

ASSEMBLY BILL

No. 364

Introduced by Assembly Member Gipson

February 17, 2015

An act to amend Section 326.5 of the Penal Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 364, as introduced, Gipson. Gambling: charity bingo.

The California Constitution authorizes the Legislature, by statute, to authorize cities and counties to provide for bingo games for charitable purposes. Existing law permits a city, county, or city and county to allow bingo, as defined, to be conducted by specified organizations for charitable purposes pursuant to an ordinance that allows those games to be conducted only in accordance with specified requirements. Existing law prohibits the total value of prizes available to be awarded during the conduct of those games from exceeding \$500 in cash or kind, or both, for each separate game that is held.

This bill would increase the amount described above from \$500 to \$1,000.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 326.5 of the Penal Code is amended to
2 read:

1 326.5. (a) Neither the prohibition on gambling in this chapter
 2 nor in Chapter 10 (commencing with Section 330) applies to any
 3 bingo game that ~~is conducted~~ *meets all of the following conditions:*
 4 (1) *It is conducted* in a city, county, or city and county pursuant
 5 to an ordinance enacted under Section 19 of Article IV of the State
 6 Constitution, if the ordinance allows games to be conducted only
 7 in accordance with this section and only by organizations exempted
 8 from the payment of the bank and corporation tax by Sections
 9 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k,
 10 23701w, and 23701l of the Revenue and Taxation ~~Code and by~~
 11 *Code.*
 12 (2) *It is conducted by a* mobilehome park ~~associations,~~
 13 *association,* senior citizens ~~organizations, and organization, or~~
 14 *charitable organizations organization* affiliated with a school
 15 ~~district, and if the district.~~
 16 (3) ~~The receipts of those games~~ *the bingo game* are used only
 17 for charitable purposes.
 18 (b) It is a misdemeanor for ~~any~~ a person to receive or pay a
 19 profit, wage, or salary from any bingo game authorized by Section
 20 19 of Article IV of the ~~State~~ *California* Constitution. Security
 21 personnel employed by the organization conducting the bingo
 22 game may be paid from the revenues of bingo games, as provided
 23 in subdivisions (j) and (k).
 24 (c) A violation of subdivision (b) shall be punishable by a fine
 25 not to exceed ten thousand dollars (\$10,000), which fine is
 26 deposited in the general fund of the city, county, or city and county
 27 that enacted the ordinance authorizing the bingo game. A violation
 28 of any provision of this section, other than subdivision (b), is a
 29 misdemeanor.
 30 (d) The city, county, or city and county that enacted the
 31 ordinance authorizing the bingo game may bring an action to enjoin
 32 a violation of this section.
 33 (e) Minors shall not be allowed to participate in any bingo game.
 34 (f) An organization authorized to conduct bingo games pursuant
 35 to subdivision (a) shall conduct a bingo game only on property
 36 owned or leased by it, or property whose use is donated to the
 37 organization, and which property is used by that organization for
 38 an office or for performance of the purposes for which the
 39 organization is organized. ~~Nothing in this~~ *This* subdivision ~~shall~~
 40 ~~be construed to~~ *does not* require that the property owned or leased

1 by, or whose use is donated to, the organization be used or leased
2 exclusively by, or donated exclusively to, that organization.

3 (g) ~~All~~ A bingo ~~games~~ *game* shall be open to the public, not just
4 to the members of the authorized organization.

5 (h) A bingo game shall be operated and staffed only by members
6 of the authorized organization that organized it. Those members
7 shall not receive a profit, wage, or salary from ~~any~~ a bingo game.
8 Only the organization authorized to conduct a bingo game shall
9 operate ~~such a~~ *the* bingo game, or participate in the promotion,
10 supervision, or any other phase of a bingo game. This subdivision
11 does not preclude the employment of security personnel who are
12 not members of the authorized organization at a bingo game by
13 the organization conducting the game.

14 (i) ~~Any~~ *An* individual, corporation, partnership, or other legal
15 entity, except the organization authorized to conduct a bingo game,
16 shall not hold a financial interest in the conduct of a bingo game.

17 (j) With respect to organizations exempt from payment of the
18 bank and corporation tax by Section 23701d of the Revenue and
19 Taxation Code, all profits derived from a bingo game shall be kept
20 in a special fund or account and shall not be commingled with any
21 other fund or account. Those profits shall be used only for
22 charitable purposes.

23 (k) With respect to other organizations authorized to conduct
24 bingo games pursuant to this section, all proceeds derived from a
25 bingo game shall be kept in a special fund or account and shall not
26 be commingled with any other fund or account. Proceeds are the
27 receipts of bingo games conducted by organizations not within
28 subdivision (j). Those proceeds shall be used only for charitable
29 purposes, except as follows:

30 (1) The proceeds may be used for prizes.

31 (2) (A) Except as provided in subparagraph (B), a portion of
32 the proceeds, not to exceed 20 percent of the proceeds before the
33 deduction for prizes, or two thousand dollars (\$2,000) per month,
34 whichever is less, may be used for the rental of property and for
35 overhead, including the purchase of bingo equipment,
36 administrative expenses, security equipment, and security
37 personnel.

38 (B) For the purposes of bingo games conducted by the Lake
39 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
40 percent of the proceeds before the deduction for prizes, or three

1 thousand dollars (\$3,000) per month, whichever is less, may be
2 used for the rental of property and for overhead, including the
3 purchase of bingo equipment, administrative expenses, security
4 equipment, and security personnel. Any amount of the proceeds
5 that is additional to that permitted under subparagraph (A), up to
6 one thousand dollars (\$1,000), shall be used for the purpose of
7 financing the rebuilding of the facility and the replacement of
8 equipment that was destroyed by fire in 2007. The exception to
9 subparagraph (A) that is provided by this subparagraph shall remain
10 in effect only until the cost of rebuilding the facility is repaid, or
11 January 1, 2019, whichever occurs first.

12 (3) The proceeds may be used to pay license fees.

13 (4) A city, county, or city and county that enacts an ordinance
14 permitting bingo games may specify in the ordinance that if the
15 monthly gross receipts from bingo games of an organization within
16 this subdivision exceed five thousand dollars (\$5,000), a minimum
17 percentage of the proceeds shall be used only for charitable
18 purposes not relating to the conducting of bingo games and that
19 the balance shall be used for prizes, rental of property, overhead,
20 administrative expenses, and payment of license fees. The amount
21 of proceeds used for rental of property, overhead, and
22 administrative expenses is subject to the limitations specified in
23 paragraph (2).

24 (l) (1) A city, county, or city and county may impose a license
25 fee on each organization that it authorizes to conduct bingo games.
26 The fee, whether for the initial license or renewal, shall not exceed
27 fifty dollars (\$50) annually, except as provided in paragraph (2).
28 If an application for a license is denied, one-half of any license
29 fee paid shall be refunded to the organization.

30 (2) In lieu of the license fee permitted under paragraph (1), a
31 city, county, or city and county may impose a license fee of fifty
32 dollars (\$50) paid upon application. If an application for a license
33 is denied, one-half of the application fee shall be refunded to the
34 organization. An additional fee for law enforcement and public
35 safety costs incurred by the city, county, or city and county that
36 are directly related to bingo activities may be imposed and shall
37 be collected monthly by the city, county, or city and county issuing
38 the ~~license; however,~~ *license. However,* the fee shall not exceed
39 the actual costs incurred in providing the service.

1 (m) A person shall not be allowed to participate in a bingo game,
2 unless the person is physically present at the time and place where
3 the bingo game is being conducted.

4 (n) The total value of prizes available to be awarded during the
5 conduct of any bingo games shall not exceed ~~five hundred~~ *one*
6 *thousand* dollars ~~(\$500)~~ *(\$1,000)* in cash or kind, or both, for each
7 separate game ~~which~~ *that* is held.

8 (o) As used in this section, “bingo” means a game of chance in
9 which prizes are awarded on the basis of designated numbers or
10 symbols that are marked or covered by the player on a tangible
11 card in the player’s possession and that conform to numbers or
12 symbols, selected at random and announced by a live caller.
13 Notwithstanding Section 330c, as used in this section, the game
14 of bingo includes tangible cards having numbers or symbols that
15 are concealed and preprinted in a manner providing for distribution
16 of prizes. Electronics or video displays shall not be used in
17 connection with the game of bingo, except in connection with the
18 caller’s drawing of numbers or symbols and the public display of
19 that drawing, and except as provided in subdivision (p). The
20 winning cards shall not be known prior to the game by any person
21 participating in the playing or operation of the bingo game. All
22 preprinted cards shall bear the legend, “for sale or use only in a
23 bingo game authorized under California law and pursuant to local
24 ordinance.” Only a covered or marked tangible card possessed by
25 a player and presented to an attendant may be used to claim a prize.
26 It is the intention of the Legislature that bingo as defined in this
27 subdivision applies exclusively to this section and shall not be
28 applied in the construction or enforcement of any other ~~provision~~
29 ~~of~~ law.

30 (p) (1) Players who are physically present at a bingo game may
31 use hand-held, portable card-minding devices, as described in this
32 subdivision, to assist in monitoring the numbers or symbols
33 announced by a live caller as those numbers or symbols are called
34 in a live game. Card-minding devices may not be used in
35 connection with any game where a bingo card may be sold or
36 distributed after the start of the ball draw for that game. A
37 card-minding device shall do all of the following:

38 (A) Be capable of storing in the memory of the device bingo
39 faces of tangible cards purchased by a player.

1 (B) Provide a means for bingo players to input manually each
2 individual number or symbol announced by a live caller.

3 (C) Compare the numbers or symbols entered by the player to
4 the bingo faces previously stored in the memory of the device.

5 (D) Identify winning bingo patterns that exist on the stored
6 bingo faces.

7 (2) A card-minding device shall *not* perform ~~no~~ functions
8 involving the play of the game other than those described in
9 paragraph (1). Card-minding devices shall not do any of the
10 following:

11 (A) Be capable of accepting or dispensing any coins, currency,
12 or other representative of value or on which value has been
13 encoded.

14 (B) Be capable of monitoring any bingo card face other than
15 the faces of the tangible bingo card or cards purchased by the
16 player for that game.

17 (C) Display or represent the game result through any means,
18 including, but not limited to, video or mechanical reels or other
19 slot machine or casino game themes, other than highlighting the
20 winning numbers or symbols marked or covered on the tangible
21 bingo cards or giving an audio alert that the player's card has a
22 prize-winning pattern.

23 (D) Determine the outcome of any game or be physically or
24 electronically connected to any component that determines the
25 outcome of a game or to any other bingo equipment, including,
26 but not limited to, the ball call station, or to any other card-minding
27 device. ~~No other~~ *Other* player-operated or player-activated
28 electronic or electromechanical ~~device~~ *devices* or equipment ~~is~~ *are*
29 *not* permitted to be used in connection with a bingo game.

30 (3) (A) A card-minding device shall be approved in advance
31 by the department as meeting the requirements of this section and
32 any additional requirements stated in regulations adopted by the
33 department. Any proposed material change to the device, including
34 ~~any~~ a change to the software used by the device, shall be submitted
35 to the department and approved by the department prior to
36 implementation.

37 (B) In accordance with Chapter 5 (commencing with Section
38 19800) of Division 8 of the Business and Professions Code, the
39 commission shall establish reasonable criteria for, and require the
40 licensure of, ~~any~~ a person that directly or indirectly manufactures,

1 distributes, supplies, vends, leases, or otherwise provides
2 card-minding devices or other supplies, equipment, or services
3 related to card-minding devices designed for use in the playing of
4 bingo games by ~~any~~ a nonprofit organization.

5 (C) A person or entity that supplies or services ~~any~~ a
6 card-minding device shall meet all licensing requirements
7 established by the commission in regulations.

8 (4) The costs of any testing, certification, license, or
9 determination required by this subdivision shall be borne by the
10 person or entity seeking it.

11 (5) On and after January 1, 2010, the Department of Justice may
12 inspect all card-minding devices at any time without notice, and
13 may immediately prohibit the use of ~~any~~ a device that does not
14 comply with the requirements established by the department in
15 regulations. The Department of Justice may at any time, without
16 notice, impound ~~any~~ a device the use of which has been prohibited
17 by the commission.

18 (6) The Department of Justice shall issue regulations to
19 implement the requirements of this subdivision, and the California
20 Gambling Control Commission may issue regulations regarding
21 the means by which the operator of a bingo game, as required by
22 applicable law, may offer assistance to a player with disabilities
23 in order to enable that player to participate in a bingo ~~game;~~
24 ~~provided that~~ game. *However,* the means of providing that
25 assistance shall not be through ~~any~~ an electronic,
26 electromechanical, or other device or equipment that accepts the
27 insertion of ~~any~~ a coin, currency, token, credit card, or other means
28 of transmitting value, and *that* does not ~~constitute~~ *constitute*, or is
29 not a part of a system that ~~constitutes~~ *constitutes*, a video lottery
30 terminal, slot machine, or device prohibited by Chapter 10
31 (commencing with Section 330).

32 (7) The following definitions apply for purposes of this
33 subdivision:

34 (A) "Commission" means the California Gambling Control
35 Commission.

36 (B) "Department" means the Department of Justice.

- 1 (C) “Person” includes a natural person, corporation, limited
- 2 liability company, partnership, trust, joint venture, association, or
- 3 ~~any~~ other business organization.