

AMENDED IN ASSEMBLY AUGUST 31, 2009

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. 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 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.

(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.~~ *may be deducted from the amount of gross revenues awarded for prizes and not included in overhead costs, as provided.*

(4) *The act requires an organization that conducts a remote caller bingo game to have the records pertaining to those games audited at least annually by an independent California certified public accountant and for copies of the audit report to be provided to the California Gambling Control Commission.*

This bill would provide that the audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales and the amount redirected from overhead costs, as provided.

(4)

(5) The act requires the California Gambling Control Commission to establish reasonable criteria regulating, and to require the licensure and 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.

(5)

(6) The act requires the commission to establish reasonable criteria for, and to require the licensure and 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.

(6)

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

(7)

(8) 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. It is the intent of

1 the Legislature to provide the commission with full authority and
2 sufficient flexibility to adopt all needed regulations. These
3 regulations may be adopted in a series of regulatory actions.
4 Subsequent regulatory actions may amend or repeal earlier
5 regulatory actions, as necessary, to reflect program experience and
6 concerns of the regulated public.

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

17 (c) Notwithstanding any other law, all emergency regulations
18 adopted by the commission pursuant to this section before July 1,
19 2009, shall remain in effect until December 31, 2011, except to
20 the extent that the commission exercises its power to adopt, amend,
21 or repeal these regulations in whole or part.

22 SEC. 2. Section 326.3 of the Penal Code is amended to read:

23 326.3. (a) The Legislature finds and declares all of the
24 following:

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

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

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

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

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

37 (6) Historically, many nonprofit organizations have used
38 charitable bingo as one of their key fundraising strategies to
39 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:

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

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

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

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

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

(5) The operation of bingo may not be the primary purpose for 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.

1 This chapter is adopted pursuant to Section 19 of Article IV of
2 the California Constitution, as implemented by Sections 326.3 and
3 326.4 of the Penal Code.

4 Sec. __.02. Remote Caller Bingo Authorized.

5 Remote Caller Bingo may be lawfully played in the [City,
6 County, or City and County] pursuant to the provisions of Sections
7 326.3 and 326.4 of the Penal Code, and this chapter, and not
8 otherwise.

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

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

13 (1) An organization exempt from the payment of the Bank and
14 Corporation Tax by Section 23701, 23701a, 23701b, 23701d,
15 23701e, 23701f, 23701g, 23701k, or 23701w of the Revenue and
16 Taxation Code.

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

19 (3) Senior citizen organizations.

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

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

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

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

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

36 The license shall not be issued until the License Official has
37 verified the facts stated in the application and determined that the
38 applicant is qualified.

39 Sec. __.05. Annual Licenses.

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

12 Sec. __.06. Conditions of Licensure.

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

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

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

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

31
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 any 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

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

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

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

17 (m) An organization authorized to conduct a remote caller bingo
18 game pursuant to this section shall not have overhead costs
19 exceeding 20 percent of gross sales, except that the limitations of
20 this section shall not apply to one-time, nonrecurring capital
21 acquisitions. For purposes of this subdivision, “overhead costs”
22 includes, but is not limited to, amounts paid for rent and equipment
23 leasing and the reasonable fees authorized to be paid to
24 administrative, managerial, technical, financial, and security
25 personnel employed by the organization pursuant to subdivision
26 (d). ~~“Overhead costs” shall not include fees paid to financial~~
27 ~~institutions for the use and processing of credit card sales. Credit~~
28 ~~card fees shall be recorded separately from other expenses in the~~
29 ~~accounting of the organization. For the purpose of keeping its~~
30 ~~overhead costs below 20 percent of gross sales, an authorized~~
31 ~~organization may elect to deduct all or a portion of the fees paid~~
32 ~~to financial institutions for the use and processing of credit card~~
33 ~~sales from the amount of gross revenues awarded for prizes. In~~
34 ~~that case, the redirected fees for the use and processing of credit~~
35 ~~card sales shall not be included in “overhead costs” as defined~~
36 ~~in the California Remote Caller Bingo Act. Additionally, fees paid~~
37 ~~to financial institutions for the use and processing of credit card~~
38 ~~sales shall not be deducted from the proceeds retained by the~~
39 ~~charitable 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:

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

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

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

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

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

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. *When an authorized organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use and processing of credit card sales.* Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game

1 shall provide his or her identifying information and a mailing
2 address to the onsite manager of the remote caller bingo game.
3 Prizes shall be paid only by check; no cash prizes shall be paid.
4 The organization conducting the remote caller bingo game may
5 issue a check to the winner at the time of the game, or may send
6 a check to the declared winner by United States Postal Service
7 certified mail, return receipt requested. All prize money exceeding
8 state and federal exemption limits on prize money shall be subject
9 to income tax reporting and withholding requirements under
10 applicable state and federal laws and regulations and those reports
11 and withholding shall be forwarded, within 10 business days, to
12 the appropriate state or federal agency on behalf of the winner. A
13 report shall accompany the amount withheld identifying the person
14 on whose behalf the money is being sent. Any game interrupted
15 by a transmission failure, electrical outage, or act of God shall be
16 considered void in the location that was affected. A refund for a
17 canceled game or games shall be provided to the purchasers.

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

22 (A) Any person who conducts a remote caller bingo game
23 pursuant to this section, including, but not limited to, an employee,
24 a person having fiduciary responsibility for a remote caller bingo
25 game, a site manager, and a bingo caller.

26 (B) Any person who directly or indirectly manufactures,
27 distributes, supplies, vends, leases, or otherwise provides supplies,
28 devices, services, or other equipment designed for use in the
29 playing of a remote caller bingo game by any nonprofit
30 organization.

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

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

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

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

13 (B) Fees and revenue collected pursuant to this paragraph shall
14 be deposited in the California Bingo Fund, which is hereby created
15 in the State Treasury. The funds deposited in the California Bingo
16 Fund shall be available, upon appropriation by the Legislature, for
17 expenditure by the commission and the department exclusively
18 for the support of the commission and department in carrying out
19 their duties and responsibilities under this section and Section
20 326.5.

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

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

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

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

1 The commission may assess and collect reasonable fees and
2 deposits as necessary to defray the costs of regulation and
3 oversight.

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

9 (s) An organization that conducts remote caller bingo games
10 shall retain records in connection with the remote caller bingo
11 game for five years.

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

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

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

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

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

(4) Prior to conducting a remote caller bingo game, the 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~~ *may* audit the books and records of the vendor at any time.

(2) An *authorized* 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

1 120 days after the close of the organization's fiscal year. *The audit*
2 *report shall account for the annual amount of fees paid to financial*
3 *institutions for the use and processing of credit card sales by the*
4 *authorized organization and the amount of fees for the use and*
5 *processing of credit card sales redirected from "overhead costs"*
6 *and deducted from the amount of gross revenues awarded for*
7 *prizes.*

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

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

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

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

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

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

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

33 (1) "Commission" means the California Gambling Control
34 Commission.

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

38 SEC. 3. Section 326.45 of the Penal Code is amended to read:

39 326.45. Up to five hundred thousand dollars (\$500,000), as
40 determined by order of the Director of Finance, is hereby

1 appropriated from the California Bingo Fund to the California
2 Gambling Control Commission for use in the 2008–09 fiscal year
3 for the purposes described in subparagraph (C) of paragraph (3)
4 of subdivision (q) of Section 326.3.

5 SEC. 4. Section 326.5 of the Penal Code is amended to read:

6 326.5. (a) Neither the prohibition on gambling in this chapter
7 nor in Chapter 10 (commencing with Section 330) applies to any
8 bingo game that is conducted in a city, county, or city and county
9 pursuant to an ordinance enacted under Section 19 of Article IV
10 of the State Constitution, if the ordinance allows games to be
11 conducted only in accordance with this section and only by
12 organizations exempted from the payment of the bank and
13 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
14 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
15 Taxation Code and by mobilehome park associations, senior
16 citizens organizations, and charitable organizations affiliated with
17 a school district; and if the receipts of those games are used only
18 for charitable purposes.

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

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

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

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

35 (f) An organization authorized to conduct bingo games pursuant
36 to subdivision (a) shall conduct a bingo game only on property
37 owned or leased by it, or property whose use is donated to the
38 organization, and which property is used by that organization for
39 an office or for performance of the purposes for which the
40 organization is organized. Nothing in this subdivision shall be

1 construed to require that the property owned or leased by, or whose
2 use is donated to, the organization be used or leased exclusively
3 by, or donated exclusively to, that organization.

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

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

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

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

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

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

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

39 (B) For the purposes of bingo games conducted by the Lake
40 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 card-minding devices or other supplies, equipment, or services
2 related to card-minding devices designed for use in the playing of
3 bingo games by any nonprofit organization.

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

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

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

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

29 (7) The following definitions apply for purposes of this
30 subdivision:

31 (A) "Commission" means the California Gambling Control
32 Commission.

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

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

- 1 In order to ensure that bingo games are adequately regulated and
- 2 that appropriate charitable organizations may conduct fundraising
- 3 through bingo games at the earliest possible time, it is necessary
- 4 that this act take effect immediately.

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