
A BILL FOR AN ACT

RELATING TO BINGO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 BINGO

6 § -1 Definitions. As used in this chapter, unless the
7 context otherwise requires:

8 "Bingo" means a game in which players pay a consideration
9 to participate, in which seventy-five numbered objects are
10 available for selection, and those objects actually selected are
11 selected on a random basis, and in which each player
12 participates by means of cards sold, rented, or used only at the
13 time and place of the game, each card containing five rows of
14 five spaces each, each space printed with a number from 1 to 75,
15 except the central space, which is marked "FREE." Winners are
16 determined and prizes awarded on the basis of possessing a bingo
17 card on which some combination of numbers is printed and
18 conforms to the numbered objects selected at random based on a



1 predetermined winning arrangement. "Bingo", as used in this
2 chapter, shall not include any game using free cards and donated
3 prizes, if any, for which no payment of consideration is made by
4 participants.

5 "Bingo card" means a nondisposable card issued to a person
6 upon payment of the admission fee which affords a person the
7 opportunity to participate in all bingo games played.

8 "Bingo game" means a bingo game in which a person, upon
9 payment of an admission, is issued a bingo card and may purchase
10 or rent extra bingo cards.

11 "Bingo supplies and equipment" means all cards, boards,
12 sheets, markers, pads, or other supplies, devices, or equipment
13 designed for use in the play of bingo.

14 "Commission" means the Hawaii bingo commission.

15 "Department" means the department of commerce and consumer
16 affairs.

17 "Director" means the director of commerce and consumer
18 affairs.

19 "Extra bingo card" means a nondisposable card that affords
20 additional opportunities to play in a bingo game.

21 "Financial interest" or "financially interested" means any
22 interest in investments, awarding of contracts, grants, loans,



1 purchases, leases, sales, or similar matters under consideration
2 or consummated by the commission or holding a one per cent or
3 more ownership interest in an applicant or a licensee. For
4 purposes of this definition, a member, employee, or agent of the
5 commission shall be considered to have a financial interest in a
6 matter under consideration if any of the following circumstances
7 exist:

8 (1) The individual owns one per cent or more of any class
9 of outstanding securities that are issued by a party
10 to the matter under consideration or consummated by
11 the commission; or

12 (2) The individual is employed by or is an independent
13 contractor for a party to the matter under
14 consideration or consummated by the commission.

15 "Gross receipts" means total receipts received from the
16 conduct of bingo, including but not limited to receipts from
17 admission and the sale, rental, or use of bingo cards, extra
18 bingo cards, and bingo supplies.

19 § -2 Hawaii bingo commission; established. (a) There
20 is established a Hawaii bingo commission, which shall be a body
21 corporate and a public instrumentality of the State for the
22 purpose of implementing this chapter. The commission shall be



1 placed administratively within the department of commerce and
2 consumer affairs.

3 (b) The governor shall appoint five members of the
4 commission pursuant to section 26-34. No person shall be
5 appointed as a member of the commission or continue to be a
6 member of the commission if the person:

- 7 (1) Is an elected state official;
- 8 (2) Is licensed by the commission pursuant to this
9 chapter, or is an official of, has a financial
10 interest in, or has a financial relationship with, any
11 bingo operation subject to the jurisdiction of this
12 commission pursuant to this chapter;
- 13 (3) Is related to any person within the second degree of
14 consanguinity or affinity who is licensed by the
15 commission pursuant to this chapter; or
- 16 (4) Has been under indictment, convicted, pled guilty or
17 nolo contendere, or forfeited bail for a felony or a
18 misdemeanor involving gambling or fraud under the laws
19 of this State, any other state, or the United States
20 within the ten years prior to appointment or a local
21 ordinance in a state involving gambling or fraud that

1 substantially corresponds to a misdemeanor in that
2 state within the ten years prior to appointment.

3 (c) Each member shall serve five years. Vacancies shall
4 be filled for the unexpired term in like manner as the original
5 appointments.

6 (d) After due notice and public hearing, the governor may
7 remove or suspend for cause any member of the commission.

8 (e) Members of the commission shall:

9 (1) Be a resident of the State;

10 (2) Serve part-time; and

11 (3) Be reimbursed for expenses, including travel expenses,
12 incurred in the performance of official duties.

13 (f) Officers of the commission, including the chairperson,
14 shall be selected by the members. Three members shall
15 constitute a quorum, and a majority vote of the five members
16 shall be required for any final determination by the commission.

17 (g) Before assuming the duties of office, each member of
18 the commission shall take an oath that the member shall
19 faithfully execute the duties of office according to the laws of
20 the State and shall file and maintain with the director a bond
21 in the sum of \$25,000 with good and sufficient sureties. The
22 cost of any bond for any member of the commission under this



1 section shall be considered a part of the necessary expenses of
2 the commission.

3 (h) The commission shall appoint an executive director who
4 shall:

5 (1) Hold office at the will of the commission;

6 (2) Be exempt from chapters 76 and 89;

7 (3) Devote full time to the duties of the office;

8 (4) Not hold any other office or employment;

9 (5) Perform any and all duties that the commission
10 assigns; and

11 (6) Receive an annual salary at an amount set by the
12 commission, and shall be reimbursed for expenses
13 actually and necessarily incurred in the performance
14 of the executive director's duties.

15 (i) Except as otherwise provided by law, the executive
16 director may hire assistants, other officers, and employees, who
17 shall be exempt from chapters 76 and 89 and who shall serve at
18 the will of the executive director; provided that no person
19 shall be hired under this subsection who:

20 (1) Is an elected state official;

21 (2) Is licensed by the commission pursuant to this chapter
22 or is an official of, has a financial interest in, or



1 has a financial relationship with, any bingo operation
2 subject to the jurisdiction of the commission pursuant
3 to this chapter;

4 (3) Is related to any person within the second degree of
5 consanguinity or affinity who is licensed by the
6 commission pursuant to this chapter; or

7 (4) Has been under indictment, convicted, pled guilty or
8 nolo contendere, or forfeited bail for a felony or
9 misdemeanor concerning gambling or fraud under the
10 laws of this State, any other state, or the United
11 States within the last ten years, or a local ordinance
12 in any state involving gambling or fraud that
13 substantially corresponds to a misdemeanor in that
14 state within the ten years prior to employment.

15 (j) The salaries of employees hired pursuant to subsection
16 (i) shall be set by the executive director.

17 (k) The commission shall adopt rules in accordance with
18 chapter 91 establishing a code of ethics for its employees that
19 shall include a prohibition against participating in bingo games
20 as players. The code of ethics shall be separate from and in
21 addition to any standards of conduct set forth pursuant to
22 chapter 84.



1 § -3 Powers and duties of commission. (a) The
2 commission shall:

- 3 (1) Regulate bingo established under this chapter;
- 4 (2) Establish the qualifications of any applicant for
5 licensure to conduct bingo under this chapter;
6 provided that an applicant shall be a nonprofit
7 corporation properly incorporated in the State;
- 8 (3) Evaluate responsive and qualified applicants and award
9 bingo operation licenses to the highest bid;
- 10 (4) Provide for the collection and distribution of all
11 taxes imposed pursuant to this chapter, and to
12 collect, receive, expend, and account for all revenues
13 derived from bingo;
- 14 (5) Enter at any time without a warrant and without notice
15 to the licensee, the premises, offices, bingo
16 facility, or other places of business of the licensee,
17 where evidence of the compliance or noncompliance with
18 this chapter or rules is likely to be found. Entry is
19 authorized to:
 - 20 (A) Inspect and examine all premises wherein bingo is
21 conducted, or where any records of the activities
22 are prepared;

1 (B) Inspect, examine, audit, impound, seize, or
2 assume physical control of, or summarily remove
3 from the premises all books, ledgers, documents,
4 writings, photocopies of correspondence records,
5 videotapes, including electronically stored
6 records, money receptacles, other containers and
7 their contents, equipment in which the records
8 are stored, or other bingo related equipment and
9 supplies on or around the premises, including
10 counting rooms;

11 (C) Inspect the person, and inspect, examine, and
12 seize personal effects present in the bingo
13 facility; and

14 (D) Investigate and deter alleged violations of this
15 chapter or rules;

16 (6) Investigate alleged violations of this chapter and to
17 take appropriate disciplinary action against a
18 licensee for a violation or institute appropriate
19 legal action for enforcement, or both;

20 (7) Be present, through its inspectors and agents, any
21 time bingo is conducted for the purpose of certifying
22 the bingo facility's revenue, receiving complaints



1 from the public, and conducting other investigations
2 into the conduct of the bingo and the maintenance of
3 the equipment as from time to time the commission may
4 deem necessary and proper;

5 (8) Require that records including financial or other
6 statements of the licensee be kept in the manner
7 prescribed by the commission and that the licensee
8 submit to the commission an annual balance sheet and
9 profit and loss statement, a list of the stockholders
10 or other persons having a five per cent or greater
11 beneficial interest in the bingo activities of the
12 licensee, and any other information the commission
13 deems necessary to effectively administer this
14 chapter;

15 (9) Conduct hearings, issue subpoenas for the attendance
16 of witnesses and subpoenas duces tecum for the
17 production of books, records, and other pertinent
18 documents, and to administer oaths and affirmations to
19 the witnesses, when, in the judgment of the
20 commission, it is necessary to administer or enforce
21 this chapter. The executive director is also



1 authorized to issue subpoenas and to administer oaths
2 and affirmations to witnesses;

3 (10) Eject or exclude, or authorize the ejection or
4 exclusion of, any person from the bingo facility where
5 the person is in violation of this chapter or where
6 the person's conduct or reputation is such that the
7 person's presence within the bingo facility, in the
8 opinion of the commission, may call into question the
9 honesty and integrity of the bingo operation,
10 interfere with the orderly conduct thereof, or any
11 other action that, in the opinion of the commission,
12 is a detriment or impediment to the bingo operation;
13 provided that the propriety of that ejection or
14 exclusion shall be subject to subsequent hearing by
15 the commission;

16 (11) Suspend, revoke, or restrict a license, to require the
17 removal of the licensee or an employee of the licensee
18 for a violation of this chapter or a commission rule,
19 or for engaging in a fraudulent practice; and

20 (12) Adopt rules in accordance with chapter 91 to implement
21 this chapter.



1 § -4 Authorized bingo licensees; application;
2 nonrefundable fee. (a) Only a nonprofit corporation properly
3 incorporated in the State may apply for a bingo license.

4 (b) Each applicant for a license to conduct bingo shall
5 file with the Hawaii bingo commission an application on a form
6 prescribed by the commission. The term of the license shall be
7 ten years and shall be renewable for additional ten-year terms.
8 The application shall include:

9 (1) The name, address, telephone number, social security
10 number, and federal tax identification number of the
11 applicant;

12 (2) The identity of any other corporation, partnership, or
13 other business entity in which the applicant has an
14 equity interest of more than five per cent, including,
15 if applicable, the state of incorporation or
16 registration;

17 (3) A statement whether any director, officer, or agent of
18 the applicant has been indicted, convicted, pled
19 guilty or nolo contendere, or forfeited bail for any
20 felony or for a misdemeanor involving gambling, theft,
21 or fraud. The statement shall include the date, the
22 name and location of the court, arresting agency,



1 prosecuting agency, the case caption, the docket
2 number, the offense, the disposition, and the location
3 and length of incarceration;

4 (4) A statement whether the applicant, or any director,
5 officer, or agent of the applicant has ever been
6 granted any gaming license or certificate issued by
7 any other jurisdiction that has been restricted,
8 revoked, or not renewed. The statement shall describe
9 the facts and circumstances concerning that
10 restriction, revocation, or nonrenewal, including the
11 licensing authority, the date each action was taken,
12 and the reason for each action;

13 (5) A statement whether the applicant, or any director,
14 officer, or agent of the applicant, within the last
15 ten years, has filed or had filed against it a civil
16 or administrative action or proceeding in bankruptcy;

17 (6) A statement whether the applicant, or any director,
18 officer, or agent of the applicant, within the last
19 five tax years, has been adjudicated by a court or
20 tribunal to have failed to pay any final amount of any
21 income, sales, or gross receipts tax due and payable
22 under federal, state, or local law, after exhaustion



1 of all inter-agency appeals processes. This statement
2 shall identify the party, amount of the tax, type of
3 tax, time periods involved, and resolution;

4 (7) The approximate capacity of the premises in which
5 bingo will be conducted; and

6 (8) Any other information the commission deems necessary
7 to administer this chapter.

8 (c) A nonrefundable application fee of \$ shall be
9 paid to the commission by an applicant at the time of filing to
10 defray the costs associated with an applicant's background
11 investigation conducted by the commission. If the costs of the
12 investigation exceed \$, the applicant shall pay the
13 additional amount to the commission.

14 § -5 Denial of application; hearing. If the commission
15 denies a license to conduct bingo, within ten days after
16 receiving written notification of the denial, an applicant may
17 demand in writing a hearing before the commission. At the
18 hearing, the burden of proof shall be on the applicant to
19 establish the applicant's eligibility. If, after the hearing,
20 the commission enters an order denying the application, the
21 order shall set forth in detail the reasons for the denial. If



1 the board approves the application, the commission shall issue
2 the license within fourteen days after approval.

3 § -6 Suspension or revocation. (a) Proceedings to
4 suspend or revoke a license to conduct bingo shall be initiated
5 by the commission pursuant to chapter 91. The notice shall
6 state the alleged violations that constitute the grounds for the
7 proceedings. The commission may temporarily suspend the license
8 for a period of thirty days while any proceedings are pending
9 and shall notify the licensee of the dates of the temporary
10 suspension.

11 (b) The commission shall notify an officer or agent of the
12 licensee of the time and place of the hearing by registered
13 mail, return receipt requested, at least fifteen days before the
14 hearing.

15 (c) The commission shall hold a hearing on a suspension or
16 proposed revocation as soon as practicable. The commission
17 shall issue in writing its findings and decision on suspension
18 or revocation within thirty days after the hearing. A copy of
19 the findings and decision shall be sent immediately to the
20 licensee. If the commission suspends or revokes the license,
21 the licensee shall be informed of the effective date of the
22 suspension or revocation. The commission's decision under this



1 section shall be subject to judicial review pursuant to section
2 91-14.

3 (d) When a license is suspended or revoked, the licensee
4 shall immediately surrender the license. A licensee whose
5 license has been revoked may reapply for a license one year
6 after the effective date of the revocation. If a license has
7 been suspended under subsection (c), the commission shall
8 reinstate the license at the end of the period of suspension.

9 (e) A violation of any applicable law of this State or
10 rule adopted thereunder shall constitute grounds for suspension
11 or revocation.

12 § -7 Conduct of bingo. For all bingo games:

13 (1) Purchase of a bingo card shall entitle each player to
14 a place with sufficient room in which to play;

15 (2) Cash payment only shall be accepted for any bingo
16 card;

17 (3) No person under age eighteen shall:

18 (A) Play any bingo game conducted by the licensee
19 unless accompanied by that person's parent, legal
20 guardian, or spouse; or

21 (B) Conduct or assist in the conduct of bingo;



- 1 (4) No person who is conducting or assisting in the
2 conduct of bingo shall participate as a bingo player;
- 3 (5) Each bingo winner shall be determined and every prize
4 shall be awarded and delivered on the same day on
5 which the bingo game is conducted;
- 6 (6) Bingo cards and extra bingo cards shall be printed
7 only on one side;
- 8 (7) The licensee shall keep an accurate, separate count of
9 the number of bingo cards and extra bingo cards that
10 are sold, rented, or used;
- 11 (8) Bingo cards and extra bingo cards shall each be
12 assigned a specific price, and the price shall remain
13 the same during a bingo game; provided that a card may
14 be changed at no additional cost; and
- 15 (9) Bingo cards and extra bingo cards shall be sold or
16 rented only on the premises at which bingo is being
17 conducted. A price list shall be posted where the
18 extra bingo cards are distributed, setting forth the
19 price of each type of card. Only the posted price may
20 be charged. The bingo cards and the extra bingo cards
21 shall be readily distinguishable from each other;



1 § -8 **Method of play.** (a) The method of play in any
2 bingo game and the use of bingo supplies and equipment shall
3 afford each player an equal opportunity to win.

4 (b) The objects to be drawn shall be essentially the same
5 in size, color, shape, weight, balance, and all other
6 characteristics, so that at all times during the conduct of
7 bingo, each object possesses the capacity for equal agitation
8 with any other object within the receptacle.

9 (c) All seventy-five objects shall be present in the
10 receptacle at the beginning of each bingo game.

11 (d) The announcement of all numbers drawn shall be clearly
12 audible to the players present.

13 (e) When more than one room is used for any one bingo
14 game, the receptacle and caller and any assistant shall be in
15 the room where the greatest number of players are present, and
16 all numbers shall be announced in a manner clearly audible to
17 the players in each room.

18 (f) Once removed, no object shall be returned to the
19 receptacle until after the conclusion of the game.

20 (g) Immediately following the calling of each number in a
21 bingo game, the caller shall turn that portion of the object
22 that shows the number and letter to the players.



1 § -9 **Number arrangement announced; prizes announced and**
2 **posted.** The particular arrangement of numbers required to be
3 covered to win and the amount of the prize for each game shall
4 be clearly described and audibly announced to the players
5 immediately before each game. The amount of the prize for each
6 bingo game shall also be posted where the bingo cards and extra
7 bingo cards are distributed.

8 § -10 **Verification of winner.** (a) The numbers
9 appearing on the winning card at the time a winner is determined
10 shall be verified in the immediate presence of at least one
11 disinterested player.

12 (b) At the time a winner is determined, any player may
13 call for verification of all numbers and of the objects
14 remaining in the receptacle and not yet drawn. This
15 verification shall be made in the immediate presence of an
16 employee of the licensee and at least one disinterested player.

17 § -11 **More than one winner.** When more than one player
18 is found to be the winner on the call of the same number in the
19 same bingo game, a cash prize shall be divided equally among the
20 winners. The licensee may elect to round off the prize to any
21 amount between the next lower dollar and the next higher dollar.



1 § -12 **Bingo caller.** No person may act as a caller in
2 the conduct of any game of bingo unless the person:

- 3 (1) Is a bona fide employee of the licensee; and
4 (2) Has never been convicted of a felony or, if convicted,
5 has been pardoned or released from probation or parole
6 for at least five years.

7 § -13 **Tax on gross receipts.** All gross receipts of the
8 licensee that are derived from the conduct of bingo shall be
9 subject to chapter 237 and taxed as provided in section 237-
10 13(9).

11 § -14 **Report; payment of tax.** (a) At the end of each
12 month, the licensee shall submit to the commission a report on a
13 form prescribed by the commission. Notwithstanding section 237-
14 31, the report shall be accompanied by the payment of the tax
15 due on gross receipts pursuant to section -13. The report
16 shall include:

- 17 (1) An itemized statement of the gross receipts from bingo
18 for the prior month, including gross receipts from
19 sales of bingo cards, extra bingo cards, and sale of
20 supplies; and



1 (2) An itemized statement of expenditures, including
2 amounts paid for prizes, bingo supplies and equipment,
3 license fees, and other expenses.

4 (b) The commission may suspend the licensee's license if
5 the licensee:

6 (1) Fails to file a statement under subsection (a)(1) or
7 (2) within five days after notification of
8 delinquency; or

9 (2) Submits incomplete statements under subsection (a)(1)
10 and (2).

11 (c) If the statements submitted under subsection (a)(1)
12 and (2) are not full, accurate, and truthful, the commission may
13 refuse to renew a license or may suspend a license until a
14 statement in proper form has been filed.

15 § -15 Duties of the attorney general. Whenever the
16 attorney general files with a circuit court a statement that the
17 attorney general believes that a violation of this chapter has
18 occurred, the court shall issue a subpoena for any person
19 requested or named by the attorney general.

20 § -16 Violations a public nuisance. A violation of this
21 chapter constitutes a public nuisance and may be enjoined or
22 abated in the same manner as other public nuisances,



1 irrespective of any criminal prosecution that may be or is
2 commenced based on the same acts.

3 § -17 **Inspection for enforcement.** (a) A police officer
4 or prosecuting attorney, within their respective jurisdictions,
5 an authorized employee of the commission, or the attorney
6 general, at all reasonable hours, may enter the premises of the
7 licensee and examine the books, papers, and records of the
8 licensee to determine if all proper taxes or fees imposed have
9 been paid.

10 (b) Any refusal to permit an examination of the premises
11 by the licensee, its agent or an employee, or the person in
12 charge of the premises to which the bingo license relates,
13 constitutes sufficient grounds for the suspension or revocation
14 of a license.

15 (c) A refusal constitutes sufficient grounds for any
16 police officer or other persons authorized under this section
17 within their respective jurisdictions or authority to employ
18 whatever reasonable action is necessary to conduct inspections
19 permitted by this section.

20 § -18 **Penalties.** (a) Any person convicted of violating
21 this chapter shall be guilty of a misdemeanor but shall be



1 subject to a maximum term of imprisonment of nine months, or a
2 maximum fine of \$10,000, or both.

3 (b) The attorney general or the prosecuting attorney of
4 the county in which the violation occurs may commence an action
5 in the name of the State to recover a civil forfeiture to the
6 State of not more than \$10,000 for the violation of any
7 provision of this chapter.

8 (c) The attorney general, the commission, or the
9 prosecuting attorney of a county in which an actual or potential
10 violation occurs, after informing the attorney general, may
11 commence an action in the circuit court in the name of the State
12 to restrain any violation of any provision of this chapter. The
13 court, prior to entry of final judgment, may make such an order
14 or judgment as necessary to restore to any person any pecuniary
15 loss suffered because of the acts or practices involved in the
16 violation; provided proof thereof is submitted to the court.
17 The attorney general may subpoena persons, require the
18 production of books and other documents, and request the board
19 to exercise its authority to aid in the investigation of alleged
20 violations of this section.

21 § -19 Disposition of tax on gross receipts. Of the tax
22 revenues assessed and paid under sections -13 and -14:



1 (1) One per cent shall be retained by the commission to
2 fund a compulsive gamblers program and for public
3 security at the bingo facility;

4 (2) Not more than four per cent shall be retained by the
5 commission to fund the commission's administrative
6 expenses; and

7 (3) The balance shall be deposited into the state general
8 fund.

9 § -20 **Compulsive gambler program.** The commission shall
10 create and implement a program to assist individuals who are
11 identified as compulsive gamblers."

12 SECTION 2. Section 712-1220, Hawaii Revised Statutes, is
13 amended by amending the definition of "gambling" to read as
14 follows:

15 "(4) "Gambling". A person engages in gambling if [~~he~~] the
16 person stakes or risks something of value upon the outcome of a
17 contest of chance or a future contingent event not under [~~his~~]
18 the person's control or influence, upon an agreement or
19 understanding that [~~he~~] the person or someone else will receive
20 something of value in the event of a certain outcome. Gambling
21 does not include bona fide business transactions valid under the
22 law of contracts, including but not limited to contracts for the



1 purchase or sale at a future date of securities or commodities,
 2 and agreements to compensate for loss caused by the happening of
 3 chance, including but not limited to contracts of indemnity or
 4 guaranty and life, health, or accident insurance. Gambling does
 5 not include the conduct of bingo pursuant to chapter _____."

6 SECTION 3. In codifying the new section added by section 1
 7 of this Act, the revisor of statutes shall substitute
 8 appropriate section number for the letter used in designating
 9 the new section in this Act.

10 SECTION 4. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun before its effective date.

13 SECTION 5. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect upon its approval.

16

INTRODUCED BY: Calvin H. Say
 BY REQUEST

JAN 13 2012



H.B. NO. 1825

Report Title:

Bingo; Non-profit Organizations

Description:

Allows non-profit organizations to conduct bingo games. Creates Hawaii bingo commission within department of commerce and consumer affairs to regulate bingo. Allocates 1% of general excise tax revenues on gross receipts for a compulsive gambler program; up to 4% for administrative expenses; and the balance for deposit into the state general fund.

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