

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3177

By Delegate Linville

[Introduced January 31, 2023; Referred to the
Committee on Veterans' Affairs and Homeland
Security then the Judiciary]

1 A BILL to amend and reenact §47-20-2 of the Code of West Virginia, 1931 as amended; and to
 2 amend and reenact §60-7-12 of said Code; all relating to charitable bingo and alcohol
 3 sales and consumption while such bingo is taking place; adding an exemption for the
 4 consumption or sale of alcohol at bingo games at a Veterans Service Organization;
 5 defining terms; and explicitly including a Veterans Service Organization as an entity which
 6 may conduct charitable bingo games.

Be it enacted by the Legislature of West Virginia:

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 20. CHARITABLE BINGO.

§47-20-2. Definitions.

1 For purposes of this article, unless specified otherwise:

2 (a) "Bingo" means the game wherein participants pay consideration for the use of one or
 3 more paper or virtual cards bearing several rows of numbers in which no two cards played in any
 4 one game contain the same sequence or pattern. When the game commences, numbers are
 5 selected by chance, one by one, and announced. The players cover or mark those numbers
 6 announced as they appear on the card or cards which they are using. The player who first
 7 announces that he or she has covered a predetermined sequence or pattern which had been
 8 preannounced for that game is, upon verification that he or she has covered the predetermined
 9 sequence or pattern, declared the winner of that game. Bingo, as authorized by this article, may be
 10 operated and played virtually over the Internet using an online bingo software system or web
 11 application.

12 (b) "Bingo occasion" or "occasion" means a single gathering or session at which a series of
 13 one or more successive bingo games is conducted by a single licensee.

14 (c) "Charitable or public service activity or endeavor" means any bona fide activity or
 15 endeavor which directly benefits a number of people by:

16 (1) Assisting them to establish themselves in life as contributing members of society
17 through education or religion;

18 (2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;

19 (3) Increasing their comprehension of, and devotion to, the principles upon which this
20 nation was founded and to the principles of good citizenship;

21 (4) Making them aware of, or educating them about, issues of public concern so long as the
22 activity or endeavor is not aimed at influencing legislation or supporting or participating in the
23 campaign of any candidate for public office;

24 (5) By lessening the burdens borne by government or voluntarily supporting, augmenting,
25 or supplementing services which government would normally render to the people;

26 (6) Providing or supporting nonprofit community activities for youth, senior citizens, or the
27 disabled; or

28 (7) Providing or supporting nonprofit cultural or artistic activities.

29 (d) "Charitable or public service organization" means a bona fide, not-for-profit, tax-
30 exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or
31 eleemosynary incorporated or unincorporated association or organization; or a volunteer fire
32 department, rescue unit, or other similar volunteer community service organization or association;
33 but does not include any nonprofit association or organization, whether incorporated or not, which
34 is organized primarily for the purposes of influencing legislation or supporting or promoting the
35 campaign of any candidate for public office.

36 An organization or association is tax-exempt if it is, and has received from the Internal
37 Revenue Service a determination letter that is currently in effect stating that the organization is,
38 exempt from federal income taxation under subsection 501(a) and described in subsection
39 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code.

40 (e) "Commissioner" means the State Tax Commissioner.

41 (f) "Concession" means any stand, booth, cart, counter, or other facility, whether stationary

42 or movable, where beverages, both alcoholic and nonalcoholic, food, snacks, cigarettes or other
43 tobacco products, newspapers, souvenirs, or any other items are sold to patrons by an individual
44 operating the facility. Notwithstanding anything contained in §60-7-12(a)(2) of this code to the
45 contrary, "concession" includes beverages which are regulated by, and are subject to, the
46 provisions of chapter 60 of this code: *Provided*, That in no case may the sale or the consumption of
47 alcoholic beverages or nonintoxicating beer be permitted in any area where bingo is conducted:
48 *Provided however*, That the sale or the consumption of alcoholic beverages or nonintoxicating
49 beer may be permitted in an area where bingo is conducted on the premises of a Veteran Service
50 Organization, pursuant to §60-7-12(a)(2) et seq. of this code.

51 (g) "Conduct" means to direct the actual playing of a bingo game by activities including, but
52 not limited to, handing out bingo cards, collecting fees, drawing the numbers, announcing the
53 numbers, posting the numbers, verifying winners, and awarding prizes.

54 (h) "Expend net proceeds for charitable or public service purposes" means to devote the
55 net proceeds of a bingo occasion or occasions to a qualified recipient organization or as otherwise
56 provided by this article and approved by the commissioner pursuant to §47-20-15 of this code.

57 (i) "Gross proceeds" means all moneys collected or received from the conduct of bingo at
58 all bingo occasions held by a licensee during a license period; this term shall not be considered to
59 include any moneys collected or received from the sale of concessions at bingo occasions.

60 (j) "Joint bingo occasion" means a single gathering or session at which a series of one or
61 more successive bingo games is conducted by two or more licensees.

62 (k) "Licensee" means any organization or association granted an annual, limited occasion,
63 or state fair bingo license pursuant to the provisions of this article.

64 (l) "Net proceeds" means all moneys collected or received from all the conduct of bingo at
65 bingo occasions held by a licensee during a license period after payment of expenses authorized
66 by §47-20-10, §47-20-13, §47-20-15, and §47-20-22 of this code; this term shall not be considered
67 to include moneys collected or received from the sale of concessions at bingo occasions.

68 (m) "Person" means any individual, association, society, incorporated or unincorporated
69 organization, firm, partnership, or other nongovernmental entity or institution.

70 (n) "Patron" means any individual who attends a bingo occasion other than an individual
71 who is participating in the conduct of the occasion or in the operation of any concession, whether
72 or not the individual is charged an entrance fee or plays any bingo games.

73 (o) "Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, as
74 defined in subdivision (d) of this subsection, incorporated or unincorporated association or
75 organization which is organized and functions exclusively to directly benefit a number of people as
76 provided in paragraphs (1) through (7), inclusive, subdivision (c) of this subsection. "Qualified
77 recipient organization" includes without limitation any licensee which is organized and functions
78 exclusively as provided in this subdivision.

79 (p) "Venue" means the location in which bingo occasions are held.

80 (q) "Veteran Service Organization" (VSO) means an organization, including its local or
81 state chapters, constituent local chapters, or its auxiliary organizations that conditions its
82 membership upon being or being related to a veteran of the United States armed forces which
83 serves veterans by helping them understand and claim VA benefits, seek employment, and
84 readjust to civilian life, and is a recognized Veteran Service Organization by the federal
85 Department of Veterans Affairs.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

1 (a) It is unlawful for any licensee, or agent, employee, or member thereof, on such
2 licensee's premises to:

3 (1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured
4 from the original package or container, except as authorized in §60-6-8 of this code;

5 (2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper
6 entertainment, conduct, or practice, gambling or any slot machine, multiple coin console machine,
7 multiple coin console slot machine, or device in the nature of a slot machine; however, various
8 games, gaming, and wagering conducted by duly licensed persons of the West Virginia State
9 Lottery Commission, charitable bingo games conducted by a duly licensed charitable or public
10 service organization (or its auxiliaries), or Veterans Service Organization (or its auxiliaries),
11 pursuant to §47-20-1 *et seq.* of this code, and charitable raffle games conducted by a duly licensed
12 charitable or public service organization (or its auxiliaries), pursuant to §47-21-1 *et seq.* of this
13 code, all of which are permissible on a licensee's licensed premises when operated in accordance
14 with this code and rules promulgated thereunder. A private resort hotel holding a license issued
15 pursuant to §60-7-1 *et seq.* of this code, may sell, tender, or dispense nonintoxicating beer, wine,
16 or alcoholic liquors in or on the premises licensed under §29-22A-1 *et seq.* and §29-22C-1 *et seq.*,
17 or §29-25-1 *et seq.* of this code, during hours of operation authorized by §29-22A-1 *et seq.* and
18 §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code;

19 (3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating
20 beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine, or
21 alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

22 (4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating
23 beer, wine, or alcoholic liquors, for or to any person known to be considered legally incompetent,
24 or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer,
25 wine or alcoholic liquor or the use of drugs;

26 (5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any
27 licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m.
28 and 6:00 a.m. on weekdays, Saturdays, and Sundays, or, between the hours of 3:00 a.m. and
29 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday;
30 and

31 (6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating
32 beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of
33 age;

34 (7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand
35 name of any alcoholic liquor;

36 (8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or
37 approved dues-paying member in good standing of the private club or a guest of the member;

38 (9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide,
39 cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption, except as
40 authorized by the commissioner;

41 (10)(A) Employ any person who is less than 16 years of age in a position where the primary
42 responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer,
43 wine, or alcoholic liquors to any person;

44 (B) Employ any person who is between 16 years of age and younger than 21 years of age
45 who is not directly supervised by a person aged 21 or over in a position where the primary
46 responsibility for such employment is to sell, furnish, tender, serve or give nonintoxicating beer,
47 wine, or alcoholic liquors to any person; or

48 (11) Violate any reasonable rule of the commissioner.

49 (b) It is lawful for any licensee to advertise price and brand in any news media or other
50 means, outside of the licensee's premises.

51 (c) Any person who violates any of the provisions of this section is guilty of a misdemeanor
52 and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or
53 imprisoned in jail for a period not to exceed one year, or both fined and imprisoned.

NOTE: The purpose of this bill is to modify the process of charitable bingo and alcohol sales and consumption while such bingo is taking places. The bill adds an exemption for the consumption or sale of alcohol at bingo games at a Veterans Service Organization. The bill

defines terms. Finally, the bill explicitly includes a Veterans Service Organization as an entity which may conduct charitable bingo games.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.