

CHAPTER 242

PROFESSIONS AND OCCUPATIONS

SENATE BILL 93-52

BY SENATOR Ruddick;
also REPRESENTATIVES Dyer and Pierson.**AN ACT****CONCERNING THE REGULATION OF GAMES OF CHANCE, AND, IN CONNECTION THEREWITH,
CONTINUING THE AUTHORITY OF THE SECRETARY OF STATE TO LICENSE SUCH ACTIVITIES, AND
MAKING AN APPROPRIATION.***Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. 12-9-102 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended, and the said 12-9-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-9-102. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Bingo-affle licensee" means any qualified organization to which a bingo-affle license has been issued by the licensing authority.~~ "BINGO" MEANS A GAME OF CHANCE PLAYED FOR PRIZES USING CARDS OR SHEETS CONTAINING FIVE ROWS OF FIVE SQUARES BEARING NUMBERS, EXCEPT FOR THE CENTER SQUARE WHICH IS A FREE SPACE. TRADITIONAL BINGO ALSO REQUIRES THAT THE LETTERS "B I N G O" APPEAR IN ORDER OVER EACH COLUMN. THE HOLDER OF A CARD OR SHEET COVERS THE NUMBERS ON SUCH CARD OR SHEET WHEN OBJECTS SIMILARLY NUMBERED ARE RANDOMLY DRAWN. THE GAME IS WON WHEN A PREVIOUSLY DESIGNATED ARRANGEMENT OF NUMBERS ON SUCH CARD OR SHEET IS COVERED.

(1.2) "BINGO-RAFFLE LICENSEE" MEANS ANY QUALIFIED ORGANIZATION TO WHICH A BINGO-RAFFLE LICENSE HAS BEEN ISSUED BY THE LICENSING AUTHORITY.

(19.3) "RAFFLE" MEANS A GAME IN WHICH A PARTICIPANT BUYS A TICKET FOR A CHANCE AT A PRIZE WITH THE WINNER DETERMINED BY A RANDOM DRAWING TO TAKE PLACE AT A SET LOCATION AND DATE OR A PULL TAB TICKET AS DEFINED IN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SUBSECTION (18.1) OF THIS SECTION. THE TERM "RAFFLE" DOES NOT MEAN AND SHALL NOT BE INTERPRETED TO INCLUDE ANY ACTIVITY WHICH IS AUTHORIZED OR REGULATED BY THE STATE LOTTERY DIVISION PURSUANT TO PART 2 OF ARTICLE 35 OF TITLE 24, C.R.S., OR THE "LIMITED GAMING ACT OF 1991", ARTICLE 47.1 OF THIS TITLE.

SECTION 2. 12-9-103, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-9-103. Licensing authority - powers - duties - license suspension or revocation proceedings. (1) The secretary of state is hereby designated as the "licensing authority" of this article. ~~The secretary of state is the executive in charge of enforcement of the terms and provisions of this article and~~ As state licensing authority, ~~his~~ THE SECRETARY OF STATE'S powers and duties are as follows:

(a) To grant or refuse licenses under this article. In addition, the licensing authority has the power AND THE RESPONSIBILITY, ~~on his own motion based on reasonable grounds or on complaint made and~~ after investigation and public hearing BEFORE AN ADMINISTRATIVE LAW JUDGE, ~~at which the licensee shall be afforded an opportunity to be heard~~ to suspend or revoke any license issued by the licensing authority, and to assess civil penalties in the form of fines against any landlord licensee for any violation by the licensee or any officer, director, agent, member, or employee of such licensee of the provisions of this article or any rule or regulation authorized under this article. Notice of license suspension or revocation or of fines assessed, as well as notice of any hearing, shall be given by certified mail of same to the licensee at the address contained in such license. IN ACCORDANCE WITH ANY ORDER OF SUCH ADMINISTRATIVE LAW JUDGE. WHEN A LICENSE IS ORDERED SUSPENDED OR REVOKED, THE LICENSEE SHALL SURRENDER THE LICENSE TO THE LICENSING AUTHORITY ON OR BEFORE THE EFFECTIVE DATE OF THE SUSPENSION OR REVOCATION. NO LICENSE IS VALID BEYOND THE EFFECTIVE DATE OF THE SUSPENSION OR REVOCATION, WHETHER SURRENDERED OR NOT. Any bingo-raffle license may be temporarily suspended for a period not to exceed ~~thirty~~ TEN days pending any prosecution, investigation, or public hearing.

(b) To supervise the administration of this article and to adopt, amend, and repeal rules and regulations governing the holding, operating, and conducting of games of chance, the rental of premises, and the purchase of equipment to the end that games of chance shall be held, operated, and conducted only by licensees for the purposes and in conformity with the state constitution and the provisions of this article;

(c) ~~To hear and determine at public hearing all complaints against any licensee and to administer oaths and issue subpoenas to require the presence of persons and production of papers, books, and records necessary to the determination of any hearing so held;~~

(d) To keep records of all actions and transactions of the licensing authority;

(e) To prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S., a report accounting to the governor ~~and the general assembly~~ for the efficient discharge of all responsibilities assigned by law or directive to the authority, and to

issue publications of the authority intended for circulation in quantity outside the executive branch in accordance with the provisions of section 24-1-136, C.R.S.

~~(2) (a) Proceedings to suspend or to revoke a license shall be brought by The licensing authority by serving in the manner provided in the Colorado rules of civil procedure, a complaint upon the licensee and notifying the licensee of the place and date, not less than twenty days after the date of service, at which a hearing thereon shall be held. The complaint shall set forth, in the manner of complaints in civil action, the violations of this article or the rules and regulations of the licensing authority which the licensing authority alleges the licensee has committed. The licensing authority may stop the operation of a game pending hearing, in which case the hearing must be held within ten days after such notice.~~ MAY SUSPEND OR REVOKE A LICENSE PURSUANT TO THE PROVISIONS OF SECTION 24-4-104, C.R.S. HEARINGS THAT ARE HELD FOR THE PURPOSE OF DETERMINING WHETHER A LICENSEE'S LICENSE SHOULD BE REVOKED OR SUSPENDED SHALL BE CONDUCTED BY AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., AND SHALL BE HELD IN THE MANNER AND PURSUANT TO THE RULES AND PROCEDURES DESCRIBED IN SECTIONS 24-4-104, 24-4-105, AND 24-4-106, C.R.S. HEARINGS SHALL BE HELD AND CONCLUDED, IN ACCORDANCE WITH SUCH RULES, WITH REASONABLE DISPATCH AND WITHOUT UNNECESSARY DELAY, AND A DECISION SHALL BE ISSUED WITHIN TEN DAYS OF SUCH HEARING.

~~(b) The licensing authority shall cause the notice of hearing to be served personally upon an officer of the licensee or the member in charge of the conduct of the game of chance or to be sent by registered or certified mail to the licensee at the address shown in the license.~~

~~(c) When the suspension or revocation proceedings are begun before the licensing authority, it shall hear the matter and make written findings in support of its decision. The licensee shall be informed immediately of the decision and in the event of a suspension or revocation the effective date of the suspension or revocation.~~

~~(d) When a license is ordered suspended or revoked, the licensee shall surrender the license to the licensing authority on or before the effective date of the suspension or revocation. No license is valid beyond the effective date of the suspension or revocation, whether surrendered or not.~~

(3) (a) Upon ~~the~~ A finding BY AN ADMINISTRATIVE LAW JUDGE of a violation of this article or the rules and regulations, or both, such as would warrant the suspension or revocation of a license, ~~the licensing authority~~ ADMINISTRATIVE LAW JUDGE, in addition to any other penalties which may be imposed BY THE ADMINISTRATIVE LAW JUDGE, may declare the violator ineligible to conduct a game of bingo and to apply for a license under said laws for a period not exceeding twelve months thereafter. Such declaration of ineligibility may be extended to include, in addition to the violator, any of its subsidiary organizations, its parent organization, or otherwise, affiliated with the violator when, in the opinion of the licensing authority, the circumstances of the violation warrant such action.

(b) THE DECISION OF THE ADMINISTRATIVE LAW JUDGE IN SUSPENDING OR REVOKING ANY LICENSE UNDER THIS ARTICLE SHALL BE FINAL AND SUBJECT TO REVIEW BY THE COURT OF APPEALS, PURSUANT TO THE PROVISIONS OF SECTION

24-4-106 (11), C.R.S.

~~(4) (a) Upon receipt by a licensee of a complaint signed by the licensing authority and notice of a hearing, the licensee shall answer, in the manner of civil actions, said complaint and inform the licensing authority whether oral argument is desired and whether the licensee desires to produce witnesses.~~

~~(b) At the request of any party and for good cause shown the licensing authority shall issue subpoenas for the attendance of witnesses and the production of books, records, and other documents.~~

~~(c) Repealed, L. 86, p. 611, 1, effective March 20, 1986.~~

~~(5) (a) Hearings may be adjourned by the licensing authority from time to time at the request of any party, but only for good cause shown. Hearings shall be held and concluded with reasonable dispatch and without unnecessary delay.~~

~~(b) The licensing authority shall decide any matter within thirty days of the hearing.~~

~~(c) Upon the determination of any matter heard, the licensing authority shall state its findings. All parties shall be notified by the licensing authority of the action of the licensing authority and shall be furnished a copy of the findings.~~

~~(6) (a) Applicants for a license or the licensee may be represented by counsel.~~

~~(b) Any person appearing before the licensing authority in a representative capacity shall be required to show his authority to act in such capacity.~~

~~(7) (a) No person may be excused from testifying or producing any book or document in any investigation or hearing when ordered so to do by the licensing authority upon the ground that testimony or documentary evidence required of him may tend to incriminate or subject him to penalty or forfeiture, but no person may be prosecuted, punished, or subjected to any penalty or forfeiture on account of any matter or thing concerning which he, under oath, shall have testified or produced documentary evidence; except that he shall not be exempt from prosecution or punishment for any perjury in the first or second degree committed by him in his testimony.~~

~~(b) If a person subpoenaed to attend in any such investigation or hearing fails to obey the command of the subpoena without reasonable cause or if a person in attendance in any such investigation or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record, or other document when ordered so to do by the representative of the licensing authority holding such investigation or hearing, the licensing authority may apply to any judge of the district court, upon proof by affidavit of the facts, for an order returnable in not less than two nor more than ten days directing such person to show cause before the judge why he should not comply with such subpoena or order.~~

~~(c) Upon return of the order, the judge before whom the matter comes on for hearing shall examine such person under oath, and if the judge determines, after~~

giving such person an opportunity to be heard, that he refused without legal excuse to comply with such subpoena or such order of the licensing authority holding such investigation, the judge may order such person to comply therewith forthwith, and any failure to obey the order of the judge may be punished as a contempt of the district court.

(d) Every witness is entitled to be paid for attendance or attendance and travel by the party on whose behalf he is subpoenaed, at the rates prescribed by law, before being required to testify.

(8) (a) ~~The decision of the licensing authority in suspending or revoking any license under this article shall be subject to review. Any licensee aggrieved by such decision, within thirty days after receipt of a copy of the order of the licensing authority may file a petition in the district court in the county in which the licensee is located, and said court has jurisdiction, after notice to the licensing authority, to hear and determine said petition and to affirm, reverse, vacate, or modify the order of the licensing authority complained of if, upon consideration of the record, such court is of the opinion that such order was unlawful or unreasonable.~~

~~(b) Upon any such petition being filed, a copy of the same shall be served upon the licensing authority forthwith by delivery of a copy to the licensing authority. In such petition, the petitioner shall be denominated as petitioner, and the licensing authority shall be denominated as respondent. The petition shall set forth the errors complained of.~~

~~(c) Upon such service of a petition being made, the licensing authority, within twenty days thereafter or within such further time as the court may grant, shall file an answer to the petition in the office of the clerk of the court. With its answer, the licensing authority shall file a transcript of the records and orders of the licensing authority and a transcript of all papers and of all evidence adduced upon the hearing before the licensing authority in the proceedings complained of, and the court shall hear and determine the matter upon the petition, answer, and transcripts.~~

~~(d) No proceeding to vacate, reverse, or modify any final order rendered by the licensing authority shall operate to stay the execution or effect of such final order unless the district court, on application and three days' notice to the licensing authority, allows such stay. In the event a stay is ordered, the petitioner shall be required to execute his bond in such sum as the court may prescribe, with sufficient surety to be approved by the judge or clerk of the court, which bond shall be conditioned upon the faithful performance by such petitioner of his obligation as a licensee and upon the prompt payment of all damages arising from or caused by the delay in the taking effect or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with such proceedings.~~

SECTION 3. 12-9-106, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-9-106. Form of bingo-raffle and raffle licenses - display. Each bingo-raffle license shall contain a statement of the name and address of the ~~bingo-raffle~~ licensee and the place where such bingo or lotto games or the drawing of the raffles is to be held. ~~The bingo-raffle~~ ANY SUCH license ISSUED for an exempt organization shall

provide for the inclusion of the place or places where drawings are to be held. Each bingo-raffle license issued for the conduct of any such games of chance shall be conspicuously displayed at the place where the same is to be conducted or the drawings held at all times during the conduct thereof. An exempt organization may comply with the requirements of this section by providing written notice of such a license to all employees of a participating private business or government agency holding a fund-raising drive which includes a drawing on behalf of such organization. Such notice shall state that the exempt organization shall make such license available for public inspection during reasonable business hours and shall specify where such license shall be maintained for inspection.

SECTION 4. 12-9-107 (11), (12), (13), and (21), Colorado Revised Statutes, 1991 Repl. Vol., are amended, and the said 12-9-107 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

12-9-107. Persons permitted to conduct games of chance - premises - equipment - expenses. (11) The net ~~profits~~ PROCEEDS derived from the holding of games of chance must be devoted, within one year, to the lawful purposes of the organization permitted to conduct the same. Any organization desiring to hold the net ~~profits~~ PROCEEDS of games of chance for a period longer than one year must apply to the licensing authority for special permission and, upon good cause shown, the authority may grant the request.

(12) Any licensee which does not report, during any one-year period, net ~~profits~~ PROCEEDS will be required to show cause before the licensing authority why its right to conduct games of ~~bingo~~ CHANCE should not be revoked.

~~(13) No person shall assist in the holding, operating, or conducting of a bingo game under any license except bona fide, active members of the licensee, active members of any organization which is an auxiliary to the licensee, active members of an organization of which the licensee is an auxiliary, or active members of an organization which is affiliated with the licensee by being, with it, auxiliary to another organization.~~

(21) (a) No person shall act as a caller or assistant to the caller in the conduct of any game of bingo unless ~~he~~ SUCH PERSON has been a member in good standing of the bingo-raffle licensee conducting such game or one of its licensed auxiliaries for at least three months immediately prior to the date of such game, is of good moral character, and never has been convicted of a felony.

(b) NO PERSON SHALL ACT AS GAMES MANAGER IN THE CONDUCT OF ANY GAME OF CHANCE IF SUCH PERSON HAS BEEN CONVICTED OF A FELONY OR A CRIME INVOLVING GAMBLING.

(28) NO PERSON OR LICENSEE SHALL PERMIT ANY PERSON WHO HAS NOT ATTAINED THE AGE OF FOURTEEN YEARS TO ASSIST IN THE CONDUCT OF BINGO OR PULL TABS.

(29) NO OPERATOR SHALL RESERVE OR ALLOW TO BE RESERVED ANY BINGO CARDS FOR USE BY PLAYERS EXCEPT BRAILLE CARDS OR OTHER CARDS FOR USE BY LEGALLY BLIND PLAYERS. LEGALLY BLIND PLAYERS MAY USE THEIR PERSONAL BRAILLE CARDS WHEN A LICENSED ORGANIZATION DOES NOT PROVIDE SUCH CARDS. A LICENSED

ORGANIZATION HAS THE RIGHT TO INSPECT AND TO REJECT ANY PERSONAL BRAILLE CARD. A LEGALLY BLIND OR DISABLED PERSON MAY USE A BRAILLE CARD OR HARD CARD IN PLACE OF A PURCHASED DISPOSABLE PAPER BINGO CARD.

SECTION 5. 12-9-108 (4), (5), and (6), Colorado Revised Statutes, 1991 Repl. Vol., are amended to read:

12-9-108. Bingo-raffle and raffle licensee's statement of receipts - expenses.

(4) No part of the net ~~profits~~ PROCEEDS, after they have been given over to another organization, shall be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting of bingo by the donor organization.

(5) No item of expense shall be incurred or paid in connection with holding, operating, or conducting any game of chance pursuant to any BINGO-RAFFLE license except bona fide expenses of a reasonable amount. SUCH expenses ~~may be incurred~~ ~~only~~ INCLUDE THOSE INCURRED IN CONNECTION WITH ALL GAMES OF CHANCE, for the following purposes: The purchase of goods, wares, and merchandise furnished; payment for services rendered which are reasonably necessary for repairs of equipment AND operating or conducting ~~the game of bingo~~ GAMES OF CHANCE; for rent if the premises are rented or for janitorial services if not rented; for accountant's fees; AND license fees.

(6) For the purposes enumerated in subsection (5) of this section, the following terms shall have the following meanings: "Goods, wares, and merchandise" means prizes, equipment as defined in section 12-9-102, and articles of a minor nature such as pencils, crayons, tickets, envelopes, paper clips, and coupons necessary to the conduct of games of chance; "services rendered" means repair to equipment, compensation to bookkeepers or accountants, not more than two in the aggregate, for services in preparing financial reports for a reasonable amount as determined by the secretary of state in rules and regulations for each occasion, rental of premises in a reasonable amount as determined by the secretary of state in rules and regulations for each occasion, except upon prior approval of a greater amount by the licensing authority, a reasonable amount for janitorial service for each occasion as determined by the secretary of state in rules and regulations, and a reasonable amount for security expense based on established need as determined by the licensing authority. There shall be paid to the state licensing authority an administrative fee upon the ~~proceeds~~ GROSS RECEIPTS of any game of chance held, operated, or conducted under the provisions of this article; except that, the state licensing authority shall not charge an exempt organization more than twenty dollars per year. All administrative receipts and fees, including license fees, collected by the state under this article shall be deposited in the department of state cash fund created in section 24-21-104 (3), C.R.S.

SECTION 6. 12-9-113, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-9-113. Repeal - review of functions. This article is repealed, effective ~~July 1, 1993~~ JULY 1, 1998. Prior to such repeal, the licensing functions of the secretary of state shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 7. 24-34-104 (22.1) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (22.1) The following boards and the functions of the specified agencies shall terminate on July 1, 1993:

(a) ~~The licensing of bingo and other games of chance through the secretary of state in accordance with article 9 of title 12, C.R.S.;~~

SECTION 8. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (27.1) THE FUNCTION OF LICENSING OF BINGO AND OTHER GAMES OF CHANCE THROUGH THE SECRETARY OF STATE IN ACCORDANCE WITH ARTICLE 9 OF TITLE 12, C.R.S., SHALL TERMINATE JULY 1, 1998.

SECTION 9. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund not otherwise appropriated, to the department of administration, for the fiscal year beginning July 1, 1993, the sum of fourteen thousand nine hundred fifty-four dollars (\$14,954) and 0.1 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 1993, the sum of nine thousand three hundred eighty-three dollars (\$9,383) and 0.1 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 10. Effective date. This act shall take effect July 1, 1993.

SECTION 11. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993