

Bachman

M I N U T E S

LEGISLATIVE BINGO INVESTIGATION STUDY COMMITTEE

November 15, 1976

Members Present

Representative John F. Hayes, Chairman
Senator John Crofoot
Senator Dan Bromley
Representative Carlos Cooper
Representative Ben Foster
Representative Pat Hurley

Staff Present

Bob Coldsnow, Legislative Counsel
Sherman Parks, Jr., Revisor of Statutes Office
Emalene Correll, Legislative Research Department

Others Present

Kent Kalb, Secretary, Department of Revenue
Ben Neill, Department of Revenue
Robert Olsen, Department of Revenue

The meeting was called to order at 9:15 a.m. by Chairman Hayes.

Representative Hurley moved that the minutes of September 7 and 8, and October 14, 1976, be approved. Representative Cooper seconded the motion and it was unanimously approved.

Following action on the minutes, the Chairman asked staff to go through the balloon version of proposed Committee amendments section-by-section with the Committee. (See Attachment A.)

K.S.A. 21-4302. There was discussion of the proposed changes in 21-4302(d) and, by consensus, it was decided that "in accordance with the laws of the state of Kansas" should be inserted following "conducted" in line 3 of subsection (d). It was further decided that the word "in" appearing in the last balloon on the page should be changed to "by". The phrase "in accordance with the laws of the state of Kansas" is also to be inserted in K.S.A. 21-4302(3) following the word "conducted".

In the third paragraph under K.S.A. 21-4302(3), which concerns the exemption "of payments made by or for participants in a lawful game of bingo" from "consideration" under the gambling laws of the state, the proposed changes were adopted by consensus.

Following the consideration of proposed amendments to K.S.A. 21-4302, the Committee discussed the basis of prosecution under the statute. Staff noted that a district or county attorney would have to charge the licensee or operators of a bingo game who were not operating such game in accordance with the laws of Kansas or who were operating contrary to the rules and regulations adopted by the Secretary with commercial gambling. The basis of such charge would be that actions not licensed or carried out in accordance with applicable laws and regulations would constitute a "bet" under K.S.A. 21-4302. The lessor could be charged with permitting a premise to be used for commercial gambling under the provisions of K.S.A. 21-4305.

Representatives Hurley and Foster discussed the problems connected with prosecution under the existing statutes. They concluded that such prosecution would be unduly difficult, particularly in instances involving violations of regulations. Counsel suggested that it would be necessary to add a new section if it were decided that improper operation of a bingo game should be a criminal offense.

The following language was drafted by counsel pursuant to a Committee request.

"Illegal bingo operation is the management, operation or conduct of games of bingo in violation of the laws of the state of Kansas pertaining to the regulation, licensing and taxing of games of bingo or rules and regulations adopted pursuant thereto.

"Illegal bingo operation is a class A misdemeanor."

Following considerable discussion, it was the consensus that a new crime be created, generally as stated in the above draft language. It was also decided that the changes in Chapter 21, as they appear on Attachment A, be adopted. In taking this action, the Committee noted that prosecution could also take place under the commercial gambling statute should there be clear gambling violations in conjunction with games of bingo.

K.S.A. 79-4701. Next, the Committee reviewed the draft changes to K.S.A. 1975 Supp. 79-4701(a) and (b) and approved the proposed changes with the corrections noted by the staff.

In paragraph (c), it was moved by Representative Foster and seconded by Representative Hurley that "or for financially supporting the activities of a charitable organization as hereinbefore defined or conferring benefits to the community at large" be added following "state" in the last line. The motion was approved.

Paragraph (d) was approved as drafted.

On proper motion and second, it was moved that the phrase "accredited by the state board of education" in paragraph (e) be deleted from the draft language. The motion was adopted.

Following discussion of paragraph (f), it was concluded that the present language does not cover auxiliaries and affiliated veteran's organizations. On a motion to add language similar to that of the Internal Revenue Code, the following language was proposed:

" , or an auxiliary unit or society of such a nonprofit veterans' organization the membership of which consists exclusively of individuals who were or are members of the armed services or forces of the United States, or are cadets, or are spouses, widows or widowers of individuals who were or are members of the armed services or forces of the United States,"

The motion was seconded and adopted.

Counsel noted that paragraph (g) was incompatible with the constitutional amendment which authorized the Legislature to authorize and regulate games of bingo. If the paragraph represented an attempt to expand those organizations which could conduct bingo, the Court, in State v. Nelson, applied nonprofit to each of the classes created by paragraphs (a) through (f). Staff has checked the enrolled copies of the resolution submitted to the referendum to be sure there was no comma after "non-profit."

In discussion, it was noted that it would be necessary to expand the definitions to cover certain organizations now licensed to play bingo. Representative Foster, seconded by Representative Hurley, moved that references to subparagraphs "5, 6 and 7" of 501(c) of the Internal Revenue Code be added to the definition of charitable organizations. The motion was expanded to include subparagraph (4). The motion was adopted. It was noted that reference to "(4)" would then appear in two of the definitions. This was agreed to by the Committee.

K.S.A. 79-4702. The proposed changes in K.S.A. 1975 Supp. 79-4702 were approved. It was also agreed to change "or" to "and" in line 4 of the statute.

K.S.A. 79-4703. In discussion of K.S.A. 1975 Supp. 79-4703, it was moved by Senator Crofoot and seconded by Representative Cooper, that line 12 of paragraph one be amended by deleting "the attorney general" and inserting "secretary of revenue or his or her designee." The motion was approved.

It was moved by Senator Crofoot to strike (d)1 of the draft language. After discussion of case law relating to alienation on the basis of citizenship only, Representative Hurley seconded the motion which was approved.

After discussion of (d)2 of the draft language, Senator Crofoot moved that the sentence be amended to limit its application to a conviction or guilty plea in the prior three years. The motion failed for lack of a second. Senator Crofoot then moved that the sentence be amended to limit the period to five years. The motion was seconded by Senator Bromley. The motion failed.

In (d)3 of the draft language, Representative Hurley moved to add "or nolo contendere" following "guilty" in line 1. The motion was seconded by Representative Foster and approved. By consensus, it decided to make the same addition in (d)2 and (d)4.

Subparagraph (d)4 of the draft language was approved as amended.

On motion of Representative Foster, seconded by Senator Crofoot, and approved by the Committee, (d)5 of the draft language was deleted.

On motion of Senator Bromley, seconded by Senator Crofoot and approved by the Committee, (d)6 of the draft language was deleted.

In discussion of (d)7 of the draft language, staff of the Department of Revenue asked if it was the intent of the Committee that the Department investigate all officers, directors or officials each year. In response to a question from Representative Foster, staff of the Department noted that they would assume that the intended investigation would be analogous to that carried out for ABC licensees. On motion of Representative Foster, seconded by Representative Cooper, it was agreed that the language be amended to require the furnishing of affidavits by all officers, directors and officials of a licensed organization upon a change in such officers.

In relation to the draft language concerning the conducting of bingo on leased premises, it was moved by Representative Foster and seconded by Senator Crofoot, that "or 50 percent of the net proceeds for the session of bingo whichever is less" be inserted after "value" in line five. The motion carried. Representative Foster asked that the proper language to carry out the intent of the motion be inserted in the appropriate place in the draft language.

Senator Crofoot moved that the phrase in the draft language relating to the existence of a local organization be amended to change "eighteen (18) months" to "twelve (12) months." Representative Hurley seconded the motion. Representative Foster offered a substitute motion to change "eighteen (18) months" to "two (2) years." The substitution motion was seconded by Representative Cooper. On a vote, the substitute motion failed. On a vote on the original motion, the motion failed. Representative Foster then moved that the draft language be approved by the Committee. The motion was seconded and carried.

Secretary Kalb suggested that language be added to the statute requiring that a licensee conducting occasional games of bingo off-location, as allowed by law, be required to notify the Secretary. By consensus, it was agreed to direct the staff to draft language requiring notification in writing to the Secretary three days prior to the off-location game.

K.S.A. 79-4704. Following discussion of the draft language, Senator Bromley moved that the gross receipts tax be increased to 5 percent. The motion was seconded by Representative Foster. Senator Crofoot offered a substitute motion to increase the tax to 3 percent. Representative Hurley seconded the substitute motion. Following discussion with the staff of the Department of Revenue, the substitute motion carried. It was agreed to add "state" before "counties" in line 3 of the statute.

K.S.A. 79-4705. The technical changes made by the draft language inserted in K.S.A. 1975 Supp. 79-4705 were approved.

K.S.A. 79-4706. The draft changes in the first sentence and paragraph (b) were approved.

In connection with draft paragraph (c), Senator Crofoot moved that the draft language be amended to include "any lessor or employees of the lessor and owner or sublessor" in the prohibition against participating in the management, conduct or operation of bingo. The motion was seconded by Representative Cooper and carried.

Representative Hurley moved that "a professional gambler or gambling promoter indicted or" be deleted from the draft of paragraph (c) and "or plead guilty to or plead nolo contendere" be added following "conviction for." The motion was seconded by Representative Cooper and carried.

In the draft of the last sentence of paragraph (e), Senator Crofoot moved that "1,200" be inserted between the parentheses. Representative Hurley seconded the motion which carried.

The language of new paragraph (f) was approved as drafted.

In conjunction with the draft language of new paragraph (g), the Secretary of Revenue asked the purpose of requiring any record of winners if all winners are not

to be included? Discussion revealed that the Committee found the keeping of the names and addresses of winners to be of little value for enforcement in terms of being able to reconstruct a game of bingo to determine whether it had been conducted in a lawful manner. However, it was the consensus that, if the Secretary believes that such record keeping is an important enforcement tool, it should be required. Accordingly, Representative Hurley moved that the draft language be amended by deleting "in jackpot or special games" in lines 3 and 4; by deleting "reported to" in line 4 and inserting in lieu thereof "maintained by"; by deleting "secretary of revenue or his or her designee" in line 4 and inserting in lieu thereof "licensee as provided in this act." The motion was seconded by Representative Cooper and carried.

New paragraphs (m) and (n) were approved as drafted with the exception of the deletion of the comma following "lottery" in line 3 of paragraph (n).

Staff of the Department of Revenue raised questions about the effect of the phrase "said written lease shall be for a term at least equal to the remainder of the term of the bingo license of the licensee" as it appeared in the draft language of new paragraph (o). It was noted that this would force the organization that plays once or twice a year to maintain a lease for the entire year.

On motion of Senator Crofoot, seconded by Representative Foster and agreed to by the Committee, the phrase was deleted.

Secretary Kalb suggested that all services provided by the lessor be enumerated in the lease and that examples be included in the statute. Senator Crofoot moved that the draft language be amended to include, but not limit, the inclusion of babysitter, security and similar services in the lease. The motion was seconded by Senator Bromley and carried.

By consensus, the staff was directed to add language requiring that modifications, renewals, etc., be required to be submitted to the Secretary whenever a written lease was required to be submitted.

Attachment B, incorporating in paragraph (a) of K.S.A. 1975 Supp. 79-4706 the draft language requested by several members at the previous meeting, was distributed. Counsel suggested that, if the Committee wished to incorporate the new language, it be placed in 79-4703.

Senator Crofoot moved that the draft language appearing as the last sentence of paragraph (a) of 79-4706 on Attachment B be incorporated in the Committee draft. Representative Hurley seconded the motion.

There was considerable discussion about the difficulty of assigning a value to a specific charitable, religious or educational activity carried out by an organization. It was noted that the requirement would only be applicable to veterans' and fraternal organizations since other organizations would have to be spending the proceeds for the appropriate religious, charitable or educational purpose to maintain their tax exemption.

The motion failed.

K.S.A. 79-4707. Returning to Attachment A, the Committee agreed to change the word "shall" in line 4 of K.S.A. 1975 Supp. 79-4707 to "may" pursuant to the recommendation of Secretary Kalb. The draft amendments were approved.

K.S.A. 79-4708. In discussion of the draft amendment to K.S.A. 1975 Supp. 79-4708, the Committee requested that the draft be changed by deleting the first "and" in the new language, by inserting the new language after the word "regulations" in line 4, and by adding the word "and" following the new language.

K.S.A. 79-4709. It was noted that K.S.A. 1975 Supp. 79-4709 would be repealed to conform with the Committee's decision to place the criminal penalty in Chapter 21.

K.S.A. 79-4710. The Revisor's staff noted that another member of the Revisor's office had suggested that the present statute may be constitutionally unsound since it does not create a fee fund. After lengthy discussion, the Committee agreed that one-third of the 3 percent gross receipt taxes collected pursuant to 79-4703, as amended, should be placed in the state general fund to be retained by the state with the remaining two-thirds to be distributed to counties and cities as provided in the existing statute. The members were in agreement that they did not want to create a fee fund unless constitutional requirements could be met only by creating such a fund.

The staff was directed to prepare a draft of this statute for consideration at the next meeting.

The Committee voted to request that the report and accompanying bill be published separately from the volume of committee reports.

The next meeting was set for the afternoon of December 6, 1976.

Prepared by Emalene Correll

Approved by Committee on:

1/5/76
Date

21-1302. ~~Gambling, definitions.~~ (1) A

"bet" is a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:

(a) Bona fide business transactions which are valid under the law of contracts including but not limited to contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including, but not limited to contracts of indemnity or guaranty and life or health and accident insurance;

(b) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the bona fide owners of animals or vehicles entered in such a contest;

(c) A lottery as defined in this section.

(d) ~~Any bingo game or a game of chance with comparable characteristics by or for participants conducted by an organization exempt from tax under paragraphs (3), (4), (7), (8) and (10) of subsection (c) of section 501 of the internal revenue code of 1954, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member or employee of such organization, except as compensation for actual expenses incurred by him in the conduct of such activity and provided that such game is conducted or operated by the officers, employees or members of such organization without compensation therefor other than that to which the officer, employee or member is entitled for the performance of his regular duties, and not by agreement or contract with any other person or organization for which any consideration or compensation is provided.~~

managed, operated or

licensed in the state of Kansas to manage, operate or conduct games of bingo

(2) A "lottery" is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance.

(3) "Consideration" as used in this section means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant.

Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration.

As used in this subsection, the term "consideration" shall not include sums of money paid by or for participants in any bingo game ~~or a game of chance with comparable characteristics as defined by subsection (d) of this section~~ and it shall be conclusively presumed that such sums paid by or for said participants were intended by said participants to be for the benefit of the ~~organizations described in subsection (d) of this section~~ for the use of such organizations in furthering the purposes of such organizations, as set forth in ~~paragraphs (3), (4), (7), (8) and (10)~~ of subsection (c) of section 501 of the internal revenue code of 1954, as amended.

(4) A "gambling device" is a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, or any token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

managed, operated, or conducted by any bona fide nonprofit religious, charitable, fraternal, educational, or veteran organization licensed to manage, operate, or conduct bingo games under the laws of the state of Kansas

sponsoring

sponsoring

in the appropriate paragraphs

or in subsection (d)

as set forth in K. S. A. 1976 Supp. 79-4701, as amended

(5) A "gambling place" is any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place. [~~L. 1969, ch. 100, § 21-1902, L. 1971, ch. 111, § 1, April 21.~~]

79-1701. Definitions. As used in this act the words and phrases herein defined shall have the following meaning unless the context otherwise requires:

(a) "Bingo" means a game in which each participant must pay a charge and a prize or prizes are awarded to the winner or winners in which each participant receives one or more cards each of which is marked off into twenty-five (25) squares arranged in five (5) horizontal rows of five (5) squares each and five (5) vertical rows of five (5) squares each, with each square being designated by number, letter or combination of numbers and letters, and the center square designated with the word "free" with no two (2) cards being identical, with the players covering squares as the operator of such game announces a number, letter or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically from a receptacle in which have been placed objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares, with the winner of each game being the player or players first properly covering a predetermined and announced pattern of squares upon the card being used by such player or players.

only

Nonprofit

(b) "Religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society of individuals united for religious purposes at a definite place

no part of the net earnings of which inures to the benefit of any private shareholders or individual member of such organization, and which religious organization maintains an established place of worship within this state and has a regular schedule or services or meetings at least on a weekly basis and has been determined by the secretary of revenue to be organized and created as a bona fide religious organization and which has been exempted from the payment of federal income taxes as provided by section 501 (c) (3) or section 501(d) internal revenue code of 1954 or determined to be organized and operated as a bona fide nonprofit religious organization by the secretary of revenue

Nonprofit

(c) "Charitable organization" means any organization which is operated for the relief of poverty, distress, or other condition of public concern within this state

organized and

no part of the net earnings of which inures to the benefit of any private shareholder or individual member of such organization and has been determined by the secretary of revenue to be organized and operated as a bona fide charitable organization and which has been exempted from the payment of federal income taxes as provided by section 501 (c) (3) internal revenue code of 1954 or determined to be organized and operated as a bona fide nonprofit charitable organization by the secretary of revenue

Nonprofit

(d) "Fraternal organization" means any organization, within this state which exists for the common benefit, brotherhood, or other interests of its members and is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose within this state

and has been determined by the secretary of revenue to be organized and operated as a bona fide fraternal organization and which has been exempted from the payments of federal income taxes as provided by section 501 (c) (8) or section 502 (c) (10) internal revenue code of 1954 or determined to be organized and operated as a bona fide nonprofit fraternal organization by the secretary of revenue

Nonprofit

(e) "Educational organization" means any public or private elementary or secondary school or institution of higher education

accredited by the state board of education

and has been determined by the secretary of revenue to be organized and operated as a bona fide educational organization and which has been exempted from the payments of federal income taxes as provided by section 501 (c) (3) internal revenue code of 1954 or determined to be organized and operated as a bona fide nonprofit educational organization by the secretary of revenue

Nonprofit

(f) "Veterans' organization" means any organization within this state or any branch, lodge, or chapter of a national or state organization within this state, the membership of which consists exclusively of individuals who qualify for membership because they were or are members of the armed services or forces of the United States.

not correct

no part of the net earnings ~~[of which]~~ inures to the benefit of any private shareholder or individual member of such organization, and has been determined by the secretary of revenue to be organized and operated as a bona fide veterans organization and which has been exempted from the payment of federal income taxes as provided by section 501 (c) (4) [or 501 (c) (19)] internal revenue code of 1954 or determined to be organized and operated as a bona fide nonprofit veterans organization by the secretary of revenue

~~[(f) "Nonprofit organization" means any organization which is exempt from taxation under paragraphs (4), (5), (6), (7) and (8) of subsection (c) of section 501 of the internal revenue code of 1954, as amended] [L. 1975, ch. 11, § 1, April 1]~~

~~79-4702. Power to regulate, license and tax games vested exclusively in state; exercise. The power to regulate, license and tax the operation or conduct of games of "bingo" by bona fide nonprofit religious, charitable, fraternal, educational and veterans' organizations is hereby vested exclusively in the state and shall be exercised as provided in this act.~~

management,

[L. 1975, ch. 491, § 2, April 1.]

79-1703. License to operate games of bingo; application; fee; forms; contents; restrictions on issuance; display of license. Any bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization desiring to operate or conduct games of "bingo" within the state of Kansas may make application for a license therefor in the manner herein provided. Application for licenses required under the provisions of this act shall be made to the secretary of revenue upon forms prepared by the attorney general and shall contain:

(a) The name and address of the organization;

(b) the particular place or location for which a license is desired; and

(c) a sworn statement verifying that such organization is a bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization authorized to operate within the state of Kansas signed by the presiding officer and secretary of the organization. ~~Each~~ application shall be accompanied by a fee of

twenty-five dollars (\$25). Each license issued prior to July 1, 1975, shall expire at midnight on June 30, 1976, and each license issued after such date shall expire at midnight on June 30 following its date of issuance. A licensee may hold only one license and that license is valid for only one location. ~~Provided, That~~ any licensee may operate or conduct games of bingo ~~but not to exceed five (5)~~ days in any one year at locations other than that specified in the license. Licenses issued under the provisions of this act shall not be transferred or assignable. No organization which denies its membership to persons for the reason of their race, color, or physical handicap, shall be granted or allowed to retain a license issued under the authority of this act. Except for nonprofit adult care homes licensed under the laws of the state of Kansas, no license shall be issued to any organization under the provisions of this act which has not been in existence continuously for a period of five years immediately preceding the date of making application for a license and in the case of fraternal and veterans' organizations which

manage,

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OR
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; and

(d) such other information as may be required by the secretary of revenue. ¶No bingo license shall be issued to any bona fide nonprofit religious, charitable, fraternal, educational, or veterans' organization if any of its officers, directors, or officials:

(1) has not been a citizen of the United States for at least ten (10) years;

(2) has been convicted of or has plead guilty to a felony under the laws of this state, or any other state, or of the United States;

(3) has been convicted of or has plead guilty to a violation of gambling laws of any state or the federal gambling laws of the United States, or shall have forfeited bond to appear in court to answer charges for any such violation, within the ten (10) years immediately prior to the date of such organization's application for a license;

(4) has been convicted of or has plead guilty to being the keeper or is keeping a house of ill fame, or other crime or misdemeanor opposed to decency and morality or shall have forfeited bond to appear in court to answer charges for any such violation;

(5) or the spouses of any officer, director, or official of such organization would be ineligible to receive such a license hereunder for any reason other than citizenship;

(6) is not a resident of the county in which the premises sought to be licensed is located; or

(7) at the time of application for renewal of a bingo license issued hereunder would not be eligible for such license upon a first application.

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for licenses required under the provisions of this act

and if such organization shall conduct bingo on any leased premises, a copy of the written lease shall be submitted to the secretary of revenue. The secretary of revenue shall have the power and authority to approve or disapprove any written lease submitted. No written lease shall have a rental cost more than the fair and reasonable rental value for premises rented or leased for the purpose of conducting bingo. Any rental fee beyond that which is normally charged for rental of a premises for the purpose of managing, operating or conducting games of bingo shall not be approved.

However,

have not had during such entire five-year period a dues-paying membership in Kansas engaged in carrying out its objects. [Such five-year requirement shall not apply to ~~67~~ local organization which is affiliated with and chartered by a national organization which meets this five-year requirement. The licensee shall display the license in a prominent place in the vicinity of the area where it is to conduct "bingo." [L. 1975, ch. 401, § 3, April 1.]

such

However, once a local organization has been in existence continuously for a period of eighteen (18) months immediately preceding the date of making application for a license

~~79-1701. Tax upon gross receipts received from participation charges and admission fees, tax in addition to license fee. For the purpose of providing revenue which may be used by the counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of operating or conducting games of "bingo" under the authority of this act, there is hereby levied and there shall be collected and paid by each licensee a tax at the rate of ~~two~~ percent ~~(2%)~~ upon the gross receipts received by the licensee from charges for participation in such games and any admission fees or charges in connection therewith. The tax imposed by this section shall be in addition to the license fee imposed under K. S. A. ~~1975~~ Supp. 79-4703. [L. 1975, ch. 401, § 4, April 1.]~~

() to be decided by committee

1976

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79-4705. Returns and tax to director of taxation, forms, contents, extension of time. On or before May 15, 1975, and on dates thereafter, prescribed by the director of taxation, every organization operating or conducting a game of "bingo" shall make a return to the director of taxation upon forms prescribed by the director stating the name and address of the organization, the amount of the gross receipts received from charges for admission or participation in such game during the preceding reporting period, and such other information as the director may deem necessary. The organization making the return shall, at the time of making such return, pay to the director of taxation the amount of the enforcement tax then due under K. S. A. ~~1975~~ Supp. 75-4704. The director may extend the time for making returns and payment of such taxes for a period not exceeding sixty (60) days under rules and regulations adopted under the provisions of this act. (L. 1975, ch. 401, § 5, April 1.)

1976

by the secretary of revenue

79-1706. Restrictions on operation and conduct of games by licensee. Games of "bingo" operated or conducted by organizations licensed under the provisions of this act shall be operated or conducted subject to the following restrictions:

managed,

rules and regulations adopted by the secretary of revenue and

(a) The entire gross receipts received by any such organization from the operation or conduct of games of "bingo," except that portion utilized for the payment of the cost of prizes and license fees and taxes imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the organization permitted to conduct that game;

or spouse of a bona fide member

(b) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the game;

, conduct

or parent organization or an auxiliary unit or society of such sponsoring organization

(c) No person may receive any remuneration or profit for participating in the management or operation of the game;

(d)

(c) No person may participate in the management, conduct or operation of bingo games if he or she has been a professional gambler or gambling promoter, indicted or convicted for any illegal gambling activity, has paid tax under the internal revenue code for wagering or gambling activity, or has been convicted of any felony.

conduct

(e) The aggregate value of all prizes including the retail value of all merchandise awarded by any such organization in any single day to winners of games of "bingo" shall not exceed one thousand seven hundred fifty dollars (\$1,750).

(e)

() to be decided by committee

(f) The total number of games operated or conducted by any such organization in any one day shall not exceed twenty-five (25) and not more than five (5) of such games shall be jackpot or special games.

(f)

managed,

licensee

and not more than one licensee may conduct bingo games at a given licensed location in any one calendar day

(g) The prize awarded in any one regular game shall not exceed fifty dollars (\$50) cash or its equivalent and such prize in any one

(g)

and, the retail value of any merchandise received by a winner of a bingo game shall be considered as the cash value for the purposes of determining the value of the prize. The name and address of winners of prizes awarded in jackpot or special games shall be reported to the secretary of revenue or his or her designee

jackpot or special game shall not exceed five hundred dollars (\$500) cash or its equivalent;

The charge made for a single card to play in games other than jackpot or special games shall not exceed one dollar (\$1) and such card shall be valid for all regular games conducted or operated by the licensee on such day; the charge made for a single card to play in any single jackpot or special game shall not exceed one dollar (\$1);

(h)

Games of "bingo" shall not be operated or conducted by any such licensee upon more than two calendar days in any one week;

(i)

managed,

All licenses issued under the provisions of this act shall be issued in the name of the organization licensed;

(j)

Each licensee shall keep a record of all "bingo" games operated or conducted by it for a period of three years following the date the game is operated or conducted;

(k)

managed,

No person under the age of eighteen (18) years shall participate in the operation or conduct of any game of "bingo" operated or conducted by any organization licensed under the provisions of this act.

(l)

management,

managed,

under the provisions of this act. H. 1975, ch. 491, § 6, April 1.

(m)

(m) A licensee may not advertise bingo games except to the extent and in the manner prescribed by the rules and regulations adopted by the secretary of revenue;

(n) No lessor nor sub-lessor of premises used for the management, conduct, or operator of any games of bingo nor any licensee shall offer an opportunity to participate in a game of chance, drawing, contest, door prize, game, test of skill, lottery, or any similar activity as an inducement to participate in games of bingo nor as a bingo prize or preliminary to the awarding of a bingo prize;

(o) No licensee shall manage, operate or conduct bingo on any leased premises unless all of the terms and conditions of rental or use, including the rental of chairs, bingo equipment, tables, and janitor service, are set forth in a written lease submitted, approved and on file with the secretary of revenue, said written lease shall be for a term at least equal to the remainder of the term of the bingo license of the licensee. Lease payments shall be at a fixed monthly rate, or rate per bingo session, not subject to change during the term of the lease.

79-4707. Revocation of license, reasons for, appeal, new license, when. The secretary of revenue, after a hearing on the record and with reasonable notice to the licensee and an opportunity to appear and defend, shall revoke any license issued under the provisions of this act for any one of the following reasons:

(a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this act or any rules and regulations of the secretary of revenue for the administration or enforcement of this act;

(c) If the licensee has become ineligible to obtain a license under this act.

Within twenty (20) days after the order of the secretary of revenue revoking any license, the licensee may appeal to the district court of the county in the manner provided by K. S. A. [1975] Supp. 60-2101 *et seq.*, except that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to such organization, or any person acting for or on its behalf, for a period of six (6) months thereafter. [L. 1975, ch. 401, § 7, April 1.]

or suspend

laws of the state of Kansas or

licensing, taxing, management, conduct or operation of bingo

or suspending

1976

or suspending

or suspension

~~79-1703. Administration of act, rules and regulations, employees. The administration of~~

this act shall be vested in the secretary of revenue who shall have power to adopt and enforce rules and regulations to properly administer and enforce the provisions of this act. ~~The secretary may appoint or employ any necessary employees for the proper enforcement of this act. [L. 1975, ch. 491, § 8, April 1.]~~

and to regulate, license, and tax the management, operation and conduct of games of bingo and participants therein

79-4709. Illegal bingo operation, penalty.
[Illegal bingo operation is the operation or con-
duct of games of bingo without a license or in
violation of the provisions of this act or rules
and regulations adopted pursuant thereto.
Illegal bingo operation is a class B misde-
meanor.] [L. 1975, ch. 401, § 0, April 1.]

~~79-1716. Disposition of license fees and enforcement tax moneys.~~ All amounts received by or for the secretary of revenue from license fees pursuant to K. S. A. 1975 Supp. 79-4703 shall be remitted to the state treasurer and the state treasurer shall deposit all of such funds in the state treasury and shall credit the same to the state general fund. ~~All~~ amounts received by or for the secretary of revenue from the enforcement tax pursuant to K. S. A. ~~1975~~ Supp. 79-4704 shall be returned to the counties and cities in which the licensed premises are located at a time or times fixed by the secretary but not less than once in each year. If the licensed premises is located within the corporate limits of a city, all taxes collected therefrom shall be remitted to the city treasurer of such city and credited to the city general fund. If the licensed premises is located within the unincorporated area of any county, all taxes collected therefrom shall be remitted to the county treasurer of such county and credited to the county general fund. ~~(K.S.A. 1975, ch. 491, § 10, April 1)~~

One-half of the

1976

Attachment B

70-1700. Restriction on operation and conduct of games by licensees. Games of "bingo" operated or conducted by organizations licensed under the provisions of this act shall be operated or conducted subject to the following restrictions:

managed,

rules and regulations adopted by the secretary of revenue and

(a) The entire gross receipts received by any such organization from the operation or conduct of games of "bingo," except that portion utilized for the payment of the cost of prizes and license fees and taxes imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the organization permitted to conduct that game.

(*)

However, at least forty percent (40%) of such receipts after payment of the cost of the cost of prizes, license fees, and taxes imposed under the provisions of this act shall be used for religious, charitable, educational purposes conferring direct benefit on the community at large;

or spouse of a bona fide member

or parent organization or an auxiliary unit or society of such sponsoring organization

(b) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the game.

, conduct

(c) No person may participate in the management, conduct or operation of bingo games if he or she has been a professional gambler or gambling promoter, indicted or convicted for any illegal gambling activity, has paid tax under the internal revenue code for wagering or gambling activity, or has been convicted of any felony.

(d) No person may receive any remuneration or profit for participating in the management or operation of the game.

(d)

conduct

(e) The aggregate value of all prizes including the retail value of all merchandise awarded by any such organization in any single day to winners of games of "bingo" shall not exceed one thousand seven hundred fifty dollars (\$1,750).

(e)

() to be decided by committee

(f) The total number of games operated or conducted by any such organization in any one day shall not exceed twenty-five (25) and not more than five (5) of such games shall be jackpot or special games.

(f)

managed,

licensee

and not more than one licensee may conduct bingo games at a given licensed location in any one calendar day.

(g) The prize awarded in any one regular game shall not exceed fifty dollars (\$50) cash or its equivalent and such prize in any one

(g)

75-4767. Revocation of license, reasons for appeal, new license when. The secretary of revenue, after a hearing on the record and with reasonable notice to the licensee and an opportunity to appear and defend, shall revoke any license issued under the provisions of this act for any one of the following reasons:

or suspend

(a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

laws of the state of Kansas or

(b) If the licensee has violated any of the provisions of this act or any rules and regulations of the secretary of revenue for the administration or enforcement of this act;

licensing, taxing, management, conduct or operation of bingo

(c) If the licensee has become ineligible to obtain a license under this act.

or suspending

Within twenty (20) days after the order of the secretary of revenue revoking any license, the licensee may appeal to the district court of the county in the manner provided by K. S. A. [97] Supp. 69-2101 et seq., except

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that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of any such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to such organization, or any person acting for or on its behalf, for a period of six (6) months thereafter. [L. 1976, ch. 401, § 7, April 1.]

or suspending

or suspension



(d) If the license has misappropriated, misused, misdirected, or failed to spend proceeds of bingo games in accordance with purpose for which licensee is organized and operated and for which said license has been exempted from payment of federal income taxes.