

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 432  
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State Affairs  
3-24-97  
Committee Report (Substituted)

### **DIGEST**

Currently, the Bingo Division of the Texas Lottery Commission issues licenses to conduct bingo games in 10 different classes. Classes are given alphabetical designation, from A to J, according to the amount of gross receipts generated by the charity. In this designation system, class A would represent those groups with receipts of up to \$25,000 per year. Meanwhile, the class J would be representative of gross receipts over \$400,000 per year.

The next component of the bingo formula is a class of licenses known as lessors. In 1995 this class had approximately 794 fraternal organizations, 529 veterans organizations, 257 religious organizations, 109 volunteer fire departments, and 71 medical organizations. Their intent is to bridge the gap between public and private assistance for a variety of purposes.

Because of the breakdown of charitable distribution, concern was reflected in the percentage of charitable distributions that organizations in various classes were able to make on average. Bingo was created to allow those groups licensed to conduct bingo the ability to raise larger amounts of money than they had previously been able to raise. Often bingo operations cannot raise enough money to pay expenses; thus no money is left over for charities. Bingo generally should return approximately 75 percent of gross play back to the players as prizes. The net, after prizes, is the revenue available to the charity, not the gross wagered amount. Any decrease in gross play will produce a much smaller net income and magnify the percentages associated with the fixed expenses.

Since the introduction of the lottery and with the growth of gaming on our borders and within the state, bingo gross play has been underutilized. Bingo also competes with other forms of entertainment and has done so with limited ability, due to certain regulatory and advertising restrictions. C.S.S.B. 432 grants rulemaking authority to the Texas Commission of Licensing and Regulation for bingo activity and outlines provisions regarding the regulation and operation of bingo.

### **PURPOSE**

As proposed, C.S.S.B. 432 outlines provisions regarding the regulation and operation of bingo.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Texas Commission of Licensing and Regulation under SECTIONS 2, 5, 7, 8, and 10 (Sections 11(u), 13(p), 14(e), 16(a), (c), (d), (e), (f) and (j), 20(b) and Sec. 44(a) and (c), Article 179d, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2, Article 179d, V.T.C.S. (Bingo Enabling Act), by amending Subdivision (20) and adding Subdivisions (26)-(28), to redefine "commission" and define "location," "place," "premises," "instant bingo," "pull-tab bingo," "break-open bingo," "licensed authorized organization," and "primary business office."

SECTION 2. Amends Sections 11(f), (g), (k), (p), (q), (u), and (v), Article 179d, V.T.C.S., to authorize a bona fide member, rather than a person other than a bona fide member, of a licensed authorized organization (organization) to conduct, promote, or administer a bingo game. Prohibits a game of chance other than a raffle conducted under the Charitable Raffle Enabling Act (Article

179f, V.T.C.S.) from being conducted when bingo is being played. Deletes text prohibiting anyone other than an organization from promoting bingo. Authorizes, rather than prohibits, an organization to include in an advertisement the amount of a prize offered at a bingo occasion. Prohibits an organization or other person from offering to award a door prize or other prize having a value of more than \$250, rather than offering to award a door prize or other prize to persons present at a bingo occasion or participating in a bingo occasion in addition to the prizes awarded for winning the individual bingo games. Requires the commission, by rule, to prohibit the playing of bingo by use of a uniform product code bar coding device or symbol. Sets forth instances in which a person is prohibited from using a card-minding device.

SECTION 3. Amends Section 11a(a), Article 179d, V.T.C.S., to prohibit the rent charged by a lessor to an organization to conduct bingo from exceeding \$450, rather than \$600, for each bingo occasion. Makes a conforming change.

SECTION 4. Amends Section 12, Article 179d, V.T.C.S., by amending Subsection (d) and adding Subsection (g), to authorize an organization to conduct, rather than receive a temporary license for the conduct of, bingo games for special events at its licensed location on 12 bingo occasions during a calendar year after filing with the commission a written notice. Authorizes the notice to be transmitted to the agency by facsimile and requires the organization to transmit the notice to the commission before the third day preceding the date of the special event. Provides that the approval to conduct bingo during the special event is a ministerial act by the commission. Provides that a special event authorization, rather than a temporary license, is valid for four hours during any one day. Sets forth instances in which there is evidence of an organization's tax exempt status for purposes of Subsection (a)(1).

SECTION 5. Amends Section 13, Article 179d, V.T.C.S., by amending Subsections (f) and (j) and adding Subsections (p) and (v), to provide that a person who leases premises on which bingo is conducted is, rather than is not, required to be a licensed commercial lessor if, rather than unless, the person leases directly to an organization. Requires an organization that holds a commercial license to lease premises on which bingo is conducted to be licensed to conduct bingo at the same premises. Prohibits the commission from issuing a commercial license to lease bingo premises to an organization unless the commission receives evidence that the commission considers to be adequate indicating that the organization is able to furnish the premises with furniture, fixtures, and equipment as provided by rules adopted by the commission, provide utilities to the premises as provided by rules adopted by the commission, and purchase the premises or renovate the premises as provided by rules adopted by the commission. Prohibits a license from being transferred by a licensee except as provided by this subsection. Outlines provisions regarding a commercial license. Defines "good cause." Requires the estate or guardian and the heir or heirs or other appropriate person under the circumstances to promptly take all necessary steps to complete a transfer of the license to the heir or heirs or other appropriate person under the circumstances. Provides that a transfer of a license under this subsection requires the prior approval of the commission. Requires the commission to approve the transfer if the person to whom the license will be transferred otherwise meets the requirements for the license. Prohibits no more than one bingo location from existing under a common roof or over a common foundation. Sets forth instances in which Subdivision (v) does not apply and Subdivision(v)(2) applies.

SECTION 6. Amends Section 13c(i), Article 179d, V.T.C.S., to prohibit another licensed distributor, rather than a person, from selling any bingo supplies to the purchaser in default on any terms other than payment, rather than immediate payment, and prohibits the commission from issuing a license amendment or license renewal to the purchaser in default until the delinquent charges have been paid. Requires a licensed distributor to notify the commission of a payment received from a purchaser in default not later than the second day after the date the payment for the delinquent amount is received. Requires the commission to allow the purchaser to purchase products from any licensed distributor after the payment of all delinquent amount by a purchaser in default.

SECTION 7. Amends Section 14, Article 179d, V.T.C.S., to authorize a license to be amended on payment of a \$10, rather \$25, fee. Deletes text prohibiting a licensee from changing the times of its bingo games. Requires a licensee to notify the commission before changing the time or date of a bingo game. Authorizes a licensee to provide notice to the commission regarding the change of the

time or date of a bingo game by use of telephone or facsimile. Requires the commission, by rule, to provide a method by which a licensee may pay the amendment fee required by this section.

SECTION 8. Amends Section 16, Article 179d, V.T.C.S., to require the commission, rather than the administrator, to employ a director of bingo operations to administer the division under the direction of the commission. Sets forth requirements regarding the distribution of bingo tickets and other bingo products. Authorizes the commission to temporarily, rather than summarily, suspend a license. Requires the director of bingo operations to follow any prehearing rules adopted by the commission to determine if the licensee's operation constitutes a threat to the welfare of the public before temporarily suspending a license. Provides that a proceeding to temporarily suspend a license is initiated by the director of bingo operations by serving notice to the licensee informing the licensee of the rules adopted by the commission regarding the prehearing temporary suspension process and of the licensee's right to a hearing. Makes a standard recodification. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Sections 19b(a) and (b), Article 179d, V.T.C.S., to require an organization to collect a fee from each person who wins a prize valued at more than \$250 in a bingo game.

SECTION 10. Amends Section 20, Article 179d, V.T.C.S., to require a licensee, rather than any person conducting bingo games without a license, to report to the comptroller, rather than the state treasurer, quarterly the taxes and fees authorized or imposed by this Act. Provides that the taxes and fees authorized by this Act are due and payable by the licensee or a person conducting bingo games without a license to the comptroller semimonthly. Requires the commission to adopt rules regarding payment of taxes and fees.

SECTION 11. Amends Article 179d, V.T.C.S., by adding Sections 44 and 45, as follows:

Sec. 44. TRAINING PROGRAM. Requires the person designated by the organization under Section 12(a)(7) of this Act to annually complete eight hours of training as provided by the rules of the commission. Sets forth information to be included in a program approved by the commission. Sets forth information the commission is required to establish, by rule.

Sec. 45. OTHER POWERS AND DUTIES OF COMMISSION. Provides that the powers and duties of the commission under this Act are in addition to the powers and duties of the commission under Article 9100, V.T.C.S.

SECTION 12. Repealer: Section 25, Bingo Enabling Act (Restrictions on Bingo Games and Delivery of Return; Remittance).

SECTION 13. (a) Provides that the powers and duties of the Texas Lottery Commission with regard to regulation of the playing of bingo in this state are transferred to the Texas Commission of Licensing and Regulation.

(b) Provides that the Texas Commission of Licensing and Regulation assumes the position of the Texas Lottery Commission in relation to any liability, obligation, agreement, or contract of the Texas Lottery Commission for the regulation of bingo.

(c) Requires the Texas Lottery Commission to transfer the records and other property used for the regulation of bingo to the Texas Commission of Licensing and Regulation and requires any unexpended and unobligated appropriation to the Texas Lottery Commission for the regulation of bingo to be transferred to the Texas Commission of Licensing and Regulation on the effective date of this Act.

(d) Provides that a rule applicable to the regulation of bingo adopted by the Texas Lottery Commission that is in effect immediately before the effective date of this Act becomes a rule of the commissioner of licensing and regulation and remains in effect until amended or repealed.

(e) Provides that the validity of actions taken by the Texas Lottery Commission, including the

issuance of a license, is not affected by this Act. Provides that to the extent those actions continue to have any effect on or after September 1, 1997, they are considered to be the actions of the Texas Department of Licensing and Regulation.

SECTION 12.           Effective date: September 1, 1997.  
                          Makes application of this Act prospective.

SECTION 15.           Requires the Texas Legislative Council to prepare a nonsubstantive revision of the Bingo Enabling Act (Article 179d, V.T.C.S.) for consideration by the 76th Legislature at its regular session in 1999.

SECTION 14.           Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

#### SECTION 1.

Amends Section 2, Article 179d, V.T.C.S., (Bingo Enabling Act), to redefine "commission" and add definitions for "instant bingo," "pull-tab bingo," "break-open bingo," "licensed authorized organization," and "primary business office."

#### SECTION 2.

Amends Subsections (p) and (q) and adds Subsection (v), Article 179d, V.T.C.S., regarding the advertisement of bingo and outlines provisions regarding the playing of bingo. Deletes Subsection (f).

#### SECTION 4.

Amends Section 12(d), Article 179d, V.T.C.S., by adding Subsection (g), regarding the conduction of bingo games and evidence of exemption.

#### SECTION 5.

Amends Section 13, Article 179d, V.T.C.S., by amending Subsection (f) and adding Subsections (j), (p) and (v), regarding a license to conduct bingo, the issuance of a commercial license and the applicability of certain subdivisions.

#### SECTION 6.

Amends Section 13c(i), Article 179d, V.T.C.S., to outline provisions and set forth requirements regarding the purchase of products.

#### SECTION 7.

Amends Section 14, Article 179d, V.T.C.S., to make conforming changes.

#### SECTION 8.

Amends Section 16, Article 179d, V.T.C.S., to set forth requirements regarding the distribution of bingo tickets and other bingo products and to make conforming changes.

#### SECTION 9.

Amends Sections 19b(a) and (b), Article 179d, V.T.C.S., to delete Subsection (b) and make a conforming change.

#### SECTION 10.

Amends Section 20, Article 179d, V.T.C.S., regarding the reporting and due date of taxes and fees.

SECTION 11.

Amends Article 179d, V.T.C.S., by adding Sections 44 and 45, regarding the required training program.

SECTION 12.

Deletes repealer.

SECTION 13.

Amends Subsection (d) by transferring rulemaking authority from the Texas Commission of Licensing and Regulation to the commissioner of licensing and regulation. Amends Subsection (e) to provide that to the extent that the validity of actions taken by the Texas Lottery Commission continue to have any effect on or after September 1, 1997, they are considered to be the actions of the Texas Department of Licensing and Regulation, rather than the Texas Commission of Licensing and Regulation.