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Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. A. Holmes and LaRe

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SUMMARY

Electronic instant bingo

- Establishes electronic instant bingo as a separate type of bingo, along with traditional bingo, raffles, and instant bingo, but largely regulates the operation of electronic instant bingo in the same manner as instant bingo.

Definitions

- Defines "electronic instant bingo" as a form of bingo that consists of an electronic or digital representation of instant bingo and that meets a series of requirements.
- Defines an "electronic instant bingo system" as a mechanical, electronic, digital, or video device that is used to play electronic instant bingo and any associated equipment or software used to conduct, manage, monitor, or document any aspect of electronic instant bingo.

Charitable organizations conducting electronic instant bingo

- Allows charitable organizations to offer electronic instant bingo under a Type II or Type III license, in the same way as instant bingo.
- Requires electronic instant bingo proceeds to be distributed in the same manner as instant bingo proceeds are distributed under continuing law.
- Applies the same recordkeeping and operating requirements to electronic instant bingo as currently apply to instant bingo.
- Applies the restrictions on bingo game operators in the context of electronic instant bingo to any person involved in selling or redeeming electronic instant bingo tickets, credits, or vouchers or accessing an electronic instant bingo system other than as a participant, but does not include security personnel or a person who is maintaining, updating, or repairing an electronic instant bingo system.

Attorney General rules

- Requires the Attorney General to adopt rules under the Administrative Procedure Act to ensure the integrity of electronic instant bingo, and lists several topics that must be covered under those rules.

Distributor and manufacturer licensing

- Requires a licensed distributor or manufacturer of bingo supplies to obtain an electronic instant bingo endorsement to the distributor's or manufacturer's license in order to distribute or manufacturer electronic instant bingo systems.
- Requires the distributor or manufacturer to pass a criminal records check regarding gambling-related offenses in order to receive the endorsement.
- Allows the Attorney General to suspend or revoke an endorsement for violations of Ohio's gambling laws or rules.

Regulation of electronic instant bingo systems

- Requires a manufacturer of an electronic instant bingo system to submit the system to an independent testing laboratory and to the Attorney General for approval before the manufacturer may sell, offer to sell, or otherwise provide or offer to provide the system to any person for use in Ohio.
- Requires every electronic instant bingo system in use in Ohio to include an internal report management system and to allow the Attorney General to access the internal report management system, monitor the electronic instant bingo in real time, and remotely deactivate the electronic instant bingo system or any aspect of it.
- Allows the Attorney General to establish and maintain a centralized report management system that includes all of the information and functions of the individual report management systems described above.
- Permits Attorney General to inspect any electronic instant bingo system in use in Ohio at any time to ensure that the system is in compliance with the bill and with the Attorney General's rules.
- Allows Attorney General to establish by rule an annual fee to be paid by electronic instant bingo system distributors to cover the cost of monitoring and inspecting systems under the bill.

Prohibitions regarding electronic instant bingo

- Prohibits several types of conduct related to the operation of electronic instant bingo.
- Prohibits any person from selling, offering to sell, or otherwise providing or offering to provide an unapproved electronic instant bingo system to any person for use in Ohio.
- Specifies that person who knowingly violates any of the prohibitions in the bill or in the Attorney General's rules is guilty of illegal electronic instant bingo conduct, which is a

first degree misdemeanor for a first offense and a fifth degree felony for any subsequent offense.

Bingo licenses, generally

Denial or suspension

- Allows the Attorney General to deny a bingo license to an organization, or suspend an organization's bingo license for up to five years, if the Attorney General has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to the organization.

Youth athletic park organizations

- Eliminates a requirement that a youth athletic park organization's playing fields have been used for nonprofit youth athletic activities for at least 100 days during a given year in order for the organization to obtain a bingo license.

License type

- Requires a bingo license to indicate whether it is a Type I, Type II, or Type III license.

Technical changes

- Makes numerous stylistic and technical changes to the section of law governing bingo licenses in order to incorporate "Type I," "Type II," and "Type III" license terminology, to clarify that an organization does not need a license to conduct a raffle, and generally to make the section easier to read.

Punch boards and seal cards

- Clarifies that punch boards and seal cards are types of instant bingo games and may be played under an instant bingo license.

Minors playing traditional bingo

- Makes a technical correction to clarify the penalty that applies to a charitable organization if it permits a person the organization knows, or should have known, is under 18 to play traditional bingo.

Bingo Law enforcement

Charitable organizations

- Allows the Attorney General or a law enforcement agency to examine the accounts and records of any officer, agent, trustee, member, or employee of a charitable organization with a bingo license.

Manufacturers and distributors

- Permits the Attorney General or a law enforcement agency to investigate a bingo distributor or manufacturer or any officer, agent, trustee, member, or employee of the bingo distributor or manufacturer in relation to violations of the Bingo Law.

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DETAILED ANALYSIS

Background on charitable bingo

The Ohio Constitution generally prohibits gambling, but includes exceptions for a state-run lottery, casino gaming at four specified facilities, and bingo conducted by charitable

organizations for charitable purposes, as authorized and regulated by the General Assembly. Charitable organizations that wish to conduct bingo games must apply for a license from the Attorney General and comply with the requirements of the Revised Code and of administrative rules adopted by the Attorney General, including requirements governing the places, times, and manner of holding bingo games.¹

Types of bingo

The Revised Code defines “bingo” to include four types of activities:²

- **Traditional bingo**, in which participants purchase a card with spaces arranged in a grid marked with letters, numbers, or other symbols, and cover the spaces as randomly selected numbers, letters, or symbols are called, with the goal being to win a prize by creating a line or other pattern;
- **Raffles**, in which participants purchase tickets and the ticket stubs are placed in a container and randomly selected, with the goal being to win a prize by having the participant’s ticket stub selected (see **COMMENT**, below);
- **Instant bingo**, in which a participant purchases a paper ticket and then removes part of the ticket using a perforated pull tab to reveal whether the ticket is a winner. The prize amount and structure are predetermined for each “deal,” or set of tickets. In some instant bingo games, the winning numbers, letters, or symbols are determined by using a seal card to reveal predesignated winners or by using a bingo blower to randomly select the winners.
- **Punch boards**, in which the organization prepares a board with many holes with a randomly numbered slip of paper in each hole, and participants pay for the opportunity to draw slips of paper from the board, with the goal being to win a prize by drawing the slip with the winning number. The bill clarifies that punch boards are a type of instant bingo.

As is explained below, the bill adds a new category for electronic instant bingo.

Charitable organizations

For purposes of offering bingo games, continuing law defines a “charitable organization” as an organization that has been in continuous existence in Ohio for at least two years before applying for a bingo license and that either (1) is exempt from taxation under subsection 501(c)(3) of the federal Internal Revenue Code or (2) is a volunteer rescue service organization, volunteer firefighter’s organization, veteran’s organization, fraternal organization, or sporting

¹ Ohio Constitution, Article XV, Section 6; R.C. Chapter 2915; and Ohio Administrative Code Chapter 109:1-4.

² R.C. 2915.01(O).

organization that is exempt from taxation under subsection 501(c)(4), (7), (8), (10), or (19) of the Internal Revenue Code.³

Distribution of net profit

Generally

The proceeds of charitable bingo must be used for a charitable purpose. For all types of bingo other than instant bingo, continuing law requires the net profit of the game to be used by or given to one of the following:⁴

- A public charity, as determined under the Internal Revenue Code;
- A veteran's organization that meets certain qualifications, provided that the net profit must be used for specified charitable purposes, used to award certain scholarships, donated to a governmental agency, used for nonprofit youth activities, used to donate U.S. or Ohio flags to nonprofit organizations, used for the promotion of patriotism, or used for disaster relief;
- A fraternal organization that has been in continuous existence in Ohio for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if such contributions would be considered deductible charitable contributions under the Internal Revenue Code;
- A volunteer firefighter's organization that uses the net profit to provide financial support for a volunteer fire department or a volunteer fire company.

Instant bingo

Under continuing law, a charitable organization other than a veteran's, fraternal, or sporting organization must distribute 100% of the net profit from the proceeds of the sale of instant bingo to an organization listed above that may receive the net profit of other types of bingo, or to a department or agency of the federal government, the state, or any political subdivision.

Continuing law requires a veteran's, fraternal, or sporting organization that conducts instant bingo to dispose of the first \$250,000 or less in net profit from the proceeds of the sale of instant bingo in a calendar year as follows:

- The organization must distribute at least 25% to an organization listed above that may receive the net profit of other types of bingo, or to a department or agency of the federal government, the state, or any political subdivision;
- The organization may retain not more than 75% to cover the organization's expenses in conducting instant bingo.

³ R.C. 2915.01(H).

⁴ R.C. 2915.01(V).

The organization must dispose of any net profit from the proceeds of the sale of instant bingo that exceeds \$250,000 in a calendar year as follows:

- The organization must distribute at least 50% to an organization listed above that may receive the net profit of other types of bingo, or to a department or agency of the federal government, the state, or any political subdivision;
- The organization may distribute 5% for the organization's own charitable purposes or to a community action agency;
- The organization may retain 45% to cover the organization's expenses in conducting instant bingo.

The Attorney General may, by rule, increase the \$250,000 threshold for changes in prices as measured by the Consumer Price Index and other factors affecting the organization's expenses in conducting bingo.

As is discussed below, the bill regulates electronic instant bingo proceeds in the same manner as instant bingo proceeds.⁵

Electronic instant bingo

The bill establishes electronic instant bingo as a separate type of bingo, along with traditional bingo, raffles, and instant bingo, but largely regulates the operation of electronic instant bingo in the same manner as instant bingo.

Definitions

"Electronic instant bingo" is a form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:

- Each deal (set of electronic instant bingo tickets) has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
- Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
- Each electronic instant bingo ticket within a deal is sold for the same price.
- After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.

⁵ R.C. 2915.01(RR) and 2915.101.

- The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
- The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.

Under the bill, an “electronic instant bingo system” is a mechanical, electronic, digital, or video device that is used to play electronic instant bingo and any associated equipment or software used to conduct, manage, monitor, or document any aspect of electronic instant bingo. The bill specifies that an electronic instant bingo system is not considered a slot machine or other prohibited scheme of chance.⁶

Charitable organizations conducting electronic instant bingo

License

Continuing law allows the Attorney General to issue three categories of bingo licenses:

- **Type I** – Traditional bingo;
- **Type II** – Instant bingo conducted at a traditional bingo session;
- **Type III** – Instant bingo conducted other than at a traditional bingo session (at a retail location).

The bill allows charitable organizations to offer electronic instant bingo under a Type II or Type III license, in the same way as instant bingo.⁷

The bill also makes some broader changes to bingo licensing, discussed below under “**Bingo licenses, generally.**”

Proceeds, records, and operations

The bill requires electronic instant bingo proceeds to be distributed in the same manner as instant bingo proceeds are distributed under continuing law. (See “**Distribution of net profit,**” above.) And, the bill applies the same recordkeeping and operating requirements to electronic instant bingo as currently apply to instant bingo.⁸

Game operators

For purposes of electronic instant bingo, the bill defines a “bingo game operator” as any person involved in selling or redeeming electronic instant bingo tickets, credits, or vouchers or accessing an electronic instant bingo system other than as a participant. The term does not include security personnel or a person who is maintaining, updating, or repairing an electronic instant bingo system.

⁶ R.C. 2915.01.

⁷ R.C. 2915.08, 2915.093, 2915.094, and 2915.095.

⁸ R.C. 2915.01(V), 2915.09, 2915.10, 2915.101, and 2915.13.

Continuing law requires bingo game operators to be at least 18, prohibits them from having been convicted of a felony or a gambling offense, and restricts an organization's ability to compensate them for operating a bingo game.⁹

Attorney General rules

The bill requires the Attorney General to adopt rules under the Administrative Procedure Act to ensure the integrity of electronic instant bingo, including rules governing all of the following:¹⁰

- The requirements to receive a license to conduct electronic instant bingo;
- The location and number of electronic instant bingo systems in use;
- The times when electronic instant bingo may be offered;
- Signage requirements in facilities where electronic instant bingo is offered;
- Electronic instant bingo device and system specifications, including reveal features and game themes;
- Procedures and standards for reviewing, approving, inspecting, and monitoring electronic instant bingo systems, as discussed below;
- The fees to be paid by manufacturers and distributors for that purpose;
- The centralized report management system described below.

Distributor and manufacturer licensing

Continuing law requires distributors and manufacturers of bingo supplies to be licensed by the Attorney General, and electronic instant bingo systems are considered bingo supplies under the bill. In addition to being licensed as a distributor or manufacturer, as applicable, the bill requires a distributor or manufacturer of electronic instant bingo systems to obtain an electronic instant bingo endorsement to the distributor's or manufacturer's license. An endorsement issued under the bill is good for the term of the underlying license. To obtain the endorsement, a distributor or manufacturer must apply to the Attorney General, on a form prescribed by the Attorney General, submit a set of fingerprints for a criminal records check, and pay any applicable fee charged by the Bureau of Criminal Identification and Investigation. (No criminal records check is required to receive a distributor or manufacturer license, generally.)

The Attorney General must not issue the endorsement if the distributor or manufacturer, any partner or officer of the distributor or manufacturer, or any person who has an ownership interest of 10% or more in the distributor or manufacturer has violated any Ohio

⁹ R.C. 2915.01(Q) and 2915.09.

¹⁰ R.C. 2915.14(C).

gambling law or rule or any existing or former law or rule of Ohio, any other state, or the U.S. that is substantially equivalent to any Ohio gambling law or rule.

The bill allows the Attorney General to suspend or revoke an endorsement issued under the bill in the same manner as the Attorney General currently may suspend or revoke a manufacturer or distributor license for violations of Ohio's gambling laws or rules.¹¹

Regulation of electronic instant bingo systems

Approval

Under the bill, a manufacturer of an electronic instant bingo system must submit the system to an independent testing laboratory before the manufacturer may sell, offer to sell, or otherwise provide or offer to provide the system to any person for use in Ohio. The laboratory must be certified under the Casino Law to inspect casino gaming equipment, and it must determine whether the system meets the requirements of the bill and of the Attorney General's rules. The manufacturer must pay all costs of that testing and evaluation.

If the laboratory certifies that the system meets the applicable requirements, the manufacturer then may submit the system to the Attorney General for review and approval, along with a copy of the laboratory's certification and a fee established by the Attorney General by rule. If the Attorney General agrees that the system meets the bill's requirements and the Attorney General's rules, the Attorney General must approve the system for use in Ohio.¹²

Monitoring

The bill requires every electronic instant bingo system in use in Ohio to include an internal report management system and to allow the Attorney General or the Attorney General's designee to access the internal report management system, monitor the electronic instant bingo in real time, and remotely deactivate the electronic instant bingo system or any aspect of it.

Further, under the bill, the Attorney General may establish and maintain, or contract with another person to establish and maintain, a centralized report management system that includes all of the information and functions of the individual report management systems described above.¹³

Inspection

The Attorney General may inspect any electronic instant bingo system in use in Ohio at any time to ensure that the system is in compliance with the bill and with the Attorney General's rules. If the Attorney General determines that any person or any system is in violation of bill or of those rules, the Attorney General may order that the violation immediately cease

¹¹ R.C. 109.572, 2915.01(Z), (KK), and (LL), 2915.081, and 2915.082.

¹² R.C. 2915.15(A) and conforming changes in R.C. 2915.01, 2915.08, 2915.091, 2915.10, and 2915.12.

¹³ R.C. 2915.15(B).

and may deactivate the system or any aspect of it using the centralized report management system.¹⁴

Fees

The Attorney General may establish by rule adopted under the Administrative Procedure Act an annual fee to be paid by electronic instant bingo system distributors to cover the cost of monitoring and inspecting systems under the bill. Those fees must be deposited in the Charitable Law Fund and used for those purposes.¹⁵

Prohibitions regarding electronic instant bingo

The bill prohibits several types of conduct related to electronic instant bingo. These prohibitions are similar to continuing-law prohibitions regarding instant bingo, but are more specific to electronic instant bingo.

Under the bill, no charitable organization that conducts electronic instant bingo may do any of the following:

- Possess an electronic instant bingo system that was not obtained in accordance with the bill or with Attorney General rules;
- Conduct electronic instant bingo on any day, at any time, or on any premises not specified on the organization's Type II or Type III license;
- Fail to display the charitable organization's bingo license;
- Permit any person the charitable organization knows, or should have known, to be under 18 to play electronic instant bingo;
- Permit any person to play electronic instant bingo without paying the full price predetermined for each ticket in an electronic instant bingo deal;
- Fail, once an electronic instant bingo deal is begun, to continue to sell tickets in that deal until all prizes have been awarded;
- Permit any person whom the organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of electronic instant bingo;
- Permit a bingo game operator to play electronic instant bingo;
- Pay compensation to a bingo game operator for conducting electronic instant bingo, except that an employee of a veteran's organization, fraternal organization, or sporting organization may redeem electronic instant bingo tickets or vouchers for the organization's members or invited guests, so long as no portion of the employee's compensation is paid from any bingo receipts.

¹⁴ R.C. 2915.15(C).

¹⁵ R.C. 109.32 and 2915.15(D).

- Pay consulting fees to any person in relation to electronic instant bingo.

The bill also prohibits any person from selling, offering to sell, or otherwise providing or offering to provide an unapproved electronic instant bingo system to any person for use in Ohio.

A person who knowingly violates any of those prohibitions is guilty of illegal electronic instant bingo conduct, which is a first degree misdemeanor for a first offense and a fifth degree felony for any subsequent offense. And, a person who knowingly violates a rule of the Attorney General concerning electronic instant bingo is subject to the same penalties.¹⁶

Bingo licenses, generally

Denial or suspension

Under the bill, the Attorney General may deny a bingo license to an organization, or suspend an organization's bingo license for up to five years, if the Attorney General has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to the organization. Continuing law allows the Attorney General also to deny or suspend a bingo license for certain other reasons involving dishonesty or violations of the Gambling Law.¹⁷

Youth athletic park organizations

The bill eliminates a requirement that a youth athletic park organization's playing fields have been used for nonprofit youth athletic activities for at least 100 days during a given year in order for the organization to obtain a bingo license. Under continuing law, such an organization must be a nonprofit organization that owns, operates, and maintains playing fields that are used for nonprofit youth athletic activities and that are never used to make a profit.¹⁸

License type

The bill requires a bingo license to indicate whether it is a Type I, Type II, or Type III license, along with the other relevant information that must be included under continuing law.¹⁹

Technical changes

Finally, the bill makes numerous stylistic and technical changes to the section of law governing bingo licenses in order to incorporate "Type I," "Type II," and "Type III" license terminology, in line with the terms the Attorney General uses; to clarify that an organization does not need a license to conduct a raffle; and generally to make the section easier to read.

¹⁶ R.C. 2915.14.

¹⁷ R.C. 2915.08(F)(3).

¹⁸ R.C. 2915.01(Y) and 2915.08(C)(10).

¹⁹ R.C. 2915.08(I).

However, the bill does not change the requirements for the licenses, except as specified above.²⁰

Punch boards and seal cards

The bill clarifies that punch boards and seal cards are types of instant bingo games and may be played under an instant bingo license. Currently, the Attorney General regulates punch boards and seal cards in that manner, but the Revised Code refers to them separately from instant bingo in some places.²¹

Minors playing traditional bingo

The bill makes a technical correction to clarify the penalty that applies to a charitable organization if it permits a person the organization knows, or should have known, is under 18 to play traditional bingo. Under continuing law, such a violation is a first degree misdemeanor on the first offense and a fourth degree felony on any subsequent offense.²²

Bingo Law enforcement

Charitable organizations

The bill allows the Attorney General or a law enforcement agency to examine the accounts and records of any officer, agent, trustee, member, or employee of a charitable organization with a bingo license, in addition to examining the charitable organization's accounts and records as permitted under continuing law.²³

Distributors and manufacturers

The bill also permits the Attorney General or a law enforcement agency to do any of the following with respect to a bingo distributor or manufacturer or any officer, agent, trustee, member, or employee of the bingo distributor or manufacturer:

- Investigate the person;
- Examine the person's accounts and records;
- Conduct inspections of the premises where bingo supplies are manufactured or distributed.

Under the bill, if a law enforcement agency has reasonable grounds to believe that a bingo distributor or manufacturer or an officer, agent, trustee, member, or employee of the bingo distributor or manufacturer has violated any provision of the chapter of the Revised Code governing gambling, the agency may commence a court action to enforce that chapter, so long as the agency gives the Attorney General written notice of the action.

²⁰ R.C. 2915.08. See also R.C. 2915.092, not in the bill.

²¹ R.C. 2915.01(O)(2), (S), (AA), and (DD).

²² R.C. 2915.09(G).

²³ R.C. 2915.10(H)(2).

The bill prohibits any person from destroying, altering, concealing, withholding, or denying access to any accounts or records of a bingo distributor or manufacturer that have been requested for examination. And, the bill prohibits any person from obstructing, impeding, or interfering with any inspection, audit, or observation of premises where bingo supplies are manufactured or distributed. Whoever violates those prohibitions is guilty of a first degree misdemeanor.

Continuing law gives the Attorney General and law enforcement agencies those powers with respect to charitable organizations that conduct bingo, but not with respect to bingo distributors or manufacturers.²⁴

COMMENT

Since 2013, several charitable organizations have been involved in ongoing litigation against the Attorney General concerning the issue of whether those organizations legally may hold raffles using devices known as electronic raffle machines. The machines operate by randomly predesignating an outcome or prize associated with each entry, then selling an entry to a participant through the machine's electronic interface and revealing whether the entry is a winner.

The 10th District Court of Appeals ruled in 2018 that Ohio law prohibits the use of electronic raffle machines to hold a raffle because their method of operation does not meet the legal definition of a raffle. That decision was appealed to the Ohio Supreme Court, but the Court has agreed to delay making a ruling until after June 30, 2020, in anticipation that the parties may resolve the matter out of court. It appears that the system used to operate electronic raffle machines might meet the legal definition of electronic instant bingo as permitted under the bill.²⁵

HISTORY

Action	Date
Introduced	06-11-19
Reported, H. Finance	05-19-20
Passed House (91-2)	05-28-20

H0282-PH-133/ks

²⁴ R.C. 2915.10(H), (I), and (J).

²⁵ *Ohio Veterans and Fraternal Charitable Coalition v. DeWine*, 2018-Ohio-4679 (10th Dist. Ct. App. 2018) and *Ohio Veterans and Fraternal Charitable Coalition v. Yost*, 2019-Ohio-3749 (2019).