

By: Lucio

S.B. No. 1734

A BILL TO BE ENTITLED

AN ACT

relating to bingo regulation.

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

SECTION 1. Section 467.001, Government Code, is amended by adding Subdivision (9-a) to read as follows:

(9-a) "Policy board" means the Bingo Policy Board.

SECTION 2. Sections 467.033 and 467.034, Government Code are amended to read as follows:

Sec. 467.033. DIVISION DIRECTORS. (a) The executive director shall employ a director to oversee the lottery ~~[each]~~ division. The lottery ~~[A]~~ division director serves at the will of the executive director and is specifically exempted from Chapter 654.

(b) The policy board shall employ a director to oversee the bingo division. The bingo division director serves at the will of the policy board and is specifically exempted from Chapter 654.

Sec. 467.034. EMPLOYEES. (a) Except as provided by Subsection (b), the ~~[The]~~ executive director shall employ other personnel to administer the laws under the commission's jurisdiction. Commission employees serve at the will of the executive director.

(b) The bingo division director shall employ personnel necessary for the bingo division. Employees of the bingo division serve at the will of the bingo division director.

1 SECTION 3. Subchapter B, Chapter 467, Government Code, is
2 amended by adding Section 467.037 to read as follows:

3 Sec. 467.037. BINGO POLICY BOARD. (a) The Bingo Policy
4 Board is composed of three members appointed by the governor with
5 the advice and consent of the senate.

6 (b) Policy board members serve staggered terms of six years
7 with one member's term expiring February 1 of each odd-numbered
8 year.

9 (c) The governor shall designate one member of the policy
10 board as presiding officer to serve in that capacity at the pleasure
11 of the governor.

12 SECTION 4. Section 467.101, Government Code, is amended by
13 amending Subsection (a) and adding Subsection (a-1) to read as
14 follows:

15 (a) The commission has broad authority and shall exercise
16 strict control and close supervision over all activities authorized
17 and conducted in this state under [+]

18 [~~1~~] ~~Chapter 2001, Occupations Code, and~~

19 [~~2~~] Chapter 466 of this code.

20 (a-1) The commission acting through the bingo division has
21 broad authority and shall exercise strict control and close
22 supervision over all activities authorized and conducted in this
23 state as provided by Chapter 2001, Occupations Code.

24 SECTION 5. Section 467.103(a), Government Code, is amended
25 to read as follows:

26 (a) The executive director shall perform all duties
27 required by the commission to administer this chapter and Chapter

1 466 [~~the laws under the commission's jurisdiction~~]. The executive
2 director shall not hold other employment.

3 SECTION 6. Subchapter C, Chapter 467, Government Code, is
4 amended by adding Section 467.1035 to read as follows:

5 Sec. 467.1035. DUTIES OF POLICY BOARD. The policy board
6 shall:

7 (a) employ the director of the bingo division;

8 (b) adopt rules for the administration of Chapter 2001,
9 Occupations Code; and

10 (c) issue final orders in contested cases brought under
11 Chapter 2001, Government Code.

12 SECTION 7. Section 2001.002, Occupations Code, is amended
13 by amending Subdivision (10) and adding Subdivision (20-a) to read
14 as follows:

15 (10) "Director" [~~"Executive director"~~] means the
16 [~~executive~~] director of the bingo division of the commission.

17 (20-a) "Policy board" means the Bingo Policy Board.

18 SECTION 8. Section 2001.051(b), Occupations Code, is
19 amended to read as follows:

20 (b) The commission acting through the bingo division has
21 broad authority and shall exercise strict control and close
22 supervision over all bingo conducted in this state so that bingo is
23 fairly conducted and the proceeds derived from bingo are used for an
24 authorized purpose. The commission does not have regulatory
25 authority over any matter relating to the premises, personnel or
26 activities of an authorized commercial lessor or authorized
27 organization unless the authority is expressly granted by this

1 chapter or is necessary to administer this chapter. The commission
2 has no regulatory authority over any person engaged in any business
3 that is not subject to this chapter or Chapters 466 or 467,
4 Government Code

5 SECTION 9. Section 2001.052, Occupations Code, is amended
6 to read as follows:

7 Sec. 2001.052. DIRECTOR OF BINGO DIVISION [~~OPERATIONS~~].

8 [~~(a)~~] The commission shall employ a director of bingo operations.

9 [~~(b)~~] The director [~~of bingo operations~~] shall administer
10 the bingo division under the direction of the policy board
11 [~~commission~~].

12 SECTION 10. Section 2001.053, Government Code, is amended
13 to read as follows:

14 Sec. 2001.053. OFFICERS AND INVESTIGATORS. (a) The
15 director [~~commission~~] may employ officers or investigators the
16 director [~~commission~~] considers necessary to administer this
17 chapter.

18 (b) An officer or investigator employed by the director may
19 not carry a firearm or badge and may not wear a hat, uniform, or
20 other clothing with any type of insignia indicating the officer's
21 or investigator's official position, while conducting a routine
22 inspection of bingo premises or a business office of a licensed
23 authorized organization.

24 SECTION 11. Section 2001.054, Occupations Code, is amended
25 to read as follows:

26 Sec. 2001.054. RULEMAKING AUTHORITY. The policy board
27 [~~commission~~] may adopt rules to enforce and administer this chapter

1 on behalf of the commission. A reference in this chapter to the
2 rules of the commission means rules adopted by the policy board.

3 SECTION 12. Section 2001.055, Occupations Code, is amended
4 to read as follows:

5 Sec. 2001.055. REGULATION OF GAMES. (a) The commission by
6 rule may establish the number and type of bingo games that may be
7 played during a bingo occasion.

8 (b) The commission, to the extent consistent with this
9 chapter, shall support the efforts of licensed authorized
10 organizations to develop and offer new types of bingo games and to
11 apply new technology to bingo games.

12 SECTION 13. Subchapter B, Chapter 2001, Occupations Code,
13 is amended by adding Sections 2001.059 and 2001.060 to read as
14 follows:

15 Sec. 2001.059. SECURITY DEPARTMENT. (a) The director
16 shall maintain a department of security in the bingo division. The
17 director shall appoint a deputy to administer the department. The
18 deputy must be qualified by training and experience in law
19 enforcement or security to supervise, direct, and administer the
20 activities of the department.

21 (b) The director may commission the deputy and security
22 officers or investigators of the department of security as peace
23 officers. The deputy and all other persons employed by the
24 department as peace officers must meet the requirements under
25 Chapter 1701 for employment and commission as peace officers.

26 (c) The Department of Public Safety, at the commission's
27 request, shall perform a full criminal background investigation of

1 a prospective deputy or employee of the security department. The
2 commission shall reimburse the Department of Public Safety for the
3 actual costs of an investigation.

4 SECTION 14. Subchapter B, Chapter 2001, Occupations Code,
5 by adding Section 2001.060 to read as follows:

6 Sec. 2001.060. ADVISORY OPINIONS. (a) A person may
7 request an advisory opinion regarding compliance with this chapter
8 and the rules of the policy board.

9 (b) The director of the bingo division shall respond to a
10 request under Subsection (a) within 30 days of the receipt of the
11 request, unless the director determines that the request does not
12 contain sufficient facts to provide an answer upon which the
13 requestor may rely. In that event, the director shall request
14 additional information from the requestor within ten days of the
15 receipt of the request. If additional information is requested,
16 the director shall respond to the request within thirty days after
17 receiving the additional information.

18 (c) A person who requests an advisory opinion under
19 Subsection (a) may act in reliance on the opinion in the conduct of
20 any activity under any license issued under this chapter if the
21 conduct is substantially consistent with the opinion and the facts
22 stated in the request.

23 SECTION 15. Section 2001.103, Occupations Code, is amended
24 by adding Subdivisions (e) and (f) to read as follows:

25 (e) Notwithstanding subsection (c), an authorized
26 organization that holds a regular license to conduct bingo is
27 authorized to receive not more than twelve temporary licenses

1 during the twelve month period following the issuance or renewal of
2 the license.

3 (f)(1) An authorized organization that holds a regular
4 license to conduct bingo may make a single application for all of
5 the temporary licenses to which the organization is entitled under
6 subsection (e) without stating the days or times for which the
7 temporary licenses may be used.

8 (2) An organization that has been issued a temporary license
9 under subsection (f)(1) shall notify the commission prior to using
10 the license of the specific date and time of the bingo occasion for
11 which the temporary license will be used. If the commission
12 receives notification under this subsection prior to noon of the
13 day before the day the temporary license will be used, the
14 commission shall verify receipt of the notice before the end of the
15 business day on which the notice is received. If the commission
16 does not receive the notification before noon of the day before the
17 day the temporary license will be used, the commission shall verify
18 receipt of the notice before noon of the business day that follows
19 the day the commission received the notice.

20 (3) A verification under Subsection (f)(2) may be delivered
21 by facsimile, email or any other means reasonably contemplated to
22 arrive prior to the time for which the temporary license will be
23 used.

24 SECTION 16. Amend Section 2001.104, Occupations Code, by
25 adding Subsection (d) to read as follows:

26 (d) The fees established under Subsection (a) are payable
27 annually. An applicant for an original license or renewal of a

1 license may obtain a license with a duration of two years by paying
2 an amount equal to two times the annual license fee plus \$25.

3 SECTION 17. Amend Section 2001.105, Occupations Code, by
4 adding Subsection (c) to read as follows:

5 (c) Except as provided by Section 2001.104(d), the period of
6 a license issued under this subchapter is one year.

7 SECTION 18. Subchapter C, Chapter 2001, Occupations Code,
8 is amended by adding Section 2001.108 to read as follows:

9 Sec. 2001.108. LICENSE AMENDMENT FOR CHANGE OF BINGO
10 PREMISES OR OCCASION. (a) A licensed authorized organization and
11 the licensed commercial lessor at which the organization conducts
12 or will conduct bingo may file a joint application with the
13 commission to change the premises at which the organization may
14 conduct bingo or the times of the organization's bingo occasions to
15 allow the organization to conduct bingo at the same time and
16 premises that another licensed authorized organization is licensed
17 to conduct bingo, if the other organization has ceased, or will
18 cease, conducting bingo at that time and premises. The application
19 must describe whether the other organization has ceased conducting
20 bingo at that time and premises because the organization has
21 abandoned or will abandon its licensed time or premises or the
22 organization's lease has been or will be terminated.

23 (b)(1) If the reason that the other organization ceased or
24 will cease conducting bingo is that the organization has abandoned
25 or will abandon its licensed time or premises, the commission must
26 act on the joint application filed under Subsection (a) not later
27 than the 10th day after the date the application is filed with the

1 commission.

2 (2) If the reason that the other organization ceased or will
3 cease conducting bingo is that the organization's lease has been or
4 will be terminated, the commission must act on the joint
5 application filed under Subsection (a) not later than the 10th day
6 after the date the application is filed with the commission or the
7 date on which the termination takes effect, whichever is later.

8 (c)(1) Except as provided by Subsection (c)(2), if the
9 commission fails to act within the time provided by Subsection (b),
10 the licensed authorized organization may act as if the change in
11 premises or bingo occasions has been approved by the commission and
12 may conduct bingo at the new premises or during the new bingo
13 occasion until the commission acts on the application.

14 (2) Notwithstanding subsection (c)(1), the commission may
15 issue temporary licenses to one or more licensed authorized
16 organizations that conduct bingo at the same location as an
17 organization that has or will cease to conduct bingo, which shall be
18 in addition to the number of temporary licenses to which each
19 organization is entitled by other law. If the commission issues
20 such additional licenses, the commission is not required to act on a
21 joint application under Subsection (a) within the time limits
22 established by this section, if the number of additional temporary
23 licenses issued is sufficient to allow the licensed times of the
24 organization that has or will cease to conduct bingo to be used for
25 the conduct of bingo by another organization during those times.
26 Temporary licenses issued under this subsection may be issued on
27 the sole application of a licensed commercial lessor.

1 SECTION 19. Section 2001.152, Occupations Code, is amended
2 by adding subsection (c) to read as follows:

3 (c) Notwithstanding Subsection (a), the commission may not
4 issue a commercial lessor license under Subsection (a)(2) or (3),
5 unless there is no licensed commercial lessor whose premises is
6 located in the county in which an applicant for a license under
7 Subsection (a)(2) or (3) proposes to locate bingo premises. This
8 subsection does not prohibit the renewal of an existing license.
9 This subsection expires September 1, 2005.

10 SECTION 20. Amend Section 2001.158, Occupations Code, by
11 adding Subsection (d) to read as follows:

12 (d) The fees established under Subsection (a) are payable
13 annually. An applicant for an original license or renewal of a
14 license may obtain a license with a duration of two years by paying
15 an amount equal to two times the annual license fee plus \$25.

16 SECTION 21. Amend Subdivision (c) of Section 2001.159,
17 Occupations Code, to read as follows:

18 (c) Except as provided by Section 2001.158(d), the [The]
19 period may not exceed one year.

20 SECTION 22. Section 2001.214, Occupations Code, is amended
21 to read as follows:

22 Sec. 2001.214. LICENSE TERM. (a) Except as provided by
23 Subsection (b), a [A] manufacturer's or distributor's license is
24 effective for one year unless revoked or suspended by the
25 commission.

26 (b) A manufacturer or distributor may obtain a license with
27 a duration of two years by paying an amount equal to two times the

1 annual license fee applicable to the manufacturer or distributor
2 plus \$1000.

3 SECTION 23. Section 2001.218(a), Occupations Code, is
4 amended to read as follows:

5 (a) Each sale or lease of bingo supplies or equipment to a
6 license holder under this chapter must be on terms of immediate
7 payment or on terms requiring payment not later than the 60th [~~30th~~]
8 day after the date of actual delivery.

9 SECTION 24. Section 2001.307. Occupations Code, is amended
10 to read as follows:

11 Sec. 2001.307. MAXIMUM LICENSE TERM. Except as otherwise
12 provided by this chapter, a [A] license issued under this chapter
13 may not be effective for more than one year.

14 SECTION 25. Subchapter G, Chapter 2001, Occupations Code,
15 is amended by adding Section 2001.313 to read as follows:

16 Sec. 2001.313. REGISTRY OF APPROVED BINGO WORKERS.

17 (a) The commission shall maintain a registry of persons for whom
18 the commission has previously conducted a criminal history
19 background check and who are approved to be a person involved in the
20 conduct of bingo or to act as an operator to minimize duplicate
21 criminal history background checks by the commission and the costs
22 incurred by organizations and individuals.

23 (b) If a person is listed on the registry as being approved
24 to be involved in the conduct of bingo or to act as an operator, the
25 person may be involved in the conduct of bingo or act as an operator
26 at any location at which bingo is lawfully conducted.

27 (c) The commission may offer a person described by

1 Subsection (b) an identification card that may be used to identify
2 the person to licensees, bingo players and commission staff as a
3 person authorized to be involved in the conduct of bingo or act as
4 an operator. The commission may collect a reasonable charge to
5 cover the cost of providing the identification card. The
6 commission may not require a person to obtain or wear an
7 identification card.

8 (d) The commission shall make the information in the
9 registry available to the public by publishing it on the
10 commission's website and by responding to telephone, email and
11 facsimile requests. This subsection does not require the
12 commission to disclose confidential law enforcement information.

13 SECTION 26. Section 2001.411, Occupations Code, is amended
14 by adding Subsection (e) to read as follows:

15 (e) The commission may not prohibit an operator responsible
16 for conducting, promoting, or administering bingo from acting as a
17 bingo caller for a licensed authorized organization during a bingo
18 occasion. This subsection does not relieve an operator of the duty
19 to be available to an employee of the commission or a bingo player
20 if required by this chapter.

21 SECTION 27. Subchapter I, Chapter 2001, Occupations Code,
22 is amended by adding Section 2001.4115 to read as follows:

23 Sec. 2001.4115. JOINT EMPLOYMENT OF BINGO EMPLOYEES. Two
24 or more licensed authorized organizations conducting bingo at the
25 same premises may jointly hire bingo employees. If two or more
26 licensed authorized organizations conducting bingo at the same
27 location jointly hire one or more bingo employees, one of the

1 organizations may act as the employee's employer and the other
2 organization or organizations may reimburse the organization for
3 the other organization's or organizations' share of the employee's
4 compensation and other employment-related costs. A reimbursement
5 under this section is an authorized expense and shall be made from
6 the bingo account of each reimbursing organization.

7 SECTION 28. Section 2001.413, Occupations Code, is amended
8 to read as follows:

9 Sec. 2001.413. ADMISSION CHARGE REQUIRED. Except as
10 provided by Section 2001.4155, a [A] licensed authorized
11 organization may not offer or provide to a person the opportunity to
12 play bingo without charge.

13 SECTION 29. Section 2001.415, Occupations Code, is amended
14 to read as follows:

15 Sec. 2001.415. ADVERTISEMENTS. (a) A person other than a
16 licensed authorized organization, licensed commercial lessor, or
17 the commission may not advertise bingo.

18 (b) A licensed authorized organization, licensed commercial
19 lessor, or the commission may include in an advertisement or
20 promotion the amount of a prize or series of prizes offered at a
21 bingo occasion.

22 SECTION 30. Subchapter I, Chapter 2001, Occupations Code,
23 is amended by adding Section 2001.4155 to read as follows:

24 Sec. 2001.4155. GIFT CERTIFICATES. (a) Nothing in this
25 chapter prohibits a licensed authorized organization or licensed
26 authorized commercial lessor from distributing or accepting a gift
27 certificate that entitles the bearer of the certificate to enter

1 bingo premises or to play a bingo game, including instant bingo.

2 (b) A licensed authorized organization or licensed
3 authorized commercial lessor that distributes or accepts a gift
4 certificate must keep adequate records relating to the gift
5 certificate as provided by commission rule.

6 SECTION 31. Section 2001.451, Occupations Code, is amended
7 by amending Subsection (b) and adding Subsection (b-1) to read as
8 follows:

9 (b) A licensed authorized organization shall deposit in the
10 bingo account all funds derived from the conduct of bingo, less the
11 amount awarded as cash prizes under Sections 2001.420(a) and (b).
12 Except as provided by Subsection (b-1), a [A] deposit must be made
13 not later than the next business day after the day of the bingo
14 occasion on which the receipts were obtained.

15 (b-1) A licensed authorized organization may deposit funds
16 derived from the conduct of bingo that are paid through a debit card
17 transaction in the bingo fund not later than 72 hours after the
18 transaction.

19 SECTION 32. Amend Section 2001.454, Occupations Code, to
20 read as follows:

21 Sec. 2001.454. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES.

22 (a) A licensed authorized organization shall devote to the [a]
23 charitable purposes [purpose] of the organization its net proceeds
24 of bingo and any rental of premises.

25 (b) Except as otherwise provided by law, the [The] net
26 proceeds derived from bingo and any rental of premises are
27 dedicated to the [a] charitable purposes [purpose] of the

1 organization only if directed to a cause, deed, or activity that is
2 consistent with the federal tax exemption under which the
3 organization was determined to be eligible for a license under this
4 chapter [+

5 ~~[(1) benefits an indefinite number of needy or~~
6 ~~deserving persons in this state by:~~

7 ~~[(A) enhancing their opportunity for religious~~
8 ~~or educational advancement;~~

9 ~~[(B) relieving them from disease, suffering, or~~
10 ~~distress;~~

11 ~~[(C) contributing to their physical well-being;~~

12 ~~[(D) assisting them in establishing themselves~~
13 ~~in life as worthy and useful citizens; or~~

14 ~~[(E) increasing their comprehension of and~~
15 ~~devotion to the principles on which this nation was founded and~~
16 ~~enhancing their loyalty to their government; or~~

17 ~~[(2) initiates, performs, or fosters worthy public~~
18 ~~works in this state or enables or furthers the erection or~~
19 ~~maintenance of public structures in this state].~~

20 SECTION 33. Section 2001.458(a), Occupations Code, is
21 amended to read as follows:

22 (a) An item of expense may not be incurred or paid in
23 connection with the conduct of bingo except an expense that is
24 ~~[those expenses that are]~~ reasonable or necessary to conduct bingo,
25 including an expense ~~[and necessarily expended]~~ for:

26 (1) advertising, including the cost of bingo gift
27 certificates;

- 1 (2) security;
- 2 (3) repair or maintenance of [~~repairs to~~] premises and
3 equipment;
- 4 (4) bingo supplies and equipment;
- 5 (5) prizes;
- 6 (6) stated rental or mortgage and insurance expenses;
- 7 (7) bookkeeping, legal, or accounting services
8 related to bingo;
- 9 (8) fees [~~in amounts authorized by the commission~~] for
10 callers, cashiers, ushers, sales personnel, janitorial services,
11 and utility supplies and services; [~~and~~]
- 12 (9) license fees;i
- 13 (10) attending a bingo seminar or convention;
- 14 (11) debit card transaction fees; and
- 15 (12) a salary for a manager to act as the operator
16 responsible for conducting, promoting or administering bingo.

17 SECTION 34. Section 2001.459(a), Occupations Code, is
18 amended to read as follows:

19 (a) The following items of expense incurred or paid in
20 connection with the conduct of bingo must be paid from an
21 organization's bingo account:

- 22 (1) advertising, including the cost of bingo
23 certificates;
- 24 (2) security during a bingo occasion;
- 25 (3) the purchase or repair of bingo supplies and
26 equipment;
- 27 (4) prizes, other than authorized cash prizes;

- 1 (5) stated rental expenses;
- 2 (6) bookkeeping, legal, or accounting services;
- 3 (7) fees for callers, cashiers, and ushers;
- 4 (8) janitorial services;
- 5 (9) license fees; and
- 6 (10) payment for services provided by a system service
- 7 provider.

8 SECTION 35. Subchapter K, Chapter 2001, Occupations Code,
9 is amended by adding Section 2001.5015 to read as follows:

10 Sec. 2001.5015. MANUFACTURER GROSS RECEIPTS TAX. (a) A
11 tax is imposed on the sale of bingo equipment by a manufacturer for
12 use in the conduct of bingo in this state.

13 (b) The tax rate shall be a percentage of the gross receipts
14 received by each manufacturer from the sale of bingo equipment to a
15 licensed distributor in this state.

16 (c) The commission shall set the tax rate under Subsection
17 (b) based on the revenue to the state that would have been received
18 if bingo equipment were subject to the tax imposed by Chapter 151,
19 Tax Code. The comptroller of public accounts shall notify the
20 commission annually of the amount of revenue to the state that would
21 have been received if bingo equipment were subject to the tax
22 imposed by Chapter 151, Tax Code.

23 SECTION 36. Amend Subdivision (a) of Section 2001.504 to
24 read as follows:

25 (a) A tax or fee authorized or imposed under this subchapter
26 is due and is payable by the license holder or a person conducting
27 bingo without a license to the commission quarterly on or before the

1 25th [~~15th~~] day of the month succeeding each calendar quarter.

2 SECTION 37. Section 2001.602(b), Occupations Code, is
3 amended to read as follows:

4 (b) In determining the amount of the penalty, the
5 [~~executive~~] director shall consider:

- 6 (1) the seriousness of the violation, including the
7 nature, circumstances, extent, and gravity of the prohibited acts;
- 8 (2) the history of previous violations;
- 9 (3) the amount necessary to deter future violations;
- 10 (4) efforts to correct the violation; and
- 11 (5) any other matter that justice may require.

12 SECTION 38. Sections 2001.603(a) and (b), Occupations Code,
13 are amended to read as follows:

14 (a) If, after investigating a possible violation and the
15 facts surrounding that possible violation, the [~~executive~~]
16 director determines that a violation has occurred, the [~~executive~~]
17 director may issue a violation report stating the facts on which the
18 conclusion that a violation occurred is based, recommending that an
19 administrative penalty be imposed on the person alleged to have
20 committed the violation, and recommending the amount of the
21 proposed penalty. The [~~executive~~] director shall base the
22 recommended amount of the proposed penalty on the seriousness of
23 the violation determined by consideration of the factors set out in
24 Section 2001.602(b).

25 (b) Not later than the 14th day after the date on which the
26 report is issued, the [~~executive~~] director shall give written
27 notice of the report to the person alleged to have committed the

1 violation.

2 SECTION 39. Section 2001.604, Occupations Code, is amended
3 to read as follows:

4 Sec. 2001.604. PENALTY TO BE PAID OR HEARING REQUESTED.

5 (a) Not later than the 20th day after the date the person receives
6 the notice, the person may:

7 (1) accept the recommendation of the [~~executive~~]
8 director, including the recommended administrative penalty; or

9 (2) make a written request for a hearing on the
10 determination.

11 (b) If the person accepts the [~~executive~~] director's
12 determination, the [~~executive~~] director by order shall approve the
13 determination and impose the proposed penalty.

14 SECTION 40. Section 2001.605(a), Occupations Code, is
15 amended to read as follows:

16 (a) If the person timely requests a hearing or does not
17 respond to the notice in the time provided by Section 2001.604(a),
18 the [~~executive~~] director shall set a hearing and give notice of the
19 hearing to the person.

20 SECTION 41. Section 2001.606, Occupations Code, is amended
21 to read as follows:

22 Sec. 2001.606. DECISION BY [~~EXECUTIVE~~] DIRECTOR.

23 (a) Based on the findings of fact and conclusions of law and the
24 recommendations of the hearings examiner, the [~~executive~~] director
25 by order:

26 (1) may find that a violation has occurred and may
27 impose an administrative penalty; or

1 (2) may find that a violation has not occurred.

2 (b) The [~~executive~~] director shall give notice of the order
3 to the person. The notice must include:

4 (1) separate statements of the findings of fact and
5 conclusions of law;

6 (2) the amount of any penalty imposed;

7 (3) a statement of the right of the person to judicial
8 review of the order; and

9 (4) other information required by law.

10 SECTION 42. Sections 2001.607(b) and (c), Occupations Code,
11 are amended to read as follows:

12 (b) Within the 30-day period, a person who acts under
13 Subsection (a)(3) may:

14 (1) stay enforcement of the penalty by:

15 (A) paying the penalty to the court for placement
16 in an escrow account; or

17 (B) giving to the court a supersedeas bond
18 approved by the court for the amount of the penalty that is
19 effective until all judicial review of the order is final; or

20 (2) request the court to stay enforcement of the
21 penalty by:

22 (A) filing with the court a sworn affidavit of
23 the person stating that the person is financially unable to pay the
24 penalty and is financially unable to give the supersedeas bond; and

25 (B) giving a copy of the affidavit to the
26 [~~executive~~] director by certified mail.

27 (c) On receipt of a copy of the affidavit as provided by

1 Subsection (b)(2), the [~~executive~~] director may file with the
2 court, not later than the fifth day after the date the copy is
3 received, a contest to the affidavit. The court shall hold a
4 hearing on the facts alleged in the affidavit as soon as practicable
5 and shall stay the enforcement of the penalty on finding that the
6 alleged facts are true. The person who files an affidavit has the
7 burden of proving that the person is financially unable to pay the
8 penalty and to give a supersedeas bond.

9 SECTION 43. Section 2001.608, Occupations Code, is amended
10 to read as follows:

11 Sec. 2001.608. COLLECTION OF PENALTY. If the person does
12 not pay the administrative penalty and the enforcement of the
13 penalty is not stayed, the [~~executive~~] director may refer the
14 matter to the attorney general for collection of the penalty.

15 SECTION 44. Subchapter H, Chapter 151, Tax Code, is amended
16 by adding Section 151.3105 to read as follows:

17 Sec. 151.3105. BINGO EQUIPMENT PURCHASED BY CERTAIN
18 ORGANIZATIONS. Bingo equipment, as defined by Section 2001.002,
19 Occupations Code, is exempted from the taxes imposed by this
20 chapter if the bingo equipment is:

21 (1) purchased by an organization licensed to conduct
22 bingo under Chapter 2001, Occupations Code, that is exempt from the
23 payment of federal income taxes under Section 501(a), Internal
24 Revenue Code of 1986, as amended, by being listed as an exempt
25 organization under Sections 501(c)(3), (4), (8), (10), or (19),
26 Internal Revenue Code of 1986, as amended; and

27 (2) used exclusively to conduct bingo authorized under

1 Chapter 2001, Occupations Code.

2 SECTION 45. The following sections are repealed:

3 (1) Section 2001.409(b), Occupations Code; and

4 (2) Section 2001.410(c), Occupations Code.

5 SECTION 46. (a) The Bingo Policy Board established by
6 Section 467.037, Government Code, as added by this Act, begins to
7 exercise the powers and duties assigned to the Bingo Policy Board on
8 January 1, 2004.

9 (b) The governor shall appoint the initial members of the
10 Bingo Policy Board on or before January 1, 2004. The governor shall
11 appoint one member to a term expiring February 1, 2005, one member
12 to a term expiring February 1, 2007, and one member to a term
13 expiring February 1, 2009.

14 (c) The Bingo Policy Board shall employ a director of the
15 bingo division not later than March 1, 2004. Until a director is
16 employed by the policy board, the director of bingo operations
17 employed by the Texas Lottery Commission shall serve as the
18 director of the bingo division.

19 (d) The director of the bingo division shall establish a
20 security department within the bingo division not later than
21 September 1, 2004.

22 SECTION 47. The change in law made by this Act relating to a
23 license issued under Chapter 2001, Occupations Code, applies only
24 to the license of a person who files an application with the Texas
25 Lottery Commission for a license or the renewal of a license under
26 Chapter 2001, Occupations Code, on or after the effective date of
27 this act. The license of a person who files an application before

1 the effective date of this act is governed by the law in effect on
2 the date the application was filed, and the former law is continued
3 in effect for that purpose.

4 SECTION 48. This Act takes effect September 1, 2003.