88R13341 BEE-F

By:  Zaffirini S.B. No. 643

(Thompson of Harris, et al.)

Substitute the following for S.B. No. 643:

By:  King of Hemphill C.S.S.B. No. 643

A BILL TO BE ENTITLED

AN ACT

relating to the conduct of charitable bingo.

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

SECTION 1.  Sections 2001.002(19) and (25-a), Occupations Code, are amended to read as follows:

(19)  "Nonprofit organization" means an unincorporated association or a corporation that is incorporated or holds a certificate of authority under Chapter 22, Business Organizations Code [~~the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~]. The organization:

(A)  may not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services; and

(B)  must have obtained tax exempt status under Section 501(c), Internal Revenue Code of 1986.

(25-a)  "Regular license" means a license to conduct bingo [~~that is~~] issued by the commission under Subchapter C that is not a temporary license [~~and that expires on the first or second anniversary of the date of issuance unless revoked or suspended before that date by the commission.  The term includes an annual license~~].

SECTION 2.  Section 2001.103, Occupations Code, is amended by amending Subsections (e) and (g) and adding Subsection (i) to read as follows:

(e)  Notwithstanding any other provision of this subchapter [~~Subsection (c)~~], the commission shall issue to an authorized organization that holds a regular [~~an annual~~] license to conduct bingo 48 [~~may receive not more than 24 temporary licenses during the 12-month period following the issuance or renewal of the license. The holder of a license that is effective for two years may receive not more than 24~~] temporary licenses for each 12-month period that ends on an anniversary of the date the regular license was issued or renewed. Each unused temporary license issued to the license holder expires on the anniversary of the date the temporary license was issued.

(g)  Before using [~~An organization that has been issued~~] a temporary license issued under Subsection (e), the license holder [~~(f)~~] shall notify the commission in the manner the commission prescribes of the specific date, [~~and~~] time, and location of the bingo occasion for which the temporary license will be used [~~before using the license~~]. The [~~If the commission receives the notification by noon of the day before the day the temporary license will be used, the~~] commission shall provide to the license holder verification of the commission's [~~verify~~] receipt of the notification [~~notice before the end of the business day on which the notice is received. If the commission does not receive the notification by noon of the day before the day the temporary license will be used, the commission shall verify receipt of the notice before noon of the business day that follows the day the commission received the notice~~]. The license holder shall maintain the verification in the records of the authorized organization.

(i)  The notice requirements of Sections 2001.305(b) and (c) do not apply to a temporary license issued to the holder of a regular license.

SECTION 3.  Sections 2001.105(a) and (c), Occupations Code, are amended to read as follows:

(a)  The commission shall issue a temporary or regular license or renew a regular license to conduct bingo if the commission determines that:

(1)  the member or members of the applicant designated in the application to conduct bingo are active members of the applicant;

(2)  the bingo is to be conducted in accordance with this chapter;

(3)  the proceeds of the bingo are to be disposed in accordance with this chapter;

(4)  the applicant has made and can demonstrate significant progress toward the accomplishment of the purposes of the organization during the 24 [~~12~~] months preceding the date of application for a license or regular license renewal;

(5)  all persons who will conduct, promote, or administer the proposed bingo are active members of the applicant organization and all other persons who will assist in conducting, promoting, or administering the proposed bingo games are persons authorized to do so by Section 2001.411; and

(6)  no person under whose name bingo will be conducted and no person working at the proposed bingo has been convicted of a gambling offense or criminal fraud.

(c)  A regular [~~Except as provided by Section 2001.104(d), a~~] license to conduct bingo issued under this subchapter expires on the second anniversary of the date of issuance unless the commission revokes or suspends the license before that date [~~is effective for one year~~].

SECTION 4.  Sections 2001.305(b) and (c), Occupations Code, are amended to read as follows:

(b)  Except as provided by Section 2001.103(i), immediately [~~Immediately~~] after issuing a license, the commission shall send a copy of the license to the appropriate governing body. The governing body shall file the copy of the license in a central file containing licenses issued under this chapter.

(c)  Except as provided by Section 2001.103(i), not [~~Not~~] later than the 10th day after the date a license is issued, the commission shall give written notice of the issuance of the license to:

(1)  the police department of the municipality in which bingo will be conducted, if bingo is to be conducted in a municipality; or

(2)  the sheriff of the county in which bingo will be conducted, if bingo is to be conducted outside a municipality.

SECTION 5.  Section 2001.315(a), Occupations Code, is amended to read as follows:

(a)  A person who fails to renew the person's license under this chapter before the date the license expires may renew the license after the expiration date by:

(1)  filing a license renewal application with the commission not later than the 14th day after the date the license expires, paying the applicable [~~annual~~] license fee, and paying a late license renewal fee equal to 10 percent of the [~~annual~~] license fee; or

(2)  filing a license renewal application with the commission not later than the 60th day after the date the license expires, paying the applicable [~~annual~~] license fee, and paying a late license renewal fee equal to 10 percent of the [~~annual~~] license fee for each 14-day period occurring after the date the license expires and before the date the renewal application is filed with the commission.

SECTION 6.  Section 2001.401, Occupations Code, is amended to read as follows:

Sec. 2001.401.  RESTRICTIONS ON PREMISES PROVIDERS. A person may not, for direct or indirect consideration, lease or otherwise make a premises available for conducting bingo unless the person is:

(1)  a licensed commercial lessor; or

(2)  a person who leases or otherwise makes available premises to an organization that:

(A)  has been issued a temporary license; and

(B)  does not hold a regular license.

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

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

SECTION 8.  Section 2001.419(a), Occupations Code, is amended to read as follows:

(a)  A licensed authorized organization may not conduct more than three bingo occasions during a calendar week under a regular [~~an annual~~] license.

SECTION 9.  Section 2001.420(b), Occupations Code, is amended to read as follows:

(b)  A person may not offer or award on a single bingo occasion prizes with an aggregate value of more than $5,000 [~~$2,500~~] for all bingo games other than:

(1)  pull-tab bingo; or

(2)  bingo games that award individual prizes of $50 or less.

SECTION 10.  Section 2001.435(b), Occupations Code, is amended to read as follows:

(b)  Each member of a unit shall deposit into the unit's bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes [~~under Sections 2001.420(a) and (b)~~]. The deposit shall be made not later than the third [~~second~~] business day after the day of the bingo occasion on which the receipts were obtained.

SECTION 11.  Section 2001.438, Occupations Code, is amended by amending Subsection (f) and adding Subsection (f-1) to read as follows:

(f)  Each licensed authorized organization that is a member of the unit shall be jointly and severally liable for:

(1)  compliance with the requirements of this subchapter and the rules of the commission relating to the filing of required reports;

(2)  the maintenance of bingo inventory and financial records; and

(3)  except as provided by Subsection (f-1), the payment of any penalties imposed for a violation of this subchapter or commission rules related to the operations of the unit.

(f-1)  If a unit on which a penalty is imposed under Subsection (f)(3) demonstrates that a violation is wholly attributable to a specific licensed authorized organization member or members of the unit:

(1)  a penalty for the violation may not be imposed on a unit member to which the violation is not attributable; and

(2)  the penalty imposed on a unit member to which the violation is attributable may not be in an amount greater than the amount initially assessed against each unit member.

SECTION 12.  Sections 2001.451(b), (g), and (i), Occupations Code, are amended to read as follows:

(b)  Except as provided by Section 2001.502(a), a licensed authorized organization shall deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes [~~under Sections 2001.420(a) and (b)~~]. Except as provided by Subsection (b-1), a deposit must be made not later than the third business day after the day of the bingo occasion on which the receipts were obtained.

(g)  The bingo operations of a licensed authorized organization must[~~:~~

[~~(1)  result in net proceeds over the organization's license period; or~~

[~~(2)  if the organization has a two-year license,~~] result in net proceeds over each 24-month [~~12-month~~] period that ends on the second [~~an~~] anniversary of the date the [~~two-year~~] license was issued.

(i)  Prize fees [~~held in escrow for remittance to the commission~~] are not included in the calculation of operating capital under Subsection (h) if the prize fees are:

(1)  held in escrow for remittance to:

(A)  the commission; or

(B)  a county or municipality; or

(2)  retained by a licensed authorized organization.

SECTION 13.  Sections 2001.502(b) and (c), Occupations Code, are amended to read as follows:

(b)  Notwithstanding Subsection (a)(2), each quarter, a licensed authorized organization or unit that collects a prize fee under Subsection (a) for a bingo game conducted in a county or municipality that was entitled to receive a portion of a bingo prize fee as of January 1, 2019, shall remit 50 percent of the amount collected as the prize fee to the commission and shall remit or deposit the remainder of the amount collected as the prize fee as follows:

(1)  if the county [~~or municipality~~] in which the bingo game is conducted voted before November 1, 2019, to impose the prize fee and[~~, remit 50 percent of the amount collected as the prize fee to:~~

[~~(A)  the county that voted to impose the fee by that date, provided~~] the location at which the bingo game is conducted:

(A)  is not within the boundaries of a municipality, remit 50 percent of the amount collected as the prize fee to the county [~~that voted to impose the prize fee by that date~~]; or

(B)  is within the boundaries of a [~~the~~] municipality that:

(i)  voted before November 1, 2019, to impose the prize fee, remit 50 percent of the amount collected as the prize fee in equal shares to the county and municipality [~~by that date, provided the county in which the bingo game is conducted did not vote to impose the fee by that date~~]; or

(ii)  did not vote before November 1, 2019, to impose the prize fee, remit 25 percent of the amount collected as the prize fee to the county and deposit the remaining amount in the manner described by Subdivision (3);

[~~(C)  in equal shares, the county and the municipality, provided each voted to impose the fee before that date; or~~]

(2)  if the county in which the bingo game is conducted did not vote before November 1, 2019, to impose the prize fee and the location at which the bingo game is conducted is within the boundaries of a municipality that voted before November 1, 2019, to impose the prize fee:

(A)  remit 25 percent of the amount collected as the prize fee to the municipality; and

(B)  deposit the remaining amount in the manner described by Subdivision (3); and

(3)  if neither the county or municipality in which the bingo game is conducted voted before November 1, 2019, to impose the prize fee, deposit the remainder of the amount collected as the prize fee in the general charitable fund of the organization or on a pro rata basis to the general funds of the organizations comprising the unit, as applicable, to be used for the charitable purposes of the organization or organizations.

(c)  The governing body of a county or municipality that voted to impose a prize fee under Subsection (b) [~~(b)(1)~~] may at any time vote to discontinue the imposition of the fee. If a county or municipality votes on or after November 1, 2019, to discontinue the fee, the fees to which the county or municipality, as applicable, was entitled before the vote shall be collected by the licensed authorized organization or unit as defined by Section 2001.431 and deposited as provided by Subsection (b)(3) [~~(b)(2)~~].

SECTION 14.  Section 2001.513(a), Occupations Code, is amended to read as follows:

(a)  At any time within three years after a person is delinquent in the payment of an amount of the fee on prizes due to the commission, the commission may collect the amount under this section.

SECTION 15.  Section 2001.514(a), Occupations Code, is amended to read as follows:

(a)  To secure payment due to the commission of the fee on prizes imposed under this subchapter, each license holder shall furnish to the commission:

(1)  a cash bond;

(2)  a bond from a surety company chartered or authorized to do business in this state;

(3)  certificates of deposit;

(4)  certificates of savings;

(5)  United States treasury bonds;

(6)  subject to the approval of the commission, an assignment of negotiable stocks or bonds; or

(7)  other security as the commission considers sufficient.

SECTION 16.  Section 2001.515, Occupations Code, is amended to read as follows:

Sec. 2001.515.  COMMISSION'S DUTIES. The commission shall perform all functions incident to the administration, collection, enforcement, and operation of the fee on prizes imposed under this subchapter for amounts due to the commission, including any necessary reconciliation of a prize fee held by the commission that is due to a county or municipality.

SECTION 17.  The following provisions of the Occupations Code are repealed:

(1)  Section 2001.103(f);

(2)  Section 2001.420(a); and

(3)  Section 2001.459(b).

SECTION 18.  Not later than January 1, 2024, the Texas Lottery Commission shall adopt the rules necessary to implement the changes in law made by this Act to Chapter 2001, Occupations Code.

SECTION 19.  (a) Section 2001.103(g), Occupations Code, as amended by this Act, applies to a notification of the Texas Lottery Commission by a license holder on or after the effective date of this Act. A notification before the effective date of this Act is governed by the law in effect on the date of the notification, and the former law is continued in effect for that purpose.

(b)  Section 2001.438, Occupations Code, as amended by this Act, applies only to a penalty imposed on or after the effective date of this Act. A penalty imposed before the effective date of this Act is governed by the law in effect on the date the penalty was imposed, and the former law is continued in effect for that purpose.

SECTION 20.  This Act takes effect September 1, 2023.