

AMENDED IN ASSEMBLY AUGUST 24, 2009

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

Introduced by Senator Cedillo

February 5, 2009

An act to amend Section 19850.6 of the Business and Professions Code, and 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~~ *The California Remote Caller Bingo Act* 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 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) The act requires the California Gambling Control Commission, by May 1, 2009, to adopt emergency regulations concerning remote caller bingo and card-minding devices, effective for an initial period of 180 days, and permits one readoption of those emergency regulations for an additional period of 180 days. The commission is directed to complete the normal public notice and comment process, giving careful consideration to the comments of all interested parties.

This bill, instead, would provide that all emergency regulations adopted by the commission pursuant to these provisions before July 1, 2009, shall remain in effect until December 31, 2011, except to the extent that the commission exercises its power to adopt, amend, or repeal those regulations in whole or part. The bill would delete the requirement that the commission complete the normal public notice and comment process.

~~(2) Existing law~~

(3) The act 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~~

(4) The act requires the California Gambling Control Commission to establish reasonable criteria regulating, and to require the licensure and ~~regulation~~ registration 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~~

(5) *The act* requires the commission to establish reasonable criteria for, and to require the licensure and ~~regulation~~ *registration* 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)~~

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

~~(6)~~

(7) 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:

1 SECTION 1. Section 19850.6 of the Business and Professions
2 Code is amended to read:
3 19850.6. (a) In order to avoid delays in implementing the
4 California Remote Caller Bingo Act, including implementing
5 remote caller bingo, testing and certifying card-minding devices,
6 and to avoid disruption of fundraising efforts by nonprofit
7 organizations, the Legislature finds and declares that it is necessary
8 to provide the commission with a limited exemption from normal
9 rulemaking procedural requirements. The commission is directed
10 to adopt appropriate emergency regulations as soon as possible,
11 the initial regulatory action to be filed with the Office of
12 Administrative Law no later than May 1, 2009. ~~The commission~~
13 ~~is further directed to complete the normal public notice and~~
14 ~~comment process, giving careful consideration to the comments~~
15 ~~of all interested parties.~~ It is the intent of the Legislature to provide
16 the commission with full authority and sufficient flexibility to
17 adopt all needed regulations. These regulations may be adopted
18 in a series of regulatory actions. Subsequent regulatory actions
19 may amend or repeal earlier regulatory actions, as necessary, to
20 reflect program experience and concerns of the regulated public.

(b) The commission shall adopt emergency regulations concerning remote caller bingo and concerning card-minding devices no later than May 1, 2009. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the commission is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code, but shall otherwise be subject to the review and approval of the Office of Administrative Law.

~~(c) The emergency regulations adopted pursuant to this section shall be effective initially for a period of 180 days from the date the regulations are filed with the Secretary of State by the Office of Administrative Law or upon any later date specified by the commission in a written instrument filed with, or as part of, the regulation. Notwithstanding subdivision (h) of Section 11346.1 of the Government Code, the regulations may be readopted only once pursuant to this section for a period of not more than 180 days. The exemption created by this section applies to all emergency regulations readopted by the commission pursuant to this section until December 31, 2009.~~

(c) Notwithstanding any other law, all emergency regulations adopted by the commission pursuant to this section before July 1, 2009, shall remain in effect until December 31, 2011, except to the extent that the commission exercises its power to adopt, amend, or repeal these regulations in whole or part.

SECTION 1.

SEC. 2. 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.

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

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

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

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

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

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

25 (A) An organization that is exempted from the payment of the
26 bank and corporation tax by Section 23701a, 23701b, 23701d,
27 23701e, 23701f, 23701g, 23701k, 23701w, or 23701l of the
28 Revenue and Taxation Code.

29 (B) A mobilehome park association.

30 (C) A senior citizens organization.

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

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

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

36 (4) The receipts of the game shall be used only for charitable
37 purposes. The organization conducting the game shall determine
38 the disbursement of the net receipts of the game.

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

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

Sec. __.01. Legislative Authorization.

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

Sec. __.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County, or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec. __.03. Qualified Applicants: Applicants for Licensure.

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

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

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

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

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

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

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

1 Sec. __.04. License Application: Verification.

2 The license shall not be issued until the License Official has
3 verified the facts stated in the application and determined that the
4 applicant is qualified.

5 Sec. __.05. Annual Licenses.

6 A license issued pursuant to this chapter shall be valid until the
7 end of the calendar year, at which time the license shall expire. A
8 new license shall only be obtained upon filing a new application
9 and payment of the license fee. The fact that a license has been
10 issued to an applicant creates no vested right on the part of the
11 licensee to continue to offer bingo for play. The [Governing Body
12 of the City, County, or City and County] expressly reserves the
13 right to amend or repeal this chapter at any time by resolution. If
14 this chapter is repealed, all licenses issued pursuant to this chapter
15 shall cease to be effective for any purpose on the effective date of
16 the repealing resolution.

17 Sec. __.06. Conditions of Licensure.

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

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

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

27 (2) The licensed organization is responsible for ensuring that
28 the conditions of this chapter and Sections 326.3 and 326.4 of the
29 Penal Code are complied with by the organization and its officers
30 and members. A violation of any one or more of those conditions
31 or provisions shall constitute cause for the revocation of the
32 organization's license. At the request of the organization, the
33 [Governing Body of the City, County, or City and County] shall
34 hold a public hearing before revoking any license issued pursuant
35 to this chapter.

36
37 (2) Nothing in this section shall require a city, county, or city
38 and county to use this model ordinance in order to authorize remote
39 caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (m), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or be dependant on the outcome of, the game.

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

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

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

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

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

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

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

(3) If the Governor of California or the President of the United States declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single

1 venue if the net proceeds of the game, after deduction of prizes
2 and overhead expenses, are donated to or expended exclusively
3 for the relief of the victims of the disaster or catastrophe, and the
4 organization gives the California Gambling Control Commission
5 at least 10 days' written notice of the intent to conduct that game.

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

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

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

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

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

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

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

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

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

28 (k) (1) A remote caller bingo game shall be operated and staffed
29 only by members of the authorized organization that organized it.
30 Those members shall not receive a profit, wage, or salary from
31 any remote caller bingo game. Only the organization authorized
32 to conduct a remote caller bingo game shall operate that game, or
33 participate in the promotion, supervision, or any other phase of a
34 remote caller bingo game. Subject to the provisions of subdivision
35 (m), this subdivision shall not preclude the employment of
36 administrative, managerial, technical, financial, or security
37 personnel who are not members of the authorized organization at
38 a location participating in the remote caller bingo game by the
39 organization conducting the game. Notwithstanding any other
40 provisions of law, exclusive or other agreements between the

1 authorized organization and other entities or persons to provide
2 services in the administration, management, or conduct of the game
3 shall not be considered a violation of the prohibition against
4 holding a legally cognizable financial interest in the conduct of
5 the remote caller bingo game by persons or entities other than the
6 charitable organization, or other entity authorized to conduct the
7 remote caller bingo games, provided that those persons or entities
8 obtain the gambling licenses, the key employee licenses, or the
9 work permits required by, and otherwise comply with, Chapter 5
10 (commencing with Section 19800) of Division 8 of the Business
11 and Professions Code. Fees to be paid under any such agreements
12 shall be reasonable and shall not be determined as a percentage of
13 receipts or other revenues from, or be dependent on the outcome
14 of, the game.

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

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

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

35 (n) No person shall be allowed to participate in a remote caller
36 bingo game unless the person is physically present at the time and
37 place where the remote caller bingo game is being conducted. A
38 person shall be deemed to be physically present at the place where
39 the remote caller bingo game is being conducted if he or she is

1 present at any of the locations participating in the remote caller
2 bingo game in accordance with this section.

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

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

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

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

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

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

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

1 federal agency on behalf of the winner. A report shall accompany
2 the amount withheld identifying the person on whose behalf the
3 money is being sent. Any game interrupted by a transmission
4 failure, electrical outage, or act of God shall be considered void
5 in the location that was affected. A refund for a canceled game or
6 games shall be provided to the purchasers.

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

11 (A) Any person who conducts a remote caller bingo game
12 pursuant to this section, including, but not limited to, an employee,
13 a person having fiduciary responsibility for a remote caller bingo
14 game, a site manager, and a bingo caller.

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

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

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

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

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

4 (B) Fees and revenue collected pursuant to this paragraph shall
5 be deposited in the California Bingo Fund, which is hereby created
6 in the State Treasury. The funds deposited in the California Bingo
7 Fund shall be available, upon appropriation by the Legislature, for
8 expenditure by the commission and the department exclusively
9 for the support of the commission and department in carrying out
10 their duties and responsibilities under this section and Section
11 326.5.

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

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

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

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

30 The commission may assess and collect reasonable fees and
31 deposits as necessary to defray the costs of regulation and
32 oversight.

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

38 (s) An organization that conducts remote caller bingo games
39 shall retain records in connection with the remote caller bingo
40 game for five years.

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

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

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

30 (2) The caller in the live game must be licensed by the California
31 Gambling Control Commission. A game may be called by a
32 nonlicensed caller if the drawing of balls and calling of numbers
33 or symbols by that person is observed and personally supervised
34 by a licensed caller.

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

39 (4) Prior to conducting a remote caller bingo game, the
40 organization that conducts remote caller bingo shall submit to the

commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the commission, provided that the controls shall be deemed approved by the commission after 90 days from the date of submission unless disapproved.

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

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

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

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

(4) If, during an audit, the commission identifies practices in violation of this section, the license for the audited entity may be

1 suspended pending review and hearing before the commission for
2 a final determination.

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

5 (x) (1) The provisions of this section are severable. If any
6 provision of this section or its application is held invalid, that
7 invalidity shall not affect other provisions or applications that can
8 be given effect without the invalid provision or application.

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

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

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

17 (1) "Commission" means the California Gambling Control
18 Commission.

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

22 ~~SEC. 2.~~

23 *SEC. 3.* Section 326.45 of the Penal Code is amended to read:
24 326.45. Up to five hundred thousand dollars (\$500,000), as
25 determined by order of the Director of Finance, is hereby
26 appropriated from the California Bingo Fund to the California
27 Gambling Control Commission for use in the 2008–09 fiscal year
28 for the purposes described in subparagraph (C) of paragraph (3)
29 of subdivision (q) of Section 326.3.

30 ~~SEC. 3.~~

31 *SEC. 4.* Section 326.5 of the Penal Code is amended to read:
32 326.5. (a) Neither the prohibition on gambling in this chapter
33 nor in Chapter 10 (commencing with Section 330) applies to any
34 bingo game that is conducted in a city, county, or city and county
35 pursuant to an ordinance enacted under Section 19 of Article IV
36 of the State Constitution, if the ordinance allows games to be
37 conducted only in accordance with this section and only by
38 organizations exempted from the payment of the bank and
39 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
40 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and

1 Taxation Code and by mobilehome park associations, senior
2 citizens organizations, and charitable organizations affiliated with
3 a school district; and if the receipts of those games are used only
4 for charitable purposes.

5 (b) It is a misdemeanor for any person to receive or pay a profit,
6 wage, or salary from any bingo game authorized by Section 19 of
7 Article IV of the State Constitution. Security personnel employed
8 by the organization conducting the bingo game may be paid from
9 the revenues of bingo games, as provided in subdivisions (j) and
10 (k).

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

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

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

21 (f) An organization authorized to conduct bingo games pursuant
22 to subdivision (a) shall conduct a bingo game only on property
23 owned or leased by it, or property whose use is donated to the
24 organization, and which property is used by that organization for
25 an office or for performance of the purposes for which the
26 organization is organized. Nothing in this subdivision shall be
27 construed to require that the property owned or leased by, or whose
28 use is donated to, the organization be used or leased exclusively
29 by, or donated exclusively to, that organization.

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

32 (h) A bingo game shall be operated and staffed only by members
33 of the authorized organization that organized it. Those members
34 shall not receive a profit, wage, or salary from any bingo game.
35 Only the organization authorized to conduct a bingo game shall
36 operate such a game, or participate in the promotion, supervision,
37 or any other phase of a bingo game. This subdivision does not
38 preclude the employment of security personnel who are not
39 members of the authorized organization at a bingo game by the
40 organization conducting the game.

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

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

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

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

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

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

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

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

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

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

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

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

(o) As used in this section, “bingo” means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player’s possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game

1 of bingo includes tangible cards having numbers or symbols that
2 are concealed and preprinted in a manner providing for distribution
3 of prizes. Electronics or video displays shall not be used in
4 connection with the game of bingo, except in connection with the
5 caller's drawing of numbers or symbols and the public display of
6 that drawing, and except as provided in subdivision (p). The
7 winning cards shall not be known prior to the game by any person
8 participating in the playing or operation of the bingo game. All
9 preprinted cards shall bear the legend, "for sale or use only in a
10 bingo game authorized under California law and pursuant to local
11 ordinance." Only a covered or marked tangible card possessed by
12 a player and presented to an attendant may be used to claim a prize.
13 It is the intention of the Legislature that bingo as defined in this
14 subdivision applies exclusively to this section and shall not be
15 applied in the construction or enforcement of any other provision
16 of law.

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

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

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

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

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

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

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

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

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

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

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

24 (B) In accordance with Chapter 5 (commencing with Section
25 19800) of Division 8 of the Business and Professions Code, the
26 commission shall establish reasonable criteria for, and require the
27 licensure of, any person that directly or indirectly manufactures,
28 distributes, supplies, vends, leases, or otherwise provides
29 card-minding devices or other supplies, equipment, or services
30 related to card-minding devices designed for use in the playing of
31 bingo games by any nonprofit organization.

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

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

38 (5) On and after January 1, 2010, the commission and the
39 Department of Justice may inspect all card-minding devices at any
40 time without notice, and may immediately prohibit the use of any

1 device that does not comply with the requirements of subdivision
2 (r) of Section 19841 of the Business and Professions Code. The
3 Department of Justice may at any time, without notice, impound
4 any device the use of which has been prohibited by the commission.

5 (6) The California Gambling Control Commission shall issue
6 regulations to implement the requirements of this subdivision and
7 may issue regulations regarding the means by which the operator
8 of a bingo game, as required by applicable law, may offer
9 assistance to a player with disabilities in order to enable that player
10 to participate in a bingo game, provided that the means of providing
11 that assistance shall not be through any electronic,
12 electromechanical, or other device or equipment that accepts the
13 insertion of any coin, currency, token, credit card, or other means
14 of transmitting value, and does not constitute or is not a part of a
15 system that constitutes a video lottery terminal, slot machine, or
16 device prohibited by Chapter 10 (commencing with Section 330).

17 (7) The following definitions apply for purposes of this
18 subdivision:

19 (A) "Commission" means the California Gambling Control
20 Commission.

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

24 ~~SEC. 4.~~

25 *SEC. 5.* This act is an urgency statute necessary for the
26 immediate preservation of the public peace, health, or safety within
27 the meaning of Article IV of the Constitution and shall go into
28 immediate effect. The facts constituting the necessity are:

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