

AMENDED IN ASSEMBLY JULY 1, 2009

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE MARCH 25, 2009

**SENATE BILL**

**No. 126**

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**Introduced by Senator Cedillo**

February 5, 2009

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An act to amend Sections 326.3, 326.45, and 326.5 of the Penal Code, relating to bingo, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 126, as amended, Cedillo. Bingo: remote caller bingo.

(1) The California Constitution allows the Legislature, by statute, to authorize cities and counties to provide for bingo games for charitable purposes. Existing law permits cities and counties to allow bingo games and remote caller bingo games, 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 includes school districts among the organizations authorized to conduct bingo games, and includes charitable organizations affiliated with a school district among the organizations authorized to conduct remote caller bingo games.

This bill would delete the reference to school districts in the provisions specifying the organizations that may conduct bingo games and would instead authorize charitable organizations affiliated with a school district to conduct bingo games. ~~The bill, until January 1, 2011, would permit remote caller bingo games to be conducted pursuant to an ordinance~~

~~that allows bingo games to be conducted, unless the governing body of the city or county opts to prohibit remote caller bingo by resolution. On and after January 1, 2011, the bill would permit remote caller bingo games to be conducted only pursuant to an ordinance that authorizes remote caller bingo. The bill would set forth a model ordinance to authorize remote caller bingo. The bill would make other conforming changes.~~

(2) Existing law provides that an organization authorized to conduct a remote caller bingo game shall not have overhead costs, as defined, exceeding 20% of gross sales.

This bill would provide that fees paid to financial institutions for the use and processing of credit card sales shall not be included as overhead costs for purposes of that provision. The bill would require credit card fees to be recorded separately from other expenses in the accounting of the organization.

(3) Existing law requires the California Gambling Control Commission to establish reasonable criteria regulating, and to require the licensure and regulation of, specified persons, including any person who provides services or equipment designed for use in the playing of remote caller bingo games by any nonprofit organization registered to conduct those bingo games.

This bill would delete the requirement that the commission establish criteria for the registration of the persons described above.

(4) Existing law requires the commission to establish reasonable criteria for, and to require the licensure and regulation of, any person who provides card-minding devices or other equipment or services designed for use in the playing of bingo games by any nonprofit organization registered to conduct bingo games.

This bill would delete the requirement that the commission establish criteria for the registration of the persons described above.

(5) This bill would make various technical, nonsubstantive changes to the provisions governing remote caller bingo games.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

SECTION 1. Section 326.3 of the Penal Code is amended to read:

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the State of California.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with the requirements of this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

1 (A) An organization that is exempted from the payment of the  
2 bank and corporation tax by Section 23701a, 23701b, 23701d,  
3 23701e, 23701f, 23701g, 23701k, 23701w, or 23701l of the  
4 Revenue and Taxation Code.

5 (B) A mobilehome park association.

6 (C) A senior citizens organization.

7 (D) Charitable organizations affiliated with a school district.

8 (2) The organization conducting the game shall have been  
9 incorporated or in existence for three years or more.

10 (3) The organization conducting the game shall be licensed  
11 pursuant to subdivision (l) of Section 326.5.

12 (4) The receipts of the game shall be used only for charitable  
13 purposes. The organization conducting the game shall determine  
14 the disbursement of the net receipts of the game.

15 (5) The operation of bingo may not be the primary purpose for  
16 which the organization is organized.

17 ~~(c) (1) Until January 1, 2011, a remote caller bingo game may~~  
18 ~~be played or conducted in a city, county, or city and county~~  
19 ~~pursuant to an ordinance enacted under Section 19 of Article IV~~  
20 ~~of the California Constitution, if the ordinance allows games to be~~  
21 ~~conducted only in accordance with the requirements of Section~~  
22 ~~326.5, unless the governing body of the city, county, or city and~~  
23 ~~county opts to prohibit remote caller bingo by resolution. On and~~  
24 ~~after January 1, 2011, a remote caller bingo game may be played~~  
25 ~~or conducted in a city, county, or city and county only pursuant to~~  
26 ~~an ordinance that authorizes remote caller bingo in accordance~~  
27 ~~with the requirements of subdivision (b).~~

28 ~~(2) (A)~~

29 ~~(c) (1)~~ A city, county, or city and county may adopt an  
30 ordinance in substantially the following form to authorize remote  
31 caller bingo in accordance with the requirements of subdivision  
32 (b):

33  
34 Sec. \_\_.01. Legislative Authorization.

35 This chapter is adopted pursuant to Section 19 of Article IV of  
36 the California Constitution, as implemented by Sections 326.3 and  
37 326.4 of the Penal Code.

38 Sec. \_\_.02. Remote Caller Bingo Authorized.

39 Remote Caller Bingo may be lawfully played in the [City,  
40 County, or City and County] pursuant to the provisions of Sections

1 326.3 and 326.4 of the Penal Code, and this chapter, and not  
2 otherwise.

3 Sec. \_\_.03. Qualified Applicants: Applicants for Licensure.

4 (a) The following organizations are qualified to apply to the  
5 License Official for a license to operate a bingo game if the receipts  
6 of those games are used only for charitable purposes:

7 (1) An organization exempt from the payment of the Bank and  
8 Corporation Tax by Section 23701, 23701a, 23701b, 23701d,  
9 23701e, 23701f, 23701g, 23701k, ~~23701w, or 23701~~ or 23701w  
10 of the Revenue and Taxation Code.

11 (2) A mobile home park association of a mobile home park that  
12 is situated in the [City, County, or City and County].

13 (3) Senior citizen organizations.

14 (4) Charitable organizations affiliated with a school district.

15 (b) The application shall be in a form prescribed by the License  
16 Official and shall be accompanied by a nonrefundable filing fee  
17 in an amount determined by resolution of the [Governing Body of  
18 the City, County, or City and County] from time to time. The  
19 following documentation shall be attached to the application, as  
20 applicable:

21 (1) A certificate issued by the Franchise Tax Board certifying  
22 that the applicant is exempt from the payment of the Bank and  
23 Corporation Tax pursuant to Section 23701d of the Revenue and  
24 Taxation Code.

25 (2) Other evidence as the License Official determines is  
26 necessary to verify that the applicant is a duly organized mobile  
27 home park association of a mobile home park situated in the [City,  
28 County, or City and County].

29 Sec. \_\_.04. License Application: Verification.

30 The license shall not be issued until the License Official has  
31 verified the facts stated in the application and determined that the  
32 applicant is qualified.

33 Sec. \_\_.05. Annual Licenses.

34 A license issued pursuant to this chapter shall be valid until the  
35 end of the calendar year, at which time the license shall expire. A  
36 new license shall only be obtained upon filing a new application  
37 and payment of the license fee. The fact that a license has been  
38 issued to an applicant creates no vested right on the part of the  
39 licensee to continue to offer bingo for play. The [Governing Body  
40 of the City, County, or City and County] expressly reserves the

1 right to amend or repeal this chapter at any time by resolution. If  
2 this chapter is repealed, all licenses issued pursuant to this chapter  
3 shall cease to be effective for any purpose on the effective date of  
4 the repealing resolution.

5 Sec. \_\_.06. Conditions of Licensure.

6 (a) Any license issued pursuant to this chapter shall be subject  
7 to the conditions contained in Sections 326.3 and 326.4 of the  
8 Penal Code, and each licensee shall comply with the requirements  
9 of those provisions.

10 (b) Each license issued pursuant to this chapter shall be subject  
11 to the following additional conditions:

12 (1) Bingo games shall not be conducted by any licensee on more  
13 than two days during any week, except that a licensee may hold  
14 one additional game, at its election, in each calendar quarter.

15 (2) The licensed organization is responsible for ensuring that  
16 the conditions of this chapter and Sections 326.3 and 326.4 of the  
17 Penal Code are complied with by the organization and its officers  
18 and members. A violation of any one or more of those conditions  
19 or provisions shall constitute cause for the revocation of the  
20 organization's license. At the request of the organization, the  
21 [Governing Body of the City, County, or City and County] shall  
22 hold a public hearing before revoking any license issued pursuant  
23 to this chapter.

24  
25 ~~(B) For purposes of this subdivision, the requirement in an~~  
26 ~~ordinance of a city, county, or city and county that a person must~~  
27 ~~be physically present to participate in the play of bingo means that~~  
28 ~~the person must be physically present at a remote caller bingo site,~~  
29 ~~and not exclusively at the site in which the balls are drawn and~~  
30 ~~numbers or symbols are called.~~

31 ~~(C)~~

32 (2) Nothing in this section shall require a city, county, or city  
33 and county to use this model ordinance in order to authorize remote  
34 caller bingo.

35 (d) It is a misdemeanor for any person to receive or pay a profit,  
36 wage, or salary from any remote caller bingo game, provided that  
37 administrative, managerial, technical, financial, and security  
38 personnel employed by the organization conducting the bingo  
39 game may be paid reasonable fees for services rendered from the  
40 revenues of bingo games, as provided in subdivision (m), except

1 that fees paid under those agreements shall not be determined as  
2 a percentage of receipts or other revenues from, or be dependant  
3 on the outcome of, the game.

4 (e) A violation of subdivision (d) shall be punishable by a fine  
5 not to exceed ten thousand dollars (\$10,000), which fine shall be  
6 deposited in the general fund of the city, county, or city and county  
7 that enacted the ordinance authorizing the remote caller bingo  
8 game. A violation of any provision of this section, other than  
9 subdivision (d), is a misdemeanor.

10 (f) The city, county, or city and county that enacted the  
11 ordinance authorizing the remote caller bingo game, or the Attorney  
12 General, may bring an action to enjoin a violation of this section.

13 (g) No minors shall be allowed to participate in any remote  
14 caller bingo game.

15 (h) A remote caller bingo game shall not include any site that  
16 is not located within this state.

17 (i) An organization authorized to conduct a remote caller bingo  
18 game pursuant to subdivision (b) shall conduct the game only on  
19 property that is owned or leased by the organization, or the use of  
20 which is donated to the organization. Nothing in this subdivision  
21 shall be construed to require that the property that is owned or  
22 leased by, or the use of which is donated to, the organization be  
23 used or leased exclusively by, or donated exclusively to, that  
24 organization.

25 (j) (1) All remote caller bingo games shall be open to the public,  
26 not just to the members of the authorized organization.

27 (2) No more than 750 players may participate in a remote caller  
28 bingo game in a single location.

29 (3) If the Governor of California or the President of the United  
30 States declares a state of emergency in response to a natural disaster  
31 or other public catastrophe occurring in California, an organization  
32 authorized to conduct remote caller bingo games may, while that  
33 declaration is in effect, conduct a remote caller bingo game  
34 pursuant to this section with more than 750 participants in a single  
35 venue if the net proceeds of the game, after deduction of prizes  
36 and overhead expenses, are donated to or expended exclusively  
37 for the relief of the victims of the disaster or catastrophe, and the  
38 organization gives the California Gambling Control Commission  
39 at least 10 days' written notice of the intent to conduct that game.

(4) An organization authorized to conduct remote caller bingo games shall provide the commission with at least 30 days' advance written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for the city, county, or city and county in which the game will be played. The commission shall post the ordinance on its Internet Web site.

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other provisions of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the

charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(l) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, “overhead costs” includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). “Overhead costs” shall not include fees paid to financial institutions for the use and processing of credit card sales. Credit card fees shall be recorded separately from other expenses in the accounting of the organization.

(n) No person shall be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

1 (A) All of the cosponsors are affiliated under the master charter  
2 or articles and bylaws of a single organization.

3 (B) All of the cosponsors are affiliated through an organization  
4 described in paragraph (1) of subdivision (b), and have the same  
5 Internal Revenue Service activity code.

6 (2) Notwithstanding paragraph (1), a maximum of 10  
7 unaffiliated organizations described in paragraph (1) of subdivision  
8 (b) may enter into an agreement to cosponsor a remote caller game,  
9 provided the game shall have not more than 10 locations.

10 (3) An organization shall not conduct remote caller bingo more  
11 than one day per week.

12 (4) Before sponsoring or operating any game authorized under  
13 paragraph (1) or (2), each of the cosponsoring organizations shall  
14 have entered into a written agreement, a copy of which shall be  
15 provided to the commission, setting forth how the expenses and  
16 proceeds of the game are to be allocated among the participating  
17 organizations, the bank accounts into which all receipts are to be  
18 deposited and from which all prizes are to be paid, and how game  
19 records are to be maintained and subjected to annual audit.

20 (p) The value of prizes awarded during the conduct of any  
21 remote caller bingo game shall not exceed 37 percent of the gross  
22 receipts for that game. Every remote caller bingo game shall be  
23 played until a winner is declared. Progressive prizes are prohibited.  
24 The declared winner of a remote caller bingo game shall provide  
25 his or her identifying information and a mailing address to the  
26 onsite manager of the remote caller bingo game. Prizes shall be  
27 paid only by check; no cash prizes shall be paid. The organization  
28 conducting the remote caller bingo game may issue a check to the  
29 winner at the time of the game, or may send a check to the declared  
30 winner by United States Postal Service certified mail, return receipt  
31 requested. All prize money exceeding state and federal exemption  
32 limits on prize money shall be subject to income tax reporting and  
33 withholding requirements under applicable state and federal laws  
34 and regulations and those reports and withholding shall be  
35 forwarded, within 10 business days, to the appropriate state or  
36 federal agency on behalf of the winner. A report shall accompany  
37 the amount withheld identifying the person on whose behalf the  
38 money is being sent. Any game interrupted by a transmission  
39 failure, electrical outage, or act of God shall be considered void

1 in the location that was affected. A refund for a canceled game or  
2 games shall be provided to the purchasers.

3 (q) (1) The California Gambling Control Commission shall  
4 regulate remote caller bingo, including, but not limited to, licensure  
5 and operation. The commission shall establish reasonable criteria  
6 regulating, and shall require the licensure of, the following:

7 (A) Any person who conducts a remote caller bingo game  
8 pursuant to this section, including, but not limited to, an employee,  
9 a person having fiduciary responsibility for a remote caller bingo  
10 game, a site manager, and a bingo caller.

11 (B) Any person who directly or indirectly manufactures,  
12 distributes, supplies, vends, leases, or otherwise provides supplies,  
13 devices, services, or other equipment designed for use in the  
14 playing of a remote caller bingo game by any nonprofit  
15 organization.

16 (C) Beginning January 31, 2009, or a later date as may be  
17 established by the commission, all persons described in  
18 subparagraph (A) or (B) may submit to the commission a letter of  
19 intent to submit an application for licensure. The letter shall clearly  
20 identify the principal applicant, all categories under which the  
21 application will be filed, and the names of all those particular  
22 individuals who are applying. Each charitable organization shall  
23 provide an estimate of the frequency with which it plans to conduct  
24 remote caller bingo operations, including the number of locations.  
25 The letter of intent may be withdrawn or updated at any time.

26 (2) (A) The Department of Justice shall conduct background  
27 investigations and conduct field enforcement as it relates to remote  
28 caller bingo consistent with the Gambling Control Act (Chapter 5  
29 (commencing with Section 19800) of Division 8 of the Business  
30 and Professions Code) and as specified in regulations promulgated  
31 by the commission.

32 (B) Fees to cover background investigation costs shall be paid  
33 and accounted for in accordance with Section 19867 of the  
34 Business and Professions Code.

35 (3) (A) Every application for a license or approval shall be  
36 accompanied by a nonrefundable fee, the amount of which shall  
37 be adopted by the commission by regulation.

38 (B) Fees and revenue collected pursuant to this paragraph shall  
39 be deposited in the California Bingo Fund, which is hereby created  
40 in the State Treasury. The funds deposited in the California Bingo

1 Fund shall be available, upon appropriation by the Legislature, for  
2 expenditure by the commission and the department exclusively  
3 for the support of the commission and department in carrying out  
4 their duties and responsibilities under this section and Section  
5 326.5.

6 (C) A loan is hereby authorized from the Gambling Control  
7 Fund to the California Bingo Fund on or after January 1, 2009, in  
8 an amount of up to five hundred thousand dollars (\$500,000) to  
9 fund operating, personnel, and other startup costs incurred by the  
10 commission relating to this act. Funds from the California Bingo  
11 Fund shall be available to the commission upon appropriation by  
12 the Legislature in the annual Budget Act. The loan shall be subject  
13 to all of the following conditions:

14 (i) The loan shall be repaid to the Gambling Control Fund as  
15 soon as there is sufficient money in the California Bingo Fund to  
16 repay the amount loaned, but no later than five years after the date  
17 of the loan.

18 (ii) Interest on the loan shall be paid from the California Bingo  
19 Fund at the rate accruing to moneys in the Pooled Money  
20 Investment Account.

21 (iii) The terms and conditions of the loan are approved, prior  
22 to the transfer of funds, by the Department of Finance pursuant to  
23 appropriate fiscal standards.

24 The commission may assess and collect reasonable fees and  
25 deposits as necessary to defray the costs of regulation and  
26 oversight.

27 (r) The administrative, managerial, technical, financial, and  
28 security personnel employed by an organization that conducts  
29 remote caller bingo games shall apply for, obtain, and thereafter  
30 maintain valid work permits, as defined in Section 19805 of the  
31 Business and Professions Code.

32 (s) An organization that conducts remote caller bingo games  
33 shall retain records in connection with the remote caller bingo  
34 game for five years.

35 (t) (1) All equipment used for remote caller bingo shall be  
36 approved in advance by the California Gambling Control  
37 Commission pursuant to regulations adopted pursuant to  
38 subdivision (r) of Section 19841 of the Business and Professions  
39 Code.

1 (2) The California Gambling Control Commission shall monitor  
2 operation of the transmission and other equipment used for remote  
3 caller bingo, and monitor the game.

4 (u) (1) As used in this section, “remote caller bingo game”  
5 means a game of bingo, as defined in subdivision (o) of Section  
6 326.5, in which the numbers or symbols on randomly drawn plastic  
7 balls are announced by a natural person present at the site at which  
8 the live game is conducted, and the organization conducting the  
9 bingo game uses audio and video technology to link any of its  
10 in-state facilities for the purpose of transmitting the remote calling  
11 of a live bingo game from a single location to multiple locations  
12 owned, leased, or rented by that organization, or as described in  
13 subdivision (o) of this section. The audio or video technology used  
14 to link the facilities may include cable, Internet, satellite,  
15 broadband, or telephone technology, or any other means of  
16 electronic transmission that ensures the secure, accurate, and  
17 simultaneous transmission of the announcement of numbers or  
18 symbols in the game from the location at which the game is called  
19 by a natural person to the remote location or locations at which  
20 players may participate in the game. The drawing of each ball  
21 bearing a number or symbol by the natural person calling the game  
22 shall be visible to all players as the ball is drawn, including through  
23 a simultaneous live video feed at remote locations at which players  
24 may participate in the game.

25 (2) The caller in the live game must be licensed by the California  
26 Gambling Control Commission. A game may be called by a  
27 nonlicensed caller if the drawing of balls and calling of numbers  
28 or symbols by that person is observed and personally supervised  
29 by a licensed caller.

30 (3) Remote caller bingo games shall be played using traditional  
31 paper or other tangible bingo cards and daubers, and shall not be  
32 played by using electronic devices, except card-minding devices,  
33 as described in paragraph (1) of subdivision (p) of Section 326.5.

34 (4) Prior to conducting a remote caller bingo game, the  
35 organization that conducts remote caller bingo shall submit to the  
36 commission the controls, methodology, and standards of game  
37 play, which shall include, but not be limited to, the equipment used  
38 to select bingo numbers and create or originate cards, control or  
39 maintenance, distribution to participating locations, and distribution  
40 to players. Those controls, methodologies, and standards shall be

1 subject to prior approval by the commission, provided that the  
2 controls shall be deemed approved by the commission after 90  
3 days from the date of submission unless disapproved.

4 (v) A location shall not be eligible to participate in a remote  
5 caller bingo game if bingo games are conducted at that location  
6 in violation of Section 326.5 or any regulation adopted by the  
7 commission pursuant to Section 19841 of the Business and  
8 Professions Code, including, but not limited to, a location at which  
9 unlawful electronic devices are used.

10 (w) (1) The vendor of the equipment used in a remote caller  
11 bingo game shall have its books and records audited at least  
12 annually by an independent California certified public accountant  
13 and shall submit the results of that audit to the California Gambling  
14 Control Commission within 120 days after the close of the vendor's  
15 fiscal year. In addition, the California Gambling Control  
16 Commission shall audit the books and records of the vendor at any  
17 time.

18 (2) An organization that conducts remote caller bingo games  
19 shall provide copies of the records pertaining to those games to  
20 the California Gambling Control Commission within 30 days after  
21 the end of each calendar quarter. In addition, those records shall  
22 be audited by an independent California certified public accountant  
23 at least annually and copies of the audit reports shall be provided  
24 to the California Gambling Control Commission within 120 days  
25 after the close of the organization's fiscal year.

26 (3) The costs of the licensing and audits required by this section  
27 shall be borne by the person or entity required to be licensed or  
28 audited. The audit shall enumerate the receipts for remote caller  
29 bingo, the prizes disbursed, the overhead costs, and the amount  
30 retained by the nonprofit organization. The commission may audit  
31 the books and records of an organization that conducts remote  
32 caller bingo games at any time.

33 (4) If, during an audit, the commission identifies practices in  
34 violation of this section, the license for the audited entity may be  
35 suspended pending review and hearing before the commission for  
36 a final determination.

37 (5) No audit required to be conducted by the commission shall  
38 commence before January 1, 2010.

39 (x) (1) The provisions of this section are severable. If any  
40 provision of this section or its application is held invalid, that

1 invalidity shall not affect other provisions or applications that can  
2 be given effect without the invalid provision or application.

3 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of  
4 subdivision (u), or the application of either of those provisions, is  
5 held invalid, this entire section shall be invalid.

6 (y) The commission shall submit a report to the Legislature, on  
7 or before January 1, 2012, on the fundraising effectiveness and  
8 regulation of remote caller bingo, and other matters that are relevant  
9 to the public interest regarding remote caller bingo.

10 (z) The following definitions apply for purposes of this section:

11 (1) "Commission" means the California Gambling Control  
12 Commission.

13 (2) "Person" includes a natural person, corporation, limited  
14 liability company, partnership, trust, joint venture, association, or  
15 any other business organization.

16 SEC. 2. Section 326.45 of the Penal Code is amended to read:

17 326.45. Up to five hundred thousand dollars (\$500,000), as  
18 determined by order of the Director of Finance, is hereby  
19 appropriated from the California Bingo Fund to the California  
20 Gambling Control Commission for use in the 2008–09 fiscal year  
21 for the purposes described in subparagraph (C) of paragraph (3)  
22 of subdivision (q) of Section 326.3.

23 SEC. 3. Section 326.5 of the Penal Code is amended to read:

24 326.5. (a) Neither the prohibition on gambling in this chapter  
25 nor in Chapter 10 (commencing with Section 330) applies to any  
26 bingo game that is conducted in a city, county, or city and county  
27 pursuant to an ordinance enacted under Section 19 of Article IV  
28 of the State Constitution, if the ordinance allows games to be  
29 conducted only in accordance with this section and only by  
30 organizations exempted from the payment of the bank and  
31 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,  
32 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and  
33 Taxation Code and by mobilehome park associations, senior  
34 citizens organizations, and charitable organizations affiliated with  
35 a school district; and if the receipts of those games are used only  
36 for charitable purposes.

37 (b) It is a misdemeanor for any person to receive or pay a profit,  
38 wage, or salary from any bingo game authorized by Section 19 of  
39 Article IV of the State Constitution. Security personnel employed  
40 by the organization conducting the bingo game may be paid from

1 the revenues of bingo games, as provided in subdivisions (j) and  
2 (k).

3 (c) A violation of subdivision (b) shall be punishable by a fine  
4 not to exceed ten thousand dollars (\$10,000), which fine is  
5 deposited in the general fund of the city, county, or city and county  
6 that enacted the ordinance authorizing the bingo game. A violation  
7 of any provision of this section, other than subdivision (b), is a  
8 misdemeanor.

9 (d) The city, county, or city and county that enacted the  
10 ordinance authorizing the bingo game may bring an action to enjoin  
11 a violation of this section.

12 (e) No minors shall be allowed to participate in any bingo game.

13 (f) An organization authorized to conduct bingo games pursuant  
14 to subdivision (a) shall conduct a bingo game only on property  
15 owned or leased by it, or property whose use is donated to the  
16 organization, and which property is used by that organization for  
17 an office or for performance of the purposes for which the  
18 organization is organized. Nothing in this subdivision shall be  
19 construed to require that the property owned or leased by, or whose  
20 use is donated to, the organization be used or leased exclusively  
21 by, or donated exclusively to, that organization.

22 (g) All bingo games shall be open to the public, not just to the  
23 members of the authorized organization.

24 (h) A bingo game shall be operated and staffed only by members  
25 of the authorized organization that organized it. Those members  
26 shall not receive a profit, wage, or salary from any bingo game.  
27 Only the organization authorized to conduct a bingo game shall  
28 operate such a game, or participate in the promotion, supervision,  
29 or any other phase of a bingo game. This subdivision does not  
30 preclude the employment of security personnel who are not  
31 members of the authorized organization at a bingo game by the  
32 organization conducting the game.

33 (i) No individual, corporation, partnership, or other legal entity,  
34 except the organization authorized to conduct a bingo game, shall  
35 hold a financial interest in the conduct of a bingo game.

36 (j) With respect to organizations exempt from payment of the  
37 bank and corporation tax by Section 23701d of the Revenue and  
38 Taxation Code, all profits derived from a bingo game shall be kept  
39 in a special fund or account and shall not be commingled with any

1 other fund or account. Those profits shall be used only for  
2 charitable purposes.

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

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

11 (2) (A) Except as provided in subparagraph (B), a portion of  
12 the proceeds, not to exceed 20 percent of the proceeds before the  
13 deduction for prizes, or two thousand dollars (\$2,000) per month,  
14 whichever is less, may be used for the rental of property and for  
15 overhead, including the purchase of bingo equipment,  
16 administrative expenses, security equipment, and security  
17 personnel.

18 (B) For the purposes of bingo games conducted by the Lake  
19 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20  
20 percent of the proceeds before the deduction for prizes, or three  
21 thousand dollars (\$3,000) per month, whichever is less, may be  
22 used for the rental of property and for overhead, including the  
23 purchase of bingo equipment, administrative expenses, security  
24 equipment, and security personnel. Any amount of the proceeds  
25 that is additional to that permitted under subparagraph (A), up to  
26 one thousand dollars (\$1,000), shall be used for the purpose of  
27 financing the rebuilding of the facility and the replacement of  
28 equipment that was destroyed by fire in 2007. The exception to  
29 subparagraph (A) that is provided by this subparagraph shall remain  
30 in effect only until the cost of rebuilding the facility is repaid, or  
31 January 1, 2019, whichever occurs first.

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

33 (4) A city, county, or city and county that enacts an ordinance  
34 permitting bingo games may specify in the ordinance that if the  
35 monthly gross receipts from bingo games of an organization within  
36 this subdivision exceed five thousand dollars (\$5,000), a minimum  
37 percentage of the proceeds shall be used only for charitable  
38 purposes not relating to the conducting of bingo games and that  
39 the balance shall be used for prizes, rental of property, overhead,  
40 administrative expenses, and payment of license fees. The amount

1 of proceeds used for rental of property, overhead, and  
2 administrative expenses is subject to the limitations specified in  
3 paragraph (2).

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

10 (2) In lieu of the license fee permitted under paragraph (1), a  
11 city, county, or city and county may impose a license fee of fifty  
12 dollars (\$50) paid upon application. If an application for a license  
13 is denied, one-half of the application fee shall be refunded to the  
14 organization. An additional fee for law enforcement and public  
15 safety costs incurred by the city, county, or city and county that  
16 are directly related to bingo activities may be imposed and shall  
17 be collected monthly by the city, county, or city and county issuing  
18 the license; however, the fee shall not exceed the actual costs  
19 incurred in providing the service.

20 (m) No person shall be allowed to participate in a bingo game,  
21 unless the person is physically present at the time and place where  
22 the bingo game is being conducted.

23 (n) The total value of prizes available to be awarded during the  
24 conduct of any bingo games shall not exceed five hundred dollars  
25 (\$500) in cash or kind, or both, for each separate game which is  
26 held.

27 (o) As used in this section, “bingo” means a game of chance in  
28 which prizes are awarded on the basis of designated numbers or  
29 symbols that are marked or covered by the player on a tangible  
30 card in the player’s possession and that conform to numbers or  
31 symbols, selected at random and announced by a live caller.  
32 Notwithstanding Section 330c, as used in this section, the game  
33 of bingo includes tangible cards having numbers or symbols that  
34 are concealed and preprinted in a manner providing for distribution  
35 of prizes. Electronics or video displays shall not be used in  
36 connection with the game of bingo, except in connection with the  
37 caller’s drawing of numbers or symbols and the public display of  
38 that drawing, and except as provided in subdivision (p). The  
39 winning cards shall not be known prior to the game by any person  
40 participating in the playing or operation of the bingo game. All

preprinted cards shall bear the legend, “for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.” Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

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

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

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

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

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

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

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

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

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

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the commission as meeting the requirements of this section and any additional requirements stated in regulations adopted by the commission. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the commission and approved by the commission prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

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

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

(5) On and after January 1, 2010, the commission and the Department of Justice may inspect all card-minding devices at any time without notice, and may immediately prohibit the use of any device that does not comply with the requirements of subdivision (r) of Section 19841 of the Business and Professions Code. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the commission.

(6) The California Gambling Control Commission shall issue regulations to implement the requirements of this subdivision and may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player

1 to participate in a bingo game, provided that the means of providing  
2 that assistance shall not be through any electronic,  
3 electromechanical, or other device or equipment that accepts the  
4 insertion of any coin, currency, token, credit card, or other means  
5 of transmitting value, and does not constitute or is not a part of a  
6 system that constitutes a video lottery terminal, slot machine, or  
7 device prohibited by Chapter 10 (commencing with Section 330).

8 (7) The following definitions apply for purposes of this  
9 subdivision:

10 (A) "Commission" means the California Gambling Control  
11 Commission.

12 (B) "Person" includes a natural person, corporation, limited  
13 liability company, partnership, trust, joint venture, association, or  
14 any other business organization.

15 SEC. 4. This act is an urgency statute necessary for the  
16 immediate preservation of the public peace, health, or safety within  
17 the meaning of Article IV of the Constitution and shall go into  
18 immediate effect. The facts constituting the necessity are:

19 In order to ensure that bingo games are adequately regulated and  
20 that appropriate charitable organizations may conduct fundraising  
21 through bingo games at the earliest possible time, it is necessary  
22 that this act take effect immediately.