

Underscored material = new
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SENATE BILL 820

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

BEN D. ALTAMIRANO

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

. 110993. 1

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
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4

5 February 12, 1996
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7 Mr. President:
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9 Your FINANCE COMMI TTEE, to whom has been referred
10

11 SENATE BILL 820
12

13 has had it under consideration and reports same that it DO NOT
14 PASS, but that
15

16 SENATE FINANCE COMMI TTEE SUBSTITUTE FOR
17 SENATE BILL 820
18

19 DO PASS, and further recommends that it be referred to the
20 COMMI TTEES' COMMI TTEE.
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23 Respectfully submit ted,
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Ben D. Altamirano, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Donisthorpe, Duran, Ingle, Kidd, Kysar

Absent: None

S0820SF1

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SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 820

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
1996

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AUTHORIZING SENIOR ORGANIZATIONS LICENSED AND FUNDED BY THE
STATE AGENCY ON AGING TO APPLY FOR A LICENSE UNDER THE BINGO AND
RAFFLE ACT; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-2B-3 NMSA 1978 (being Laws 1981,
Chapter 259, Section 3, as amended) is amended to read:

"60-2B-3. DEFINITIONS. --As used in the Bingo and Raffle
Act:

A. "charitable organization" means any organization,
not for pecuniary profit, ~~[whi-eh]~~ that is operated for the
relief of poverty, distress or other condition of public concern
in New Mexico and ~~[whi-eh]~~ that has been so engaged for three

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years immediately prior to making application for a license under the Bingo and Raffle Act and ~~[which]~~ that has been granted an exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c) of the United States Internal Revenue Code of ~~[1954, as amended or renumbered]~~ 1986;

B. "chartered branch, lodge or chapter of a national or state organization" means any branch, lodge or chapter ~~[which]~~ that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose in New Mexico and ~~[which]~~ that has been so engaged for three years immediately prior to making application for a license under the Bingo and Raffle Act;

C. "educational organization" means any organization within the state, not organized for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and ~~[which]~~ that has been in existence in New Mexico for three years immediately prior to making application for a license under the Bingo and Raffle Act;

D. "fraternal organization" means any organization within the state, except college and high school fraternities, not for pecuniary profit, ~~[which]~~ that is a branch, lodge or chapter of a national or state organization and exists for the common business, brotherhood or other interests of its members and which has existed in New Mexico for three years immediately prior to making application for a license under the Bingo and

1 Raffle Act;

2 E. "labor organization" means any organization, not for
3 pecuniary profit, within the state [~~which~~] that exists for the
4 purpose, in whole or in part, of dealing with employers concerning
5 grievances, labor disputes, wages, rates of pay, hours of
6 employment or conditions of work and [~~which~~] that has existed in
7 New Mexico for that purpose and has been so engaged for three years
8 immediately prior to making application for a license under the
9 Bingo and Raffle Act;

10 F. "senior organization" means any organization or center
11 within the state, not for pecuniary profit, that is licensed and
12 funded pursuant to approved area plans by the state agency on
13 aging, whose members gather for a common social and recreational
14 purpose and that has existed in New Mexico for three years
15 immediately prior to making application for a license under the
16 Bingo and Raffle Act;

17 [~~F.-~~] G. "qualified organization" means any bona fide
18 chartered branch, lodge or chapter of a national or state
19 organization or any bona fide religious, charitable, environmental,
20 fraternal, educational or veterans' organization operating without
21 profit to its members [~~which~~] that has been in existence in New
22 Mexico continuously for a period of three years immediately prior
23 to the making of an application for a license under the Bingo and
24 Raffle Act and [~~which~~] that has had, during the entire three-year
25 period, a dues-paying membership engaged in carrying out the

1 objects of the corporation or organization. A voluntary firemen's
 2 organization is a qualified organization and a labor organization
 3 is a qualified organization for the purpose of the Bingo and Raffle
 4 Act if it uses the proceeds from a game of chance solely for
 5 scholarship or charitable purposes;

6 [~~G.~~] H. "environmental organization" means any
 7 organization primarily concerned with the protection and
 8 preservation of the natural environment and [~~which~~] that has
 9 existed in New Mexico for three years immediately prior to making
 10 application for a license under the Bingo and Raffle Act;

11 [~~H.~~] I. "religious organization" means any organization,
 12 church, body of communicants or group, not for pecuniary profit,
 13 gathered in common membership for mutual support and edification in
 14 piety, worship and religious observances or a society, not for
 15 pecuniary profit, of individuals united for religious purposes at a
 16 definite place, [~~which~~] and the organization, church, body of
 17 communicants, group or society has been so gathered or united in
 18 New Mexico for three years immediately prior to making application
 19 for a license under the Bingo and Raffle Act;

20 [~~I.~~] J. "veterans' organization" means any organization
 21 within the state or any branch, lodge or chapter of a national or
 22 state organization within this state, not for pecuniary profit, the
 23 membership of which consists of individuals who were members of the
 24 armed services or forces of the United States, [~~which~~] that has
 25 been in existence in New Mexico for three years immediately prior

1 to making application for a license under the Bingo and Raffle Act;

2 [J-] K. "voluntary firemen's organization" means any
3 organization for firefighting within the state, not for pecuniary
4 profit, established by the state or any of its political
5 subdivisions, [~~which~~] that has been in existence in New Mexico for
6 three years immediately prior to making application for a license
7 under the Bingo and Raffle Act;

8 [K-] L. "dues-paying membership" means those members of
9 an organization who pay regular monthly, annual or other periodic
10 dues or who are excused from paying such dues by the charter,
11 articles of incorporation or bylaws of the organization and those
12 who contribute voluntarily to the corporation or organization to
13 which they belong for the support of the corporation or
14 organization;

15 [L-] M. "equipment" means, with respect to bingo or
16 lotto, the receptacle and numbered objects drawn from it; the
17 master board upon which the numbered objects are placed as drawn;
18 the cards or sheets bearing numbers or other designations to be
19 covered and the objects used to cover them; the board or signs,
20 however operated, used to announce or display the numbers or
21 designations as they are drawn; the public address system; and all
22 other articles essential to the operation, conduct and playing of
23 bingo or lotto; or, with respect to raffles, implements, devices
24 and machines designed, intended or used for the conduct of raffles
25 and the identification of the winning number or unit and the ticket

1 or other evidence or right to participate in raffles;

2 [M-] N. "game of chance" means that specific kind of game
3 of chance commonly known as bingo or lotto in which prizes are
4 awarded on the basis of designated numbers or symbols on a card
5 conforming to numbers or symbols selected at random and that
6 specific kind of game of chance commonly known as raffles, which is
7 conducted by drawing for prizes or the allotment of prizes by
8 chance or by the selling of shares, tickets or rights to
9 participate in the game;

10 [N-] O. "gross receipts" means receipts from the sale of
11 shares, tickets or rights in any manner connected with
12 participation in a game of chance or the right to participate in a
13 game of chance, including any admission fee or charge, the sale of
14 equipment or supplies and all other miscellaneous receipts;

15 [Ø-] P. "lawful purposes" means educational, charitable,
16 patriotic, religious or public-spirited purposes, which terms are
17 defined to be the benefiting of an indefinite number of persons
18 either by bringing their minds or hearts under the influence of
19 education or religion, by relieving their bodies from disease,
20 suffering or constraint, by assisting them in establishing
21 themselves in life, by erecting or maintaining public buildings or
22 works, by providing legal assistance to peace officers or firemen
23 in defending civil or criminal actions arising out of the
24 performance of their duties or by otherwise lessening the burden of
25 government. These terms include the erection, acquisition,

1 improvement, maintenance, insurance or repair of property, real,
2 personal or mixed, if the property is used for one or more of the
3 purposes stated in this subsection;

4 [P.] Q. "lawful use" means the devotion of the entire net
5 proceeds of a game of chance exclusively to lawful purposes;

6 [Q.] R. "licensee" means any qualified organization to
7 which a license has been issued by the licensing authority;

8 [R.] S. "licensing authority" means the regulation and
9 licensing department;

10 [S.] T. "member" means an individual who has qualified
11 for membership in a qualified organization pursuant to its charter,
12 articles of incorporation, bylaws, rules or other written
13 statement;

14 [T.] U. "net proceeds" means the receipts less the
15 expenses, charges, fees and deductions as are specifically
16 authorized under the Bingo and Raffle Act;

17 [U.] V. "occasion" means a single gathering or session at
18 which a series of successive bingo or lotto games is played;

19 [V.] W. "person" means a natural person, firm,
20 association, corporation or other legal entity; and

21 [W.] X. "premises" means any room, hall, enclosure or
22 outdoor area used for the purpose of playing a game of chance."

23 Section 2. Section 60-2B-5 NMSA 1978 (being Laws 1981,
24 Chapter 259, Section 5) is amended to read:

25 "60-2B-5. ORGANIZATIONS ENTITLED TO LICENSES-- FEES. --

1 A. Any bona fide chartered branch, lodge or chapter of a
2 national or state organization or any bona fide religious,
3 charitable, labor, environmental, fraternal, educational or
4 veterans' organization [~~which~~] that operates without profit to its
5 members and [~~which~~] that has been in existence in New Mexico
6 continuously for a period of three years immediately prior to the
7 making of application for a license under the Bingo and Raffle Act
8 and has had, during the making of application for a license under
9 that act and during the entire three-year period, dues-paying
10 [~~members~~] membership, except in a senior organization, engaged in
11 carrying out the objects of the corporation or organization is
12 eligible for a license to be issued by the licensing authority
13 under the Bingo and Raffle Act. In the event any license is
14 revoked, the licensee and holder [~~thereof~~] of the license is not
15 eligible to apply for another license under Subsection B of this
16 section until after the expiration of the period of one year from
17 the date of [~~such~~] revocation. Any voluntary firemen's
18 organization established by the state or any political subdivision
19 and [~~which~~] that has been in existence in New Mexico for three
20 years shall also be an organization entitled to a license under the
21 provisions of that act.

22 B. The licenses provided by the Bingo and Raffle Act
23 shall be issued by the licensing authority to applicants qualified
24 under that act upon payment of a fee of one hundred dollars (\$100),
25 with the exception of a senior organization, which shall pay a fee

1 of five dollars (\$5.00). The licenses shall expire at the end of
2 the calendar year in which they are issued by the licensing
3 authority and may be renewed by the licensing authority upon the
4 filing of an application for renewal provided by the licensing
5 authority and the payment of a fee of one hundred dollars (\$100)
6 for the renewal, with the exception of a senior organization, which
7 shall pay a fee of five dollars (\$5.00). No license or renewal
8 granted under that act [~~shall be~~] is transferable."

9 Section 3. Section 60-2B-6 NMSA 1978 (being Laws 1981, Chap-
10 ter 259, Section 6) is amended to read:

11 "60-2B-6. APPLICATION FOR LICENSE. --

12 A. Each applicant for a license to be issued under the
13 provisions of this section shall file with the licensing authority
14 a written application in duplicate in the form prescribed by the
15 licensing authority, duly executed and verified, [~~and~~] in which
16 shall be stated:

17 (1) the name and address of the applicant;

18 (2) sufficient facts relating to [~~its~~] the
19 applicant's incorporation and organization to enable the licensing
20 authority to determine whether or not it is a bona fide chartered
21 branch, lodge or chapter of a national or state organization or a
22 bona fide religious, charitable, labor, environmental, fraternal,
23 educational, senior, voluntary firemen's or veterans' organization
24 [~~which~~] that operates without profit to its members and [~~which~~]
25 that has been in existence continuously in New Mexico for a period

1 of three years immediately prior to the making of application for a
 2 license and that has had during the entire three-year period dues-
 3 paying [~~members~~] membership, except in a senior organization,
 4 engaged in carrying out the objectives of the applicant;

5 (3) the names and addresses of [~~its~~] the applicant's
 6 officers;

7 (4) the specific kind of games of chance intended to
 8 be held, operated and conducted by the applicant;

9 (5) the place where the games of chance are intended
 10 to be held, operated and conducted by the applicant under the
 11 license applied for;

12 (6) the items of expense intended to be incurred or
 13 paid in connection with the holding, operating and conducting of
 14 [~~such~~] games of chance and the names and addresses of the persons
 15 to whom and the purposes for which they are to be paid;

16 (7) a statement that no commission, salary,
 17 compensation, reward or recompense shall be paid to any person for
 18 holding, operating or conducting [~~such~~] games of chance or for
 19 assisting [~~therein~~] in games of chance except as [~~otherwise~~]
 20 provided in the Bingo and Raffle Act; and

21 (8) such other information deemed advisable by the
 22 licensing authority to ensure that the applicant falls within the
 23 restrictions set forth by the Bingo and Raffle Act.

24 B. In each application there shall be designated active
 25 members of the applicant organization under whom the games of

1 chance described in the application are to be held, operated and
2 conducted, and to the application shall be appended a statement
3 executed by the applicant and by the members so designated that
4 they will be responsible for the holding, operation and conduct of
5 games of chance in accordance with the terms of the license and the
6 provisions of the Bingo and Raffle Act.

7 C. In the event any premises are to be leased or rented
8 in connection with the holding, operating or conducting of any game
9 of chance under the Bingo and Raffle Act, a written statement shall
10 accompany the application signed and verified by the person leasing
11 or renting the premises stating his address and the amount of rent
12 [~~which~~] that will be paid for the premises and that the person, or
13 its officers and directors if a corporation, is of good moral
14 character and has not been convicted of any crime involving moral
15 turpitude. "

16 Section 4. Section 60-2B-8 NMSA 1978 (being Laws 1981, Chap-
17 ter 259, Section 8) is amended to read:

18 "60-2B-8. PERSONS PERMITTED TO CONDUCT GAMES--PREMISES--
19 EQUIPMENT--EXPENSES [~~COMPENSATION~~]. --

20 A. No person shall hold, operate or conduct any games of
21 chance under any license issued under the Bingo and Raffle Act
22 except an active member of the organization to which the license is
23 issued, and no person shall assist in the holding, operating or
24 conducting of any games of chance under that license except an
25 active member or a member of an organization or association [~~which~~]

1 that is an auxiliary to the licensee, a member of an organization
 2 or association of which the licensee is an auxiliary or a member of
 3 an organization or association [~~which~~] that is affiliated with the
 4 licensee by being, with it, auxiliary to another organization or
 5 association and except bookkeepers or accountants as provided in
 6 this section. No item of expense shall be incurred or paid in
 7 connection with the holding, operating or conducting of any game of
 8 chance held, operated or conducted pursuant to any license issued
 9 under that act except bona fide expenses in reasonable amount for
 10 goods, wares and merchandise furnished or services rendered,
 11 reasonably necessary for the holding, operating or conducting
 12 [~~thereof~~] of the game. No games of chance shall be conducted with
 13 any equipment except that which is owned or leased by the licensee.

14 B. The officers of a licensee shall designate a bona fide
 15 active member of the licensee to be in charge of and primarily
 16 responsible for the conduct of the games of bingo or lotto on each
 17 occasion. The member in charge shall supervise all activities on
 18 the occasion for which he is in charge and be responsible for the
 19 making of the required report. The member in charge shall be
 20 familiar with the provisions of the state laws, the rules and
 21 regulations of the licensing authority and the provisions of the
 22 license. He shall be present on the premises continuously during
 23 the games and for a period of at least thirty minutes after the
 24 last game.

25 C. The officers of a licensee shall designate an officer

1 to be in full charge and primarily responsible for the proper
2 utilization of the entire net proceeds of any game in accordance
3 with state law.

4 D. The entire net proceeds of any game shall be devoted
5 to a lawful use [~~or uses~~].

6 E. Each license issued for the conduct of games of chance
7 shall be conspicuously displayed at the place where any game is
8 being conducted at all times during the conduct of the game and for
9 at least thirty minutes after the last game has been concluded.

10 F. The premises where any game of chance is being held,
11 operated or conducted or where it is intended that any equipment be
12 used shall at all times be open to inspection by the licensing au-
13 thority, its agents and employees and by peace officers of any
14 political subdivision of the state.

15 G. No licensee may hold, operate or conduct a game of
16 bingo or lotto more often than on two hundred sixty occasions in
17 any calendar year.

18 H. When any merchandise prize is awarded in a game of
19 bingo, its value shall be its current retail price. No merchandise
20 prize shall be redeemable or convertible into cash directly or
21 indirectly.

22 I. Equipment, prizes and supplies for games of bingo
23 shall not be purchased or sold at prices in excess of the usual
24 price [~~thereof~~] of the equipment, prizes and supplies.

25 J. The aggregate amount of all prizes offered or given in

1 all games played on a single occasion shall not exceed one thousand
 2 five hundred dollars (\$1,500), which shall be exclusive of pull
 3 tabs; provided that the aggregate amount of all prizes offered or
 4 given in all games played on a single occasion at a senior
 5 organization shall not exceed one hundred dollars (\$100.00).

6 K. No games shall be conducted more than five times in
 7 any one calendar week, with no game lasting more than four hours on
 8 each occasion and not more than two occasions in one calendar day
 9 by any one licensee.

10 L. The net profits derived from the holding of games of
 11 chance [~~must~~] shall be devoted to the lawful purposes of the
 12 organization permitted to conduct the games. Any organization
 13 desiring to hold the net profits of games of chance for a period
 14 longer than one year [~~must~~] shall apply to the licensing authority
 15 for special permission, and, upon good cause shown, the authority
 16 shall grant the request.

17 M. Any licensee [~~which~~] that does not report, during any
 18 one-year period, net profits [~~will~~] shall be required to show cause
 19 before the licensing authority why its right to conduct games of
 20 bingo should not be revoked.

21 N. No person shall assist in the holding, operating or
 22 conducting of a bingo game under any license except bona fide
 23 active members of the licensee, active members of any organization
 24 [~~which~~] that is an auxiliary to the licensee or active members of
 25 an organization [~~which~~] that is affiliated with the licensee by

1 being, with it, auxiliary to another organization.

2 0. The equipment used in the playing of bingo and the
3 method of play shall be such that each card has an equal
4 opportunity to be a winner. The objects or balls to be drawn shall
5 be essentially the same as to size, shape, weight, balance and all
6 other characteristics that may influence their selection. All
7 objects or balls shall be present in the receptacle before each
8 game is begun. All numbers announced shall be plainly and clearly
9 audible to all the players present. Where more than one room is
10 used for any one game, the receptacle and the caller [~~must~~] shall
11 be present in the room where the greatest number of players are
12 present, and all numbers announced shall be plainly audible to the
13 players in the [~~aforesaid~~] room where the receptacle and caller are
14 and [~~also~~] audible to the players in the other rooms. A fair and
15 equal chance shall be given to all participants, and any licensee,
16 its representative, agent or employees whose acts or action may
17 tend to negate the "right of equal chance" shall constitute grounds
18 for revoking [~~such~~] the license.

19 P. The receptacle and the caller who removes the objects
20 or balls from the receptacle [~~must~~] shall be visible to all the
21 players at all times except where more than one room is used for
22 any one game, in which case the provisions of Subsection 0 of this
23 section shall prevail.

24 Q. The particular arrangement of numbers required to be
25 covered in order to win the game and the amount of the prize shall

1 be clearly and audibly described and announced to the players
2 immediately before each game is begun.

3 R. Any player is entitled to call for a verification of
4 all numbers drawn at the time a winner is determined and for a
5 verification of the objects or balls remaining in the receptacle
6 and not yet drawn. The verification shall be made in the immediate
7 presence of the member designated to be in charge of the occasion
8 [~~but~~] or, if [~~such~~] that member is also the caller, [~~then~~] in the
9 immediate presence of any officer of the licensee.

10 S. In the playing of bingo, no person who is not
11 physically present on the premises where the game is actually
12 conducted shall be allowed to participate as a player in the game.

13 T. No person shall act as a caller in the conduct of any
14 game of bingo unless he has been a member in good standing of the
15 licensee conducting the game or one of its licensed auxiliaries for
16 at least six months immediately prior to the date of [~~such~~] the
17 game, is of good moral character and has never been convicted of a
18 felony.

19 U. No owner, co-owner or lessee of the premises [~~or~~] and,
20 if a corporation is the owner of the premises, [~~any~~] no officer,
21 director or stockholder owning more than ten percent of the
22 outstanding stock shall be a person responsible for or assisting in
23 the holding, operating or conducting of any game of bingo. "

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