.C. 2915.096(D).



charitable video bingo supplies and record keeping and reporting requirements of charitable video bingo distributors, as well as any other rules necessary to enforce the charitable video bingo distributor law or to ensure that charitable video bingo is conducted in accordance with the Bingo Law.²⁵

The Attorney General must, by rule adopted under the abbreviated rule-making procedure,²⁶ establish a standard contract to be used by a veteran's organization, a fraternal organization, or a sporting organization for the conduct of charitable video bingo.²⁷

Also the bill authorizes the Attorney General to assess an annual fee for each player terminal and charitable video bingo device operated in Ohio as is necessary to review and approve charitable video bingo supplies and to inspect and monitor charitable video bingo. The fee must be set by rule adopted by the Attorney General under the abbreviated rule-making procedure. The charitable video bingo distributor is responsible for the cost of such a fee.²⁸

Centralized report management system

The bill requires that all player terminals and charitable video bingo devices, regardless of manufacturer, must interface with a centralized report management system controlled by the Attorney General. The bill authorizes the Attorney General to contract with a state agency or private entity for the creation, operation, and management of the report management system. The report management system must track all information required by the Bingo Law and rules adopted thereunder. The report management system must have the capability to monitor all charitable video bingo supplies used in Ohio in real time, and must have the capability to remotely deactivate charitable video bingo supplies.

The report management system must log, search, and report system events, collect individual player terminal or charitable video bingo device financial data, reconcile data, and secure the system. The report management system must have the capability to continue to collect data if or whenever an internet connection is unavailable. The report management system must utilize a location server that collects all transactional data from all terminals at each location and transmits the transaction data to a central server or repository on an hourly basis. The report management system

²⁵ R.C. 2915.083(J).

²⁶ R.C. 111.15.

²⁷ R.C. 2915.095(B).

²⁸ R.C. 2915.083(H).

shall be located within Ohio. Licensed charitable video bingo distributors are responsible for all costs associated with the creation, operation, and maintenance of the report management system.²⁹

Charitable Video Bingo Council

The bill establishes the Charitable Video Bingo Council. The Council must consist of seven members, who are to be appointed by the Attorney General, and who must include at least one member of the Veterans of Foreign Wars, at least one member of the American Legion, at least one member of the AMVETS, at least one member of the Fraternal Order of Eagles, at least one member of the Loyal Order of Moose, at least one member of the Benevolent Protective Order of Elks, and at least one member of the Ohio Council of Fraternal, Veterans and Service Organizations that are nominated for appointment by each organization. The members must annually vote to elect one member to serve as chairperson. The members of the Council serve at the pleasure of the Attorney General, with all terms expiring not later than the term of the appointing Attorney General. Members of the Council serve without compensation, including without reimbursement for expenses that are incurred in the conduct of official duties. The Council must advise the Attorney General with respect to policies and proposed administrative rules related to charitable video bingo, rules related to the requirements of the report management system, and on other related issues at the request of the Attorney General.³⁰

Modifications to current bingo law

The bill repeals a provision from current law that requires an applicant for a bingo operation license, that seeks to qualify as a youth athletic park organization, to include a statement certifying that the playing fields owned by the organization were used for at least 100 days during the year in which the statement is issued, and were open for use to all residents of that territory, regardless of race, color, creed, religion, sex, or national origin, for athletic activities by youth athletic organizations that do not discriminate on the basis of race, color, creed, religion, sex, or national origin, and that the fields were not used for any profit-making activity at any time during the year.³¹

The bill specifies that the Attorney General may refuse to issue a manufacturer license to any person or to any person that has an officer, partner, or other person who

²⁹ R.C. 2915.083(I).

³⁰ R.C. 2915.13(E).

³¹ R.C. 2915.08(A)(2)(j).



has an ownership interest of 10% or more who has violated any provision of the Bingo Law or any rule adopted by the Attorney General under the Bingo Law.³²

The bill makes other changes to the Bingo Law so that the records requirement that generally apply to instant bingo also will apply to charitable video bingo.³³ Also, the bill requires that a charitable video bingo distributor maintain, for a period of three years after the date of sale or other provision, all records required to be kept by rules adopted by the Attorney General.³⁴

Enforcement

The bill authorizes the Attorney General and any law enforcement agency to investigate any distributor of bingo supplies, manufacturer of bingo supplies, and any charitable video bingo distributor, or any officer, agent, trustee, member, or employee of those entities, to examine the accounts and records of those entities, and generally to conduct inspections, and take other necessary and reasonable actions to determine if a violation of Bingo Law has occurred or if the Bingo Law is being complied with. Under current law, the Attorney General and law enforcement have such express authority with respect to charitable organizations only, not specifically with regard to distributors and manufacturers, which are both entities defined in current law. Although perhaps the existing authority "to take other necessary and reasonable action to determine if a violation . . . has occurred"³⁵ would provide the Attorney General and other law enforcement agencies with authority to investigate those entities as well.

Written contract

A veteran's organization, fraternal organization, or sporting organization that is conducting instant bingo or charitable video bingo as a means of raising money for another organization that is exempt from federal income tax, must include in any written contract with the other organization a statement of the percentage of the net profit from the proceeds of the sale of instant bingo and the net profit from the proceeds of the sale of charitable video bingo that the veterans', fraternal, or sporting organization will be distributing to the organization. Under current law, the

³² R.C. 2915.082(C)(7).

³³ R.C. 2915.10.

³⁴ R.C. 2915.10(H).

³⁵ R.C. 2915.10(I)(5).



organization conducting bingo must include in the written contract the percentage of the net proceeds that will be distributed.³⁶

HISTORY

ACTION	DATE
Introduced	10-29-13
Referred, H. Rules & Reference Committee	10-30-13

H0325-RH-130.docx/emr

³⁶ R.C. 2915.13(B).

