

AMENDED IN SENATE MAY 12, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 340

Introduced by Senator Wolk

February 15, 2011

~~An act to amend Section 326.3 of the Penal Code, relating to bingo.~~
An act to repeal Sections 19850.5 and 19850.6 of the Business and Professions Code, and to amend Sections 326.3 and 326.5 of the Penal Code, relating to bingo, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 340, as amended, Wolk. Remote caller bingo.

The California Constitution allows the Legislature, by statute, to authorize cities and counties to provide for bingo games for charitable purposes. Existing law authorizes cities and counties to permit eligible nonprofit organizations to conduct bingo games and remote caller bingo games, as defined, for charitable purposes pursuant to an ordinance that allows those games to be conducted in accordance with specified requirements. Existing law sets forth a model ordinance for a city, county, or city and county to authorize remote caller bingo, and prohibits an organization from conducting remote caller bingo more than 2 days per week. ~~Existing law prohibits more than 750 players from participating in a remote caller bingo game in a single location.~~ Existing law requires an organization authorized to conduct remote caller bingo games to provide at least 30 days' advance written notice of its intent to conduct a remote caller bingo game.

This bill additionally would permit ~~remote caller bingo games to be conducted in a city, county, or city and county pursuant to an~~ *to amend*

an existing local ordinance that allows bingo games to be conducted, if the governing body of the city, county, or city and county opts by resolution, to permit the conduct of remote caller bingo games pursuant to that ordinance by resolution, as specified. The bill would prohibit an organization from conducting remote caller bingo more than 2 days per week, but would permit ~~a licensed~~ *an* organization to hold one additional game, at its election, in each calendar quarter. The bill would ~~delete the limit on the number of players that may participate in a remote caller bingo game in a single location, and would delete the requirement for require an organization authorized to conduct remote caller bingo games to provide at least 10 days' advance written notice of intent to conduct a remote caller bingo game on a form prescribed by the city, county, or city and county, and to provide at least 24 hours' advance notice if the location of the remote caller bingo game changes.~~ The bill also would ~~make a technical change to repeal the model ordinance.~~

Existing law requires the California Gambling Control Commission to regulate remote caller bingo, including licensure and operation. Among other things, any person who conducts a remote caller bingo game and any person who manufactures or otherwise provides equipment for use in the playing of a remote caller bingo game are required to be licensed. Existing law also requires the commission to approve all equipment used for remote caller bingo in advance, to monitor operation of the transmission and other equipment used for remote caller bingo, and to monitor the game.

This bill would delete all state licensure requirements for the conduct of remote caller bingo, and would, instead, would require an organization licensed by a city, county, or city and county that is eligible to conduct remote caller bingo games to register annually with the Department of Justice by transmitting a copy of the bingo license to the department, as specified. The bill would require the department to maintain a registry on its Internet Web site of all organizations registered to conduct remote caller bingo. The bill would authorize the department to charge an annual registration fee of up to \$100 per year, to be deposited into the Gambling Control California Bingo Fund, to cover the actual costs of the department to administer and enforce these provisions, and would authorize the department to adopt regulations. The bill would make other technical and conforming changes relating to the duties of the Department of Justice department and the commission, including setting forth procedures for a city, county, or city and county, as the local licensing entity, to obtain a background

~~check from the department. The bill would delete the licensure requirement for a person who conducts a remote caller bingo game. The bill would continue to require delete the requirement that the commission to approve all equipment used for remote caller bingo in advance, but would require the Department of Justice city, county, or city and county to monitor operation of the transmission and other equipment used for remote caller bingo and to monitor the game. The bill would authorize the department or the commission to audit the books and records of a licensed organization or vendor of equipment used in a remote caller bingo game at any time.~~

To ensure continuity of remote caller bingo games, this bill would, until June 1, 2012, authorize a city, county, or city and county to recognize a state license, work permit, or approval of equipment that was issued by the commission and effective on June 30, 2011, as specified. The bill would permit an authorized organization to contract with a management company to provide business services, but would require the organization to give notice of the contract to the city, county, or city and county and meet other requirements, as specified. The bill would require the live, physical calling and broadcast of a remote caller bingo game to be conducted from a jurisdiction that authorizes by local ordinance the conduct of remote caller bingo games.

This bill would make additional changes relating to the requirements for cosponsoring remote caller bingo games, and would simplify other procedures and requirements applicable to the conduct of remote caller bingo games.

Existing law requires the California Gambling Control Commission to submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo. *A loan from the Gambling Control Fund to the California Bingo Fund for the start-up costs relating to remote-caller bingo is required to be repaid within 5 years.*

This bill would delete that reporting requirement, *and would delete the requirement that the start-up loan be repaid within 5 years.*

Existing law permits players who are physically present at a bingo game to use hand-held, portable card-minding devices, as specified, that are approved prior to use by the California Gambling Control Commission. Additionally, the commission is required to license persons or entities that manufacture, supply, or service card-minding devices and related equipment, and may inspect and prohibit the use of any card-minding devices that are noncompliant. Existing law requires the

commission to adopt regulations concerning remote caller bingo and card-minding devices.

This bill would repeal these provisions relating to card-minding devices and the duties of the commission.

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

Vote: ~~majority~~^{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 19850.5 of the Business and Professions*
2 *Code is repealed.*

3 ~~19850.5. Notwithstanding Section 19850 or any other provision~~
4 ~~of law, this chapter shall apply to both of the following:~~

5 ~~(a) The operation, regulation, and enforcement of remote caller~~
6 ~~bingo, as defined in paragraph (1) of subdivision (t) of Section~~
7 ~~326.3 of the Penal Code, to the extent expressly made applicable~~
8 ~~by Section 326.3 of the Penal Code. No requirement contained in~~
9 ~~this chapter shall apply to remote caller bingo unless expressly~~
10 ~~made applicable by Section 326.3 of the Penal Code.~~

11 ~~(b) The regulation of card-minding devices as provided in~~
12 ~~subdivision (p) of Section 326.5 of the Penal Code, to the extent~~
13 ~~expressly made applicable by Section 326.5 of the Penal Code.~~
14 ~~No requirement contained in this chapter shall apply to~~
15 ~~card-minding devices unless expressly made applicable by Section~~
16 ~~326.5 of the Penal Code.~~

17 SEC. 2. *Section 19850.6 of the Business and Professions Code*
18 *is repealed.*

19 ~~19850.6. (a) In order to avoid delays in implementing the~~
20 ~~California Remote Caller Bingo Act, including implementing~~
21 ~~remote caller bingo, testing and certifying card-minding devices,~~
22 ~~and to avoid disruption of fundraising efforts by nonprofit~~
23 ~~organizations, the Legislature finds and declares that it is necessary~~
24 ~~to provide the commission with a limited exemption from normal~~
25 ~~rulemaking procedural requirements. The commission is directed~~
26 ~~to adopt appropriate emergency regulations as soon as possible,~~
27 ~~the initial regulatory action to be filed with the Office of~~
28 ~~Administrative Law no later than May 1, 2009. It is the intent of~~
29 ~~the Legislature to provide the commission with full authority and~~

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

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

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

21 **SECTION 1.**

22 *SEC. 3.* 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 taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, ~~23701w, or 23701l, or 23701w~~ 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 taxes
14 imposed under the Corporation Tax Law by Section 23701a,
15 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or
16 23701w of the Revenue and 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) Appropriate documentation of the organization's
28 qualification pursuant to subdivision (a).

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

33 Sec. ~~__~~.04. License Application: Verification.

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

37 Sec. ~~__~~.05. Annual Licenses.

38 A license issued pursuant to this chapter shall be valid until the
39 end of the calendar year, at which time the license shall expire. A
40 new license shall only be obtained upon filing a new application

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

9 Sec. ~~__~~.06. Conditions of Licensure.

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

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

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

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

28 -

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

32 (3) A remote caller bingo game may be played or conducted in
33 a city, county, or city and county pursuant to an ordinance enacted
34 under Section 19 of Article IV of the California Constitution, if
35 the ordinance allows games to be conducted only in accordance
36 with the requirements of Section 326.5, and if the governing body
37 of the city, county, or city and county opts to permit remote caller
38 bingo pursuant to that ordinance by resolution.

39 (c) (1) *To ensure continuity of remote caller bingo games, until*
40 *June 1, 2012, the local licensing entity may recognize a state*

1 *license, work permit, or approval of equipment that was issued by*
2 *the commission pursuant to this section, and effective on June 30,*
3 *2011, including, but not limited to, any of the following:*

4 *(A) An interim license of a person who conducts remote caller*
5 *bingo games approved by the commission, as of June 30, 2011.*

6 *(B) An interim work permit for personnel employed by an*
7 *organization that conducts remote caller bingo games.*

8 *(C) An interim approval of equipment used for remote caller*
9 *bingo games.*

10 *(2) If the local licensing entity decides to recognize a license,*
11 *work permit, or equipment approval issued by the commission,*
12 *the local licensing entity shall be responsible for regulatory*
13 *oversight and enforcement in accordance with the standards and*
14 *procedures applicable within its jurisdiction pursuant to local*
15 *ordinance.*

16 *(3) Any reference to the commission as the licensing authority*
17 *for the conduct of remote caller bingo games that appears in a*
18 *local ordinance adopted prior to the operative date of the act*
19 *adding this subdivision shall be deemed to refer to the local*
20 *licensing entity.*

21 *(d) (1) It is a misdemeanor for any person to receive or pay a*
22 *profit, wage, or salary from any remote caller bingo game, provided*
23 *that administrative, managerial, technical, financial, and security*
24 *personnel employed by the organization conducting the bingo*
25 *game may be paid reasonable fees for services rendered from the*
26 *revenues of bingo games, as provided in subdivision (m), except*
27 *that fees paid under those agreements shall not be determined as*
28 *a percentage of receipts or other revenues from, or be dependent*
29 *on the outcome of, the game.*

30 ~~*(e)*~~

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

37 ~~*(f)*~~

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

1 ~~(g)~~

2 ~~(f)~~ No minors shall be allowed to participate in any remote caller
3 bingo game.

4 ~~(h)~~

5 ~~(g)~~ A remote caller bingo game shall not include any site that
6 is not located within this state.

7 ~~(i)~~

8 ~~(h)~~ An organization authorized to conduct a remote caller bingo
9 game pursuant to subdivision (b) shall conduct the game only on
10 property that is owned or leased by the organization, or the use of
11 which is donated to the organization. Nothing in this subdivision
12 shall be construed to require that the property that is owned or
13 leased by, or the use of which is donated to, the organization be
14 used or leased exclusively by, or donated exclusively to, that
15 organization.

16 ~~(j)~~

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

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

21 ~~(2)~~

22 (3) If the Governor of California or the President of the United
23 States declares a state of emergency in response to a natural disaster
24 or other public catastrophe occurring in California, an organization
25 authorized to conduct remote caller bingo games may, while that
26 declaration is in effect, conduct a remote caller bingo game
27 pursuant to this section *with more than 750 participants in a single*
28 *venue* if the net proceeds of the game, after deduction of prizes
29 and overhead expenses, are donated to or expended exclusively
30 for the relief of the victims of the disaster or catastrophe, and the
31 organization gives the ~~department~~ *local licensing entity* at least 10
32 days' written notice of the intent to conduct that game.

33 (4) *An organization authorized to conduct remote caller bingo*
34 *games shall provide the local licensing entity with at least 10 days'*
35 *advance written notice of its intent to conduct a remote caller*
36 *bingo game. That notice shall be on a form prescribed by the local*
37 *licensing entity. If the location of the remote caller bingo game*
38 *changes, the organization shall provide the local licensing entity*
39 *with at least 24 hours' advance notice by e-mail, telephone, or*
40 *fax.*

~~(3) An organization licensed to conduct remote caller bingo games by the local licensing entity shall register with the department by transmitting a copy of the bingo license to the department. The department may require a licensed organization to pay an annual registration fee of up to one hundred dollars (\$100) per year to cover the actual costs of the department to administer and enforce this section. The annual registration fees shall be deposited by the department into the Gambling Control Fund.~~

(j) (1) An organization eligible to conduct a remote caller bingo game pursuant to subdivision (b) shall register annually with the department in order to conduct remote caller bingo games pursuant to this section. The department shall create, by regulation, and provide to eligible nonprofit organizations, upon request, a registration form. The department also shall post the registration form on its Internet Web site. Only the information necessary for the department to implement this section shall be required for completion of the registration form, including, but not limited to, all of the following relative to the eligible organization:

(A) Name and address.
(B) Federal tax identification number, corporate number issued by the Secretary of State, organization number issued by the Franchise Tax Board, or California charitable trust identification number.

(C) Name and title of a responsible fiduciary of the organization.
(2) The department shall maintain a registry on its Internet Web site of all organizations registered to conduct remote caller bingo pursuant to this section. Prior to issuing a license pursuant to a local ordinance, the local licensing entity shall confirm that an organization applying to operate a remote caller bingo game is registered and in good standing according to the registry available on the department's Internet Web site.

(3) The department may require an eligible organization to pay an annual registration fee of one hundred dollars (\$100) to cover the actual costs of the department to administer and enforce this section. The department may, by regulation, adjust the annual registration fee as needed to ensure that revenues will fully offset, but not exceed, the actual costs incurred by the department pursuant to this section. Fee revenues shall be deposited by the department into the California Bingo Fund.

(4) The department may adopt regulations to implement this section. The initial adoption, amendment, or repeal 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 department is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the department may request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1 of the Government Code.

(4)

(5) The department shall have concurrent jurisdiction with local law enforcement agencies to enforce this section.

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

1 (2) *An authorized organization may contract with a management*
2 *company to provide business services, including, but not limited*
3 *to, game accounting and bingo game consulting, including*
4 *operations of broadcasting and telecasting assistance. An*
5 *authorized organization that contracts with a management*
6 *company shall do all of the following:*

7 (A) *Indicate on the application to conduct remote caller bingo*
8 *games that is submitted to the local licensing entity that it has*
9 *contracted with a management company. The authorized*
10 *organization shall notify the local licensing entity in writing if it*
11 *contracts with a management company subsequent to the*
12 *submission of its application to the local licensing entity.*

13 (B) *Ensure that the management company has a business license*
14 *and request a live scan background check for each employee or*
15 *consultant that has a 10 percent or greater ownership interest in*
16 *any management company.*

17 (C) *Maintain on file the name, address, and contact numbers*
18 *of the management company, and provide that information to the*
19 *department upon request.*

20 (3) *The live, physical calling and broadcast of a remote caller*
21 *bingo game shall be conducted from a jurisdiction that authorizes*
22 *by local ordinance the conduct of remote caller bingo games.*

23 ~~(2)~~

24 (4) *An organization that conducts a remote caller bingo game*
25 *shall designate a person as having fiduciary responsibility for the*
26 *game.*

27 (I) *No individual, corporation, partnership, or other legal entity,*
28 *except the organization authorized to conduct or participate in a*
29 *remote caller bingo game, shall hold a legally cognizable financial*
30 *interest in the conduct of that game.*

31 (m) *An organization authorized to conduct a remote caller bingo*
32 *game pursuant to this section shall not have overhead costs*
33 *exceeding 20 percent of gross sales, except that the limitations of*
34 *this section shall not apply to one-time, nonrecurring capital*
35 *acquisitions. For purposes of this subdivision, “overhead costs”*
36 *includes, but is not limited to, amounts paid for rent and equipment*
37 *leasing and the reasonable fees authorized to be paid to*
38 *administrative, managerial, technical, financial, and security*
39 *personnel employed by the organization pursuant to subdivision*
40 *(d). For the purpose of keeping its overhead costs below 20 percent*

1 of gross sales, an authorized organization may elect to deduct all
2 or a portion of the fees paid to financial institutions for the use and
3 processing of credit card sales from the amount of gross revenues
4 awarded for prizes. In that case, the redirected fees for the use and
5 processing of credit card sales shall not be included in “overhead
6 costs” as defined in the California Remote Caller Bingo Act.
7 Additionally, fees paid to financial institutions for the use and
8 processing of credit card sales shall not be deducted from the
9 proceeds retained by the charitable organization.

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

17 (o) (1) An organization shall not cosponsor a remote caller
18 bingo game with one or more other organizations unless all of the
19 cosponsors are affiliated under the master charter or articles and
20 bylaws of a single organization involved in the same type of
21 activity.

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

26 (3) An organization shall not conduct remote caller bingo more
27 than two days per week, except that ~~a licensed~~ *an* organization
28 may hold one additional game, at its election, in each calendar
29 quarter.

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

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

17 ~~(q) (1) The department shall require the licensure of any person~~
18 ~~who directly or indirectly manufactures, distributes, supplies,~~
19 ~~vends, leases, or otherwise provides supplies, devices, services,~~
20 ~~or other equipment designed for use in the playing of a remote~~
21 ~~caller bingo game by any nonprofit organization.~~

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

32 ~~(3) (A) The department and the local licensing entity shall~~
33 ~~conduct background investigations and field enforcement as it~~
34 ~~relates to remote caller bingo consistent with the Gambling Control~~
35 ~~Act (Chapter 5 (commencing with Section 19800) of Division 8~~
36 ~~of the Business and Professions Code), and as specified in~~
37 ~~regulations promulgated by the department.~~

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

~~(4) (A) Every application for a license or approval shall be accompanied by a nonrefundable fee, the amount of which shall be adopted by the department by regulation.~~

(q) (1) If the local licensing entity requests a background check from the department of any person required to be licensed pursuant to the applicable local ordinance, it shall submit to the department fingerprint images and related information required by the department for the purpose of obtaining information as to the existence and content of a record of state and federal convictions and arrests, including state or federal arrests for which the department establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) Upon receipt, the department shall forward requests for federal summary criminal history information pursuant to this section to the Federal Bureau of Investigation. The department shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the local licensing entity.

(3) The department shall provide a state or federal level response to the local licensing entity pursuant to paragraph (1) of subdivision (p) of Section 11105.

(4) The local licensing entity shall request from the department subsequent arrest notification service, as provided pursuant to Section 11105.2, for persons described in paragraph (1).

(5) The department shall charge a fee sufficient to cover the cost of processing requests pursuant to this subdivision.

~~(B)~~

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

~~(C)~~

(B) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the

commission relating to this act. Funds from the California Bingo Fund shall be available to the commission upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

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

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

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

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

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

~~(s) (1) All equipment used for remote caller bingo shall be approved in advance by the commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.~~

~~(2) The department~~

(s) The local licensing entity shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(t) (1) As used in this section, “remote caller bingo game” means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of

1 electronic transmission that ensures the secure, accurate, and
2 simultaneous transmission of the announcement of numbers or
3 symbols in the game from the location at which the game is called
4 by a natural person to the remote location or locations at which
5 players may participate in the game. The drawing of each ball
6 bearing a number or symbol by the natural person calling the game
7 shall be visible to all players as the ball is drawn, including through
8 a simultaneous live video feed at remote locations at which players
9 may participate in the game.

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

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

20 ~~(v) The department or the commission may audit the books and~~
21 ~~records of a licensed organization or vendor of equipment used in~~
22 ~~a remote caller bingo game at any time.~~

23 ~~(w)~~

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

28 (2) Notwithstanding paragraph (1), if paragraph (1) or (2) of
29 subdivision (t), or the application of either of those provisions, is
30 held invalid, this entire section shall be invalid.

31 ~~(x)~~

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

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

35 (2) “Department” means the Department of Justice.

36 (3) “Local licensing entity” means the city, county, or city and
37 county.

38 (4) “Organization” means the principal organization that the
39 cosponsors are affiliated with. All cosponsors shall be considered

1 part of the organization with one person serving as the fiduciary
2 for the organization and all affiliated cosponsors.

3 (5) “Person” includes a natural person, corporation, limited
4 liability company, partnership, trust, joint venture, association, or
5 any other business organization.

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

7 326.5. (a) Neither the prohibition on gambling in this chapter
8 nor in Chapter 10 (commencing with Section 330) applies to any
9 bingo game that is conducted in a city, county, or city and county
10 pursuant to an ordinance enacted under Section 19 of Article IV
11 of the State Constitution, if the ordinance allows games to be
12 conducted only in accordance with this section, and only by
13 organizations exempted from the payment of the bank and
14 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
15 23701f, 23701g, 23701k, 23701l, and 23701w, ~~and 23701h~~ of the
16 Revenue and Taxation Code, and by mobilehome park associations,
17 senior citizens organizations, and charitable organizations affiliated
18 with a school district; and if the receipts of those games are used
19 only for charitable purposes. *The ordinance may be amended by*
20 *resolution of the governing body of the city, county, or city and*
21 *county to allow a remote caller bingo game to be played or*
22 *conducted in accordance with the requirements of Section 326.3.*

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

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

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

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

39 (f) An organization authorized to conduct bingo games pursuant
40 to subdivision (a) shall conduct a bingo game only on property

1 owned or leased by it, or property whose use is donated to the
2 organization, and which property is used by that organization for
3 an office or for performance of the purposes for which the
4 organization is organized. Nothing in this subdivision shall be
5 construed to require that the property owned or leased by, or whose
6 use is donated to, the organization be used or leased exclusively
7 by, or donated exclusively to, that organization.

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

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

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

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

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

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

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

1 administrative expenses, security equipment, and security
2 personnel.

3 (B) For the purposes of bingo games conducted by the Lake
4 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
5 percent of the proceeds before the deduction for prizes, or three
6 thousand dollars (\$3,000) per month, whichever is less, may be
7 used for the rental of property and for overhead, including the
8 purchase of bingo equipment, administrative expenses, security
9 equipment, and security personnel. Any amount of the proceeds
10 that is additional to that permitted under subparagraph (A), up to
11 one thousand dollars (\$1,000), shall be used for the purpose of
12 financing the rebuilding of the facility and the replacement of
13 equipment that was destroyed by fire in 2007. The exception to
14 subparagraph (A) that is provided by this subparagraph shall remain
15 in effect only until the cost of rebuilding the facility is repaid, or
16 January 1, 2019, whichever occurs first.

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

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

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

35 (2) In lieu of the license fee permitted under paragraph (1), a
36 city, county, or city and county may impose a license fee of fifty
37 dollars (\$50) paid upon application. If an application for a license
38 is denied, one-half of the application fee shall be refunded to the
39 organization. An additional fee for law enforcement and public
40 safety costs incurred by the city, county, or city and county that

1 are directly related to bingo activities may be imposed and shall
2 be collected monthly by the city, county, or city and county issuing
3 the license; however, the fee shall not exceed the actual costs
4 incurred in providing the service.

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

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

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

34 (p) (1) Players who are physically present at a bingo game may
35 use hand-held, portable card-minding devices, as described in this
36 subdivision, to assist in monitoring the numbers or symbols
37 announced by a live caller as those numbers or symbols are called
38 in a live game. Card-minding devices may not be used in
39 connection with any game where a bingo card may be sold or

distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

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

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

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

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

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1).

Card-minding devices shall not do any of the following:

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

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

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

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

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

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

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

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

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

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

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

~~(A) "Commission" means the California Gambling Control Commission.~~

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

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

5 *The Gambling Control Authority's current funding authority for*
6 *the remote caller bingo program, which is a loan from the*
7 *Gambling Control Fund, and limited-term positions expire on June*
8 *30, 2011. Without that funding authority and those positions, the*
9 *commission cannot perform work related to the remote caller bingo*
10 *program after June 30, 2011. In order to provide continuity for*
11 *charitable organizations that are conducting remote caller bingo,*
12 *it is necessary that this act take effect immediately.*