

State of New Jersey



New Jersey Law Revision Commission

FINAL REPORT AND RECOMMENDATIONS

relating to

GAMES OF CHANCE

September 2002

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Introduction

This report recommends a thorough revision of the law regulating bingo, raffles and amusement games, collectively called "legalized games of chance." The law on these games now comprises Title 5, Chapter 8, of the New Jersey Statutes. This law is repetitive and, in some cases, self-contradictory. It is also overly detailed, including provisions better left to administrative regulations. The effect of these deficits is to make the law on legalized games of chance inaccessible to all but those experts who have puzzled through it frequently enough to understand its complexities. However, it is important that this law be understood by the people who are regulated by it: volunteers for charitable organizations that use bingo and raffles and the business people who run amusement games. Officials who administer the current law have told the Commission that it often causes confusion as to what is required. The revised statutes proposed are an attempt to put the law into clear, concise language.

This report also recommends simplification of the substance of the law regulating legalized games of chance. At present, licensing is a two-step process, involving applications to, and approvals by, both the state regulatory commission and the municipality in which the game will take place. That process involves unnecessary complication for the person who must acquire a license. This report recommends instead, that the Legalized Games of Chance Commission be responsible for all licensing and no municipal license be required. A municipality retains the power to decide whether it will permit bingo, raffles, or amusement games to be permitted within its territory. A municipality is also given notice of applications for amusement games licenses. If the municipality objects, the license may not be granted without a hearing.

The Commission also recommends substantive changes to bring the law into harmony with current community expectations. Present law has been held to restrict games designed primarily for children if the prize, however trivial, is affected by the child's success in playing the game. However, these games are found throughout the state in arcades designed primarily for children. Present law can also be interpreted to forbid merchandise promotions where certain purchasers are given free merchandise or prizes. However, such promotions are common. For example, some soft drink companies give a free bottle where the label or cap of the bottle purchased so indicates. The proposed statute would accept current practice and exempt children's games and merchandise giveaways from regulation. Current law also limits amusement games to certain shore and resort localities, and to agricultural fairs and exhibitions. However, these games are also found throughout the state at fairs and festivals. The proposed statute would allow amusement games at fairs of ten days duration or less.

Chapter 1. Legalized Games of Chance Control Commission

1-1. Definitions

As used in this act:

“Amusement game” is a game of chance:

- (1) played for entertainment,
- (2) in which the player participates actively,
- (3) the outcome of which is not controlled by the operator; and
- (4) operated so that the sale of right to play, the event determining win or loss, and the award of prize, all occur as a continuous sequence at the time and place that players are present.

“Bingo” means the game of chance defined in the N.J. Const. Art. IV, Sect. VII, par. 2(A).

“Commission” means the Legalized Games of Chance Control Commission.

“Game of chance” is a game in which:

- (1) players pay to participate;
- (2) winners are determined by chance, skill or combination of the two; and
- (3) prizes are awarded to winners; and
- (4) ~~the cost of the prizes is derived from the amount paid by players.~~

“Raffle” means a game of chance conducted by the drawing for prizes or by the allotment of prizes by chance. "Draw raffle" is one in which the winners are determined by a drawing. "Non-draw raffle" is any other kind of raffle, and includes an amusement game.

“Organization” means any group licensed to operate games of chance under the Bingo Licensing Law or under the Raffles Licensing Law.

Source: 5:8-25, 5:8-49.2, 5:8-51, 5:8-101, N.J. Const. Art IV, Sect. VII, par. 2(A).

Comment

This section streamlines language of the source provisions and adds definitions for "amusement game", "bingo" and "raffle." Originally, the director of the Division of Alcoholic Beverage Control served as the Amusement Games Control Commissioner. N.J.S. 5:8-78. By Reorganization Plan No. 004-1992 at 24 N.J.R. 4462, which reorganized the Department of Law and Public Safety, the Amusement Games Control Commission was abolished and its statutory functions were transferred to the Legalized Games of Chance Control Commission.

The Constitutional definition of bingo is a game of chance "played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card...."

1-2. Legalized Games of Chance Control Commission; members

a. The Legalized Games of Chance Control Commission shall be in the Department of Law and Public Safety.

b. The Commission shall consist of five citizens of the State who do not hold public office, appointed by the Governor with the advice and consent of the Senate. Not more than three of the appointees shall belong to the same political party.

c. Members of the Commission shall be appointed for terms of five years. Members may serve on the Commission beyond their appointed terms until their successors are appointed and qualify.

d. The Governor shall fill any vacancies which arise for unexpired terms.

e. The members of the Commission shall serve without compensation and shall be reimbursed for their expenses.

f. The Commission shall choose a chairperson and a secretary. The secretary need not be a member of the Commission.

Source: 5:8-1; 5:8-2, 5:8-3, 5:8-4, 5:8-5.

Comment

Subsections (a) and (b) are substantially identical to 5:8-1. Subsections (c), (d), (e) and (f) streamline and combine 5:8-2, 5:8-3, 5:8-4 and 5:8-5.

1-3. Expenses and personnel

a. The Commission may incur expenses and may engage an executive officer and other necessary staff.

b. Investigators employed by the Commission need not be subject to Title 11A, Civil Service.

Source: 5:8-21, 5:8-94.

Comment

This section clarifies the language of its source provisions and deletes unnecessary repetition.

1-4. Legalized Games of Chance Control Commission Fund

a. The Legalized Games of Chance Control Commission Fund is a nonlapsing fund in the Department of the Treasury. Except as otherwise provided by law, all fees, penalties or fines collected by the Legalized Games of Chance Control Commission pursuant to the Bingo Licensing Law, Raffles Licensing Law and Amusement Games Licensing Law shall be deposited in the fund.

b. All interest on money in the fund shall be credited to the fund. The State Treasurer shall administer the fund.

c. At the end of each fiscal year the necessary amount for the Commission shall be appropriated from the fund to the Department of Law and Public Safety.

Source: 5:8-21.1.

Comment

This section streamlines the language of the 1994 source provision and adds the Amusement Games Licensing Law.

1-5. Study of licensing laws; Commission reports and recommendations

a. The Commission shall study the operation and administration of the licensing laws to discover defects, abuses and evasions, and to recommend improvements, and shall study similar laws of other states.

b. The Commission shall report annually its recommendations to the Governor, the President of the Senate and the Speaker of the General Assembly. The Commission may make interim reports immediately if it discovers matters requiring immediate change in the laws.

Source: 5:8-12, 5:8-13, 5:8-23, 5:8-85, 5:8-86, 5:8-96.

Comment

This section combines and streamlines related provisions.

1-6. Administrative regulations; forms; fees

a. The Commission shall adopt regulations governing (1) registration and licensing under the Bingo Licensing Law and the Raffles Licensing Law, and certification and licensing under the Amusement Games Licensing Law, and (2) the operation of games under the licenses.

b. The Commission shall file a copy of each regulation it adopts in the office of the Secretary of State before the regulation becomes effective and shall make copies available to municipalities operating under this act.

c. The Commission shall prescribe forms necessary for uniform administration of the laws.

d. The Commission shall establish fees for registrations, licenses and other services at a level that will raise funds necessary to defray expenses of the Commission and of staff administering the Bingo Licensing Law, the Raffles Licensing Law and the Amusement Games Licensing Law. The Commission shall transmit one half of the fee for a Bingo, Raffle or Amusement Game License to the municipality that accepted the application for the license to defray the cost of accepting the application and supervising the operation of the licensed activity.

Source: 5:8-6, 5:8-7, 5:8-79, 5:8-79.1, 5:8-80.

Comment

This section combines the source provisions.

Chapter 2. Games of Chance; General Provisions

2-1. Legalized games of chance; immunity from prosecution for gambling

A person who is licensed or otherwise authorized by this act to operate a game of chance or to allow its operation on premises the person owns, shall not be liable to prosecution or conviction for violation of N.J.S. 2C:37-1 or 2C:37-3. This immunity shall not extend to any game of chance under a license obtained by fraud.

Source: 5:8-40, 5:8-67.

Comment

This section greatly condenses the source provisions and updates the statutory citations. There is no parallel provision applicable to amusement games, but it is implicit that licensed amusement games cannot be prosecuted as gambling.

2-2. Supervision

The Commission shall supervise administration of the Bingo Licensing Law, the Raffles Licensing Law and the Amusement Games Licensing Law. The municipality in which the licensed activity is conducted shall supervise the operation of bingo, raffles and amusement games.

Source: 5:8-6, 5:8-79.

Comment

This provision derives from one of the duties of the Commission listed in the source provisions.

2-3. Inspection; suspension; revocation; summary proceeding

a. Agents of the municipality and of the Commission shall have the right of entry into, and inspection of, premises where bingo games, raffles or amusement games are being operated or held. Agents of the municipality and of the Commission, with a judicially issued warrant, shall have the right of entry into, and inspection of, premises where equipment for the games' operation is kept for use.

b. If, during inspection, agents observe a violation of this act or Commission regulations, the agents may suspend operation of games on the premises until the violation is corrected.

c. The Commission, after notice and hearing, may suspend or revoke a license for violation of this act or Commission regulations.

- d. The Commission also, after giving a licensee opportunity to be heard, may:
- (1) issue a letter of reprimand regarding any conduct which the Commission judges not to warrant formal action;
 - (2) assess and enforce civil penalties;
 - (3) order any person who violated a law or regulation to refrain from future violations or to make necessary corrections to the operation of games of chance;
 - (4) order any person who violated a law or regulation to restore to any person money or property wrongly taken;
 - (5) order a person, as a condition for a continued, reinstated or renewed license, to secure medical or other professional treatment necessary to discharge licensee functions properly; and
 - (6) revoke a license for violation of provisions of the license, regulations and this chapter.

e. The Commission, in addition to any other proceeding, may bring an action in Superior Court for an injunction to prohibit violations of this law or of Commission regulations. The court shall not suspend or revoke a license or a registration certificate issued by the Commission.

Source: 5:8-9, 5:8-30, 5:8-30.1, 5:8-57, 5:8-57.1, 5:8-82.

Comment

This section streamlines language of the source sections, deleting the enumeration of the court's options ("may assess a civil penalty..., may order restoration..., may enter such orders as may be necessary..."). Subsection (a) adds a "judicially issued warrant" as a prerequisite for entry into, and inspection of, premises where equipment is kept for use.

2-4. Investigations and hearings; subpoenas

a. The Commission shall investigate the administration of this act and complaints concerning violations.

b. A majority of Commission members may hold investigations and hearings in or out of the State, and by subpoena may compel attendance of witnesses and production of documents relating to games of chance under the licensing laws.

c. If a person disobeys a subpoena commanding attendance in an investigation or hearing, or refuses to answer a question or to exhibit documentary evidence when ordered, the Commission may apply to the Superior Court for an order directing the person to comply with the subpoena or order.

d. If the court determines that the person illegally refused to comply with a subpoena or an order of the Commission, it may order the person to comply and may punish failure to obey the court order as a contempt of the court.

Source: 5:8-8, 5:8-14, 5:8-16, 5:8-17, 5:8-85, 5:8-87, 5:8-89, 5:8-90.

Comment

This section streamlines and combines source sections.

2-5. Witness privilege

a. No person shall be excused from testifying or producing any document in any investigation or hearing on the ground that the required testimony or documentary evidence may tend to incriminate or subject the person to penalty.

b. No person shall be prosecuted, punished or subjected to penalty or forfeiture for testimony or documentary evidence produced under oath, except for perjury.

c. A witness shall be privileged from arrest in civil action, during necessary attendance before the Commission, at any place required by subpoena, and while traveling to and from those places.

Source: 5:8-15, 5:8-18, 5:8-91.

Comment

Subsection (a) and (b) are substantially identical to 5:8-15; Subsection (c) is substantially identical to 5:8-18 and 5:8-91. The section requires witnesses to testify before the Commission notwithstanding the constitutional privilege against self-incrimination. That requirement is constitutionally permissible because of the automatic use immunity provided by subsection (b). See, e.g., Hirsch v. N.J. State Bd. of Med. Exam., 252 N.J. Super. 596, 606-608 (App. Div. 1991).

2-6. Registration of qualified organizations

a. An organization that desires to apply for a license to operate or hold a bingo game or raffle shall first apply for registration with the Commission.

b. The following kinds of organizations are qualified to register:

(1) Associations of bona fide veterans of the United States Armed Forces;

(2) Charitable, religious or fraternal organizations, civic and service clubs, and senior citizen associations or clubs;

(3) Educational associations including nonprofit corporations organized for the sole purpose of making loans to students from a single New Jersey school district to defray the costs of post-secondary education;

(4) Volunteer fire companies and first aid or rescue squads.

c. If the Commission determines that the organization is qualified, ~~registered as a charitable or an exempt organization,~~ and is in compliance with all regulations, the Commission shall register the organization and assign it an identification number.

Source: 5:8-6, 5:8-51.3.

Comment

This section details the registration process, which precedes the licensing procedure for bingo and raffles. In the present law, the requirement of registration is buried in the section relating generally to duties of the Commission. The inclusion in Subsection (b)(3) of certain education loan corporations is derived from 5:8-51.3 which became effective in 1997.

2-7. Bingo and raffle equipment; approved lessor of equipment

a. Equipment used in operating or holding a bingo game or a raffle shall be:

(1) owned, or used free of charge, by the licensee; or

(2) leased by the licensee for an amount which conforms to Commission regulations and is specified in a statement annexed to the application for the license to operate a bingo game or a raffle, and is leased from a person approved as a lessor of equipment.

b. A person shall be approved as a lessor of equipment if the Commission finds the lessor to be of good moral character and free from criminal conviction. The Commission may have access to criminal records for this purpose. If the lessor is a corporation, all of its officers and each stockholder holding 10% or more of outstanding stock, must be approved as to good moral character and freedom from conviction.

c. The Commission may consider violation of this act evidence of lack of good moral character.

Source: 5:8-6, 5:8-34, 5:8-49.6, 5:8-52, 5:8-61.

Comment

This new section describes the securing of Commission approval of a renter of equipment for use in bingo games or in raffles. Subsection (c) provides one objective criterion for determining "good moral character."

2-8. Statement of receipts, expenses; records

a. An organization which operates or holds a bingo game, a raffle or an amusement game and its members who are in charge shall file quarterly with the Commission a verified statement showing:

(1) the gross receipts derived from each game of chance operated including receipts connected with participation in the game;

(2) each item of expense incurred or paid;

(3) each item of expenditure made or to be made;

(4) the name and address of each person to whom each item has been or is to be paid, with a detailed description of the merchandise purchased or services rendered;

(5) the net profit derived from each game of chance and the uses to which the net profit has been or is to be applied; and

(6) a list of prizes offered or given with their respective values.

b. Each licensee shall maintain records necessary to substantiate the report.

Source: 5:8-37, 5:8-64, 5:8-98.

Comment

This section renders the block source provisions more easily readable.

2-9. Examination of records and person; disclosure

a. The municipality and the Commission may examine:

(1) the records of any licensed organization relating to transactions connected with operating or holding bingo games or raffles; and

(2) any manager, officer, director, agent, member or employee regarding a licensed bingo game or raffle.

b. Information received shall be disclosed only as necessary to enforce the act.

Source: 5:8-38, 5:8-65.

Comment

This section renders the text of the source sections more readable.

2-10. Civil penalties

a. A person who violates the Bingo Licensing Law, ~~or the Raffles Licensing Law or the Amusement Games Licensing Law~~ or a regulation administered by the Commission shall be liable to a civil penalty not exceeding \$7,500.00 for the first offense and not exceeding \$15,000.00 for each subsequent offense. A person who violates the Amusement Games Licensing Law or a regulation administered by the Commission shall be liable to a penalty not exceeding \$250.00 for the first offense and not exceeding \$500.00 for each subsequent offense. Each violation shall constitute a separate offense, but a subsequent offense shall be deemed to exist only if an administrative or court order has been entered in a prior proceeding.

b. Civil penalties may be enforced by the Attorney General pursuant to the Penalty Enforcement Law.

c. Organizations that are registered with the Commission and hold a valid identification number shall not be subject to the provisions of this section.

Source: 5:8-30.2, 5:8-57.2, 5:8-82.

Comment

This section deletes details of process; see N.J.S. 2A:58-10 though -12 regarding summary proceeding for collection of statutory penalties.

2-11. Prosecution for violations

a. The Commission may institute prosecutions for violations of the Bingo Licensing Law, the Raffles Licensing Law, and the Amusement Games Licensing Law.

b. A person who makes false statements in any application or report to the Commission or who violates any provision of this chapter or of any license term may be prosecuted as a disorderly person.

c. A person convicted of being a disorderly person, in addition to other imposed penalties, shall forfeit any license issued under this act and shall be ineligible to apply for a license under this act for one year after forfeiture.

Source: 5:8-10, 5:8-83, 5:8-41, 5:8-68.

Comment

Subsection (a) derives from source provisions 5:8-10 and 5:8-83. Subsections (b) and (c) delete the listing of particular kinds violations, but since all are included within the general language that is retained, they are substantially identical to 5:8-41 and 5:8-68.

~~2-12. Advertising~~

~~The Commission shall adopt regulations for advertising bingo and raffles. The regulations shall prohibit:~~

~~a. any advertisement from containing any false or misleading statement regarding the game;~~

~~b. any advertisement from causing undue or unfair competition between organizations registered with the Commission that are operating competing games; and~~

~~c. the excessive use of the proceeds derived from any game for advertising subsequent games.~~

~~Source: 5:8-63.1.~~

Comment

~~The provision is substantially similar to 5:8-63.1 which became effective in 1996. It has been extended to cover both bingo and raffles.~~

Chapter 3. Bingo Licensing Law

3-1. Short title

This chapter shall be known as the “Bingo Licensing Law.”

Source: 5:8-24.

Comment

This section is substantially identical to its source.

3-2. Municipal adoption of Bingo Licensing Law; resubmission; form of question

a. The Bingo Licensing Law shall remain inoperative in a municipality until approved by the voters of the municipality.

b. Within 10 days after a municipality adopts the Bingo Licensing Law, it shall file a copy of the ordinance adopting the law with the Commission.

c. If a petition signed by at least 15% of the total votes cast at the preceding general election in the municipality, requesting that the question of adopting the Bingo Licensing Law be submitted to the voters, is filed with the municipal clerk, the question shall be submitted to the voters of the municipality at the next general election occurring at least 45 days after the filing date.

d. At any election where the question of adoption of this act shall be submitted, the question upon the official ballots shall read: “Shall the ‘Bingo Licensing Law’ be adopted within this municipality?”

e. In any municipality where a majority of votes is cast against adopting the Bingo Licensing Law, if a required petition is filed, the question may not be submitted again until the third general election after the election at which the law was rejected is held.

Source: 5:8-22, 5:8-42, 5:8-44, 5:8-45.

Comment

Subsection (a) is substantially identical to 5:8-42. Details on the conduct of the 1954 referendum found in 5:8-43 have been deleted as executed. Subsection (b) derives from 5:8-22. Subsections (c) and (e) derive from 5:8-44. Subsection (d) derives from 5:8-45. Current 5:8-46 which states that a majority of votes cast is necessary for adoption, has been deleted as unnecessary.

3-3. Rescinding the Bingo Licensing Law

a. In any municipality in which the Bingo Licensing Law has become operative, if a petition signed by at least 15% of the total number of votes cast at the preceding general election in the municipality, requesting that the question of rescinding the Bingo Licensing Law

be submitted to the voters, is filed with the municipal clerk, the question shall be submitted to the voters of the municipality at the next general election occurring at least 45 days after the filing date.

b. At any election where the question of rescinding the Bingo Licensing Law is submitted to the voters, the question upon the official ballots shall read: “Shall the ‘Bingo Licensing Law’ within the municipality be rescinded?”

c. If the majority of votes cast are in favor of the rescission of the Bingo Licensing Law, it shall be rescinded and it shall cease to be operative within the municipality.

d. No petition for submission of the question of adoption of the Bingo Licensing Law or its rescission shall be submitted to the municipality’s voters earlier than the general election in the third calendar year after the vote on rescission.

Source: 5:8-47, 5:8-48, 5:8-49.

Comment

Subsection (a) is a streamlined version of 5:8-47. Subsection (b) is substantially identical to 5:8-48. Subsections (c) and (d) contain the substance of 5:8-49.

3-4. Application for license to operate or hold a bingo game; fees; issuance; duration; display; amendment

a. ~~If An applicant, whether to be paid or unpaid,~~ for a license to operate or hold a bingo game ~~files~~ shall file a written application with the municipality. The municipality shall forward the application with its recommendation to the Commission. If the applicant is registered with the Commission, and pays any required fee, the Commission shall issue a license upon determining that the applicant is qualified, has paid the license fees set by regulations and is not in violation of regulations.

b. A license shall be effective for no more than one year and shall be displayed conspicuously on site during the entire time the game of chance operates.

c. A license may be amended, upon application to the Commission if the proposed subject lawfully could have been included in the original license, and upon payment of any proper additional license fee.

Source: 5:8-26, 5:8-27, 5:8-29.

Comment

This section greatly condenses the source provisions by removing the details of what information the application requires. It provides that the Commission alone, rather than both the Commission and municipalities, shall issue licenses for bingo games. Subsection (b) incorporates the requirement to display the license.

3-5. Licensing of registered organizations; proceeds of games

a. The Commission may license a registered organization to operate or hold bingo games in any municipality that has adopted the Bingo Licensing Law.

b. The Commission may issue regulations specifying games and devices substantially equivalent to bingo and may license their operation under this chapter.

c. The entire net proceeds of the bingo games shall go to educational, charitable, patriotic, religious or public-spirited uses and in the case of senior citizen groups, to their support.

Source: 5:8-25.

Comment

This section transfers licensing authority from municipalities to the Commission. Unlike the source provision, it does not describe how to play bingo, leaving the details to common knowledge and regulations. See also the definition of “bingo” in Section 1-1.

3-6. Limitations on operation or holding of games

Bingo games licensed under this act shall not operate or be held:

~~a. on Sunday unless permitted by municipal ordinance;~~

b. with persons below the age of 18 years as ~~participants~~ players, unless only non-money prizes are awarded;

~~c. more often than six days per week; nor~~

d. any place where alcoholic beverages are sold or served to players during the games.

Source: 5:8-31, 5:8-32, 5:8-33.

Comment

This section combines three source provisions, and deletes unnecessary detail (i.e., definition of “Sunday”). Subsection (c) changes six days per month to six days per week. Note Assembly Bill 2176, introduced March 6, 2000, which proposes this change. The Bill also would change the content of Subsection (d) to read: “Alcoholic beverages shall not be served to any bingo player during the conduct of the game.”

3-7. Prizes

a. All winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar ~~day~~ week that the winner is determined.

~~b. Any prizes above \$25,000 may be awarded only when the entire amount is insured by a company approved by the Commission.~~

c. The Commission may regulate the amounts of prizes that may be awarded.

Source: 5:8-27, 5:8-35.

Comment

Subsection (a) is substantially identical to a portion of 5:8-35. Subsections (b) and (c) are new. They delete specific dollar limitations on prizes and allow the Commission to limit prizes by regulation. The insurance requirement is taken from a parallel provision on raffles, 5:8-62.

3-8. Persons operating or holding bingo; compensation; equipment; expenses; rents; regulations

a. No person shall operate or hold licensed bingo except:

(1) an active member of the licensed group,

(2) a member of a group which is an auxiliary to the licensed group,

(3) a person compensated by the licensed group, who is approved by the Commission for that purpose, or

(4) a person who is compensated for bookkeeping or accounting services as provided in Commission regulations.

b. A person lawfully may operate bingo for two or more affiliated licensees of which the person is an active member. The Commission by regulation shall determine affiliation.

c. Bingo equipment shall be owned absolutely or used without payment of compensation by the licensee or leased for a rental which is specified in the statement annexed to the application for the licensee and conforms to the schedule of authorized rentals prescribed by Commission regulation and the lessor shall have been approved by the Commission as to good moral character and freedom from conviction of crime.

d. Expenses shall be paid only when incurred in reasonable amounts for items and services necessary for operating or holding bingo.

e. Rent for premises used in connection with operating or holding bingo games shall not be paid in excess of the amount specified in the statement annexed to the application for a license to operate bingo and approved by the Commission.

f. A licensee may pay reasonable compensation to a person approved by the Commission for services rendered in connection with operating bingo. The regulations shall include provisions which: establish the qualifications, the duties which may be performed and the compensation which may be paid; require that a person receive approval of the Commission prior to rendering compensable services; provide that an active member of the organization shall oversee the rendering of services; and prohibit the payment of compensation to any person who is an active member of the organization or of an auxiliary or affiliated organization. The Commission, in order to determine that a person is of good moral character and free from conviction, may have access to criminal records for that purpose.

Source: 5:8-34, 5:8-34.1.

Comment

This section streamlines the language of 5:8-34 as amended in 1999. Subsection (b) is substantially like 5:8-34.1.

3-9. Bingo premises; license for rentor of premises to operator of bingo

a. Premises used for licensed bingo shall be:

- (1) owned by the licensee operating the bingo game,
- (2) owned by another person licensed to operate bingo, or
- (3) rented by the licensee from an approved rentor licensed by the Commission.

b. A person seeking a license as an approved rentor shall file an application in a form specified by the Commission.

c. A license as an approved rentor shall not be granted:

(1) when any person whose signature or name appears in the application is not the real party in interest or when the person signing or named in the application is an undisclosed agent or trustee for the real party in interest; and

(2) unless the Commission determines that the applicant, and if the applicant is not the owner, the owner of the premises, and if the applicant or owner is a corporation, all of its officers and each of its stockholders owning 10% or more of its issued and outstanding stock, are of good moral character and have not been convicted of a crime.

d. The Commission may consider a violation of this act as evidence of lack of good moral character.

e. When the Commission is satisfied that the required person qualifies, the Commission shall issue a license to the applicant as an approved rentor for the premises specified in the application, upon payment of the license fee. The license shall be valid until revoked, suspended or modified by the Commission. The licensed rentor shall pay the fee for each occasion bingo games are operated in the licensed premises.

f. The Commission may issue a temporary permit to a license applicant pending final action on the application. A temporary permit shall be valid for a maximum of 180 days.

Source: 5:8-49.3, 5:8-49.4, 5:8-49.5, 5:8-49.6, 5:8-49.7.

Comment

This new section combines portions of a number of source provisions. Subsection (a) is new.

Chapter 4. Raffles Licensing Law

4-1. Short title

This chapter shall be known as the “Raffles Licensing Law.”

Source: 5:8-50.

Comment

This section is substantially identical to its source.

4-2. Municipal adoption of Raffles Licensing Law; resubmission; form of question

a. The Raffles Licensing law shall remain inoperative in a municipality until approved by the voters of the municipality.

b. Within 10 days after a municipality adopts the Raffles Licensing Law, it shall file a copy of the ordinance adopting the law with the Commission.

c. If a petition signed by at least 15% of the total number of votes cast at the preceding general election in the municipality, requesting that the question of adopting the Raffles Licensing Law be submitted to the voters, is filed with the municipal clerk, the question shall be submitted to the voters of the municipality at the next general election occurring at least 45 days after the filing date.

d. At any election where the question of adoption of this act shall be submitted, the question upon the official ballots shall read: “Shall the ‘Raffles Licensing Law’ be adopted within this municipality?”

e. In any municipality where a majority of votes is cast against adopting the Raffles Licensing Law, if a required petition is filed, the question may not be submitted again until the third general election after the election at which the Law was rejected is held.

Source: 5:8-22, 5:8-69, 5:8-71, 5:8-72.

Comment

Subsection (a) is substantially identical to 5:8-69. Details on the conduct of the 1954 referendum found in 5:8-70 have been deleted as executed. Subsection (b) derives from 5:8-22. Subsection (d) derives from 5:8-72. Subsections (c) and (e) derive from 5:8-71. Current 5:8-73 which states that a majority of votes cast is necessary for adoption, has been deleted as unnecessary.

4-3. Rescinding the Raffles Licensing Law

a. In any municipality in which the Raffles Licensing Law has become operative, if a petition signed by at least 15% of the total number of votes cast at the preceding general election in the municipality, requesting that the question of rescinding the Raffles Licensing Law be submitted to the voters, is filed with the municipal clerk, the question shall be submitted to the voters of the municipality at the next general election occurring at least 45 days after the filing date.

b. At any election where the question of rescinding the Raffles Licensing Law is submitted to the voters, the question upon the official ballots shall read: “Shall the ‘Raffles Licensing Law’ within the municipality be rescinded?”

c. If the majority of votes are cast in favor of the rescission of the Raffles Licensing Law, its adoption shall be rescinded and it shall cease to be operative within the community.

d. No petition for submission of the question of adoption of the Raffles Licensing Law or its rescission shall be submitted to the municipality's voters earlier than the general election in the third calendar year after the vote on rescission.

Source: 5:8-74, 5:8-75, 5:8-76.

Comment

Subsection (a) is a streamlined version of 5:8-74. Subsection (b) is substantially identical to 5:8-75. Subsections (c) and (d) contain the substance of 5:8-76.

4-4. Application for license to operate or hold a raffle; fees; issuance; duration; display; amendment

a. ~~If An applicant, whether to be paid or unpaid,~~ for a license to operate or hold a raffle ~~files shall file~~ a written application with the municipality. The municipality shall forward the application with its recommendation to the Commission. If the applicant is registered with the Commission, and pays any required fee, the Commission shall issue a license upon determining that the applicant is qualified, has paid the license fees set by regulations and is not in violation of regulations.

b. A license shall be effective for no more than one year and shall be displayed conspicuously on site during the entire time the raffle operates.

c. A license may be amended, upon application to the Commission if the proposed subject lawfully could have been included in the original license, and upon payment of any proper additional license fee.

Source: 5:8-52, 5:8-53, 5:8-54, 5:8-55, 5:8-56.

Comment

This section greatly condenses the source provisions by removing the details of what information the application requires. It provides that the Commission alone, rather than both the Commission and municipalities, shall issue licenses for raffles. Subsection (b) incorporates the requirement to display the license.

4-5. Licensing of registered organizations

a. The Commission may license a registered organization to operate raffles in a municipality that has adopted the Raffles Licensing Law.

b. The entire net proceeds of the raffles shall go to educational, charitable, patriotic, religious or public-spirited uses and, in the case of senior citizen groups, to their support.

c. The Commission may adopt regulations authorizing licensees to hold events known as:

(1) “armchair races” at which wagers are placed on the outcome of previously-filmed horse races and wagerers do not know the results in advance, ~~when the prize awarded consists of merchandise or raffle tickets only, and not cash;~~ and

(2) “casino nights” at which players use chips or scrip purchased from the licensee to wager in games of chance known as blackjack, under/over, beat-the-dealer, chuck-a-luck, craps, roulette, bingo or similar games approved by the Commission, ~~when the chips or scrip are redeemable for merchandise or raffle tickets only, and not for cash.~~

d. The regulations shall establish the frequency with which armchair races and casino nights may be held, the rules of the games, the specific types and values of prizes which may be offered, the qualifications of the individuals conducting the games and other requirements which the Commission may deem pertinent.

e. No license shall be required for a registered organization operating a raffle for a door prize of donated merchandise valued under \$400 when no extra charge is made, ~~no other game of chance is operated,~~ the proceeds are devoted to the uses approved in this section and receipts are reported as required.

f. No license shall issue under this act for operating any game of chance which may be licensed under the Bingo Licensing Law except when bingo is operated in conjunction with a casino night.

Source: 5:8-51, 5:8-54.

Comment

This section transfers licensing authority from municipalities to the Commission. Subsection (b) allows the use of proceeds for support of the licensed charitable organization. Under current law, that use may be restricted to senior citizen organizations. Subsections (c) and (d) were added by the Legislature in 1999. Subsection (e) is substantially similar to current law, except that \$50 has been increased to \$400. Subsection (f) derives from 5:8-54. It has no counterpart in the Bingo Licensing Law.

4-6. Limitations on operation of raffles

The Commission may regulate the kinds of raffles that may be operated under this chapter.

~~Raffles licensed under this act shall not be operated:~~

~~a. on Sunday unless permitted by municipal ordinance; nor~~

~~b. more often than six days per week.~~

~~Source: 5:8-58, 5:8-60.~~

Comment

The section combines two source provisions and deletes unnecessary detail (i.e., definition of “Sunday,” repetition of phrase “games of chance operated under license issued under this act”). Subsection (b) changes the current limit of six days per month to six per week. This change is proposed in Assembly Bill 2176.

4-7. ~~Persons under 18 not allowed to participate~~

~~a. No person under the age of 18 years shall be permitted to participate in any manner in any game of chance not conducted by a drawing, except that a person under the age of 18 years shall be permitted to play a game of chance not conducted by a drawing when the prize consists of merchandise only and does not include money.~~

~~b. No person under the age of 18 years shall be permitted to participate in any manner in any licensed game of chance conducted by a drawing, except to play an on-premises draw raffle, including a Penny auction, when any prize consists of merchandise only.~~

~~c. “Penny auction” means an event at which multiple items of merchandise, or gift certificates, but not cash, are raffled by drawing the winning ticket from a container designated for each item into which players seeking to win that item have placed tickets, with all tickets having been sold for the same price or different prices and each ticket placed in a container having an equal chance of winning.~~

Source: 5:8-59, 5:8-60.2.

Comment

The Legislature amended the source provision to allow persons under 18 to play draw raffles for merchandise prizes. Subsection (c) derives from 5:8-60.2 which became effective in 1998.

4-8. Cash prizes; retail value of prizes

a. No prize shall be given in cash except as authorized by Commission regulation.

b. The aggregate retail value of all prizes given by raffles operated by one licensee under this act, except as provided in subsection (c), in any year shall not exceed \$500,000 the amount allowed by Commission regulations, but the limit shall not apply to any raffle with respect to which all tickets, shares or rights to participate are sold only to persons present, the winners determined, and the prizes awarded, on the same occasion or if the prizes are wholly donated.

c. The maximum prize in a golf hole-in-one contest shall not exceed \$1,000,000 the amount allowed by Commission regulations. Any prizes above \$25,000 may be awarded only when the entire amount is escrowed or insured by a company approved by the Commission. The prize shall be paid as an annuity with a payout over a maximum period of 20 years. Ancillary prizes awarded shall have an aggregate retail value no greater than that provided by subsection (b) and shall also be subject to the provisions of subsection (d).

d. No prize having a retail value greater than that prescribed by Commission regulation shall be awarded in any raffle conducted by a drawing, or for each spin of the wheel or other allotment by chance.

Source: 5:8-62.

Comment

This section is substantially similar to its source. Subsection (c) concerning a golf hole-in-one contest was added in 1996.

4-9. Regulations; prizes; discount tickets; non-draw raffles

The Commission shall adopt regulations allowing registered organizations to:

a. offer as a raffle prize any lawful personal or professional service that the Commission determines to be an appropriate raffle prize, and the value of which is within the limits set by the Commission;

b. offer as a raffle prize a gift certificate redeemable for live, edible seafood the value of which is within the limits set by the Commission;

c. offer a discount to any person purchasing two or more tickets, rights or shares for a ~~draw~~ raffle; and

d. use a big six wheel, a big eight wheel or other wheel to determine the winner of a non-draw raffle.

Source: 5:8-60.3.

Comment

This new section became effective in 1998.

4-10. Persons operating or holding a raffle; compensation; equipment; expenses; rents

a. No person shall operate or hold a licensed raffle except:

(1) an active member of the licensed group,

(2) a member of a group which is an auxiliary to the licensed group,

(3) a person compensated by the licensed group, who is approved by the Commission, or

(4) a person who is compensated for bookkeeping or accounting services as provided in Commission regulations.

b. Raffles shall be operated or held only with equipment owned absolutely or used without payment of compensation by the licensee or shall be leased for a rental, which amount is specified in the statement annexed to the application for the license and conforms to the

schedule of authorized rentals prescribed by Commission regulation and the lessor has been approved by the Commission as to good moral character and freedom from conviction of crime.

c. Expenses shall be paid only when incurred in reasonable amounts for items and services necessary for operating or holding the raffle.

d. Rent for premises used in connection with operating or holding raffles shall not be paid in excess of the amount specified in the statement annexed to the application for a license to operate a raffle.

e. A licensee may pay reasonable compensation to a person approved by the Commission for services rendered in connection with operating a raffle. The regulations shall include provisions which: establish the qualifications, the duties which may be performed and the compensation which may be paid; require that a person receive approval of the Commission prior to rendering compensable services; provide that an active member of an organization shall oversee the rendering of services; and prohibit the payment of compensation to any person who is an active member of the organization or of an auxiliary or affiliated organization. The Commission, in order to determine that a person is of good moral character and free from conviction, may have access to criminal records for that purpose.

Source: 5:8-61.

Comment

This section streamlines the language of 5:8-61 and incorporates 1999 amendments which allow a non-member of a licensed group to be paid to operate or assist in operating games, if the person is approved by the Commission. Subsection (b) concerns equipment used in operating games and is more expansive than the corresponding section (4-7) pertaining to bingo. The 1999 amendment added a new subsection, here designated (e), which states the scope of relevant regulations.

4-11. Statement for approved rentor of premises used for raffle

No rental shall be paid for the use of any premises for operating a raffle unless the amount of the rental to be charged conforms to the Commission-authorized amount and is written in the statement annexed to the application for a license to operate a raffle, and the rentor is approved by the Commission as being of good moral character and free from conviction of crime. If the rentor is a corporation, all of its officers and each of its stockholders who hold 10% or more of its outstanding stock, must be of good moral character and free from criminal conviction.

Source: 5:8-27, 5:8-34.

Comment

Unlike the more stringent license requirement for a rentor of premises to an operator of bingo, the rentor of premises used for a raffle need only be satisfactory to the Commission based on the statement annexed to the application for a license to operate a raffle.

4-12. Pamphlet

The Commission shall produce and make available to any qualified organization, upon request, a pamphlet which describes in plain language the rights, duties and responsibilities of organizations conducting raffles and the manner in which raffles are to be conducted.

Source: 5:8-60.4.

Comment

This new section became effective in 1998.

4-13. Violation of rules of conduct; oral or written warning

Prior to initiating administrative action or bringing charges against an organization qualified to conduct raffles for a violation which relates to operation of the game or awarding of prizes, the Commission shall first issue an oral or written warning and offer the organization the opportunity to cease the conduct which constitutes the violation.

Source: 5:8-60.5.

Comment

This new section became effective in 1998.

4-14. On-premises ~~50-50~~ cash draw raffle

a. A registered organization may conduct an on-premises ~~50-50 cash~~ draw raffle without a license but must declare the receipts in its required quarterly reports. An on-premises ~~50-50 cash~~ draw raffle is a raffle conducted by a drawing ~~for cash~~, in which all tickets are sold only to persons present at the place of drawing with the winner determined there and the prize awarded ~~equals fifty percent of the amount received for all tickets sold.~~

b. An organization registered by the Commission to conduct raffles may conduct an on-premises ~~50-50 cash~~ draw raffle on unlimited occasions as long as the value of the prize awarded for each does not exceed \$400, in any and the raffle is conducted in a municipality in which the Raffles Licensing Law is operative.

Source: New.

Comment

This new section reflects the substance of the first two subsections of Assembly Bill 725. This section would allow certain nonprofit organizations to conduct an unlimited number of on-premises 50-50 cash draw raffles without the payment of a per-occasion fee.

Chapter 5. Amusement Games Licensing Law

5-1. Short title

This chapter shall be known as the "Amusement Games Licensing Law."

Source: 5:8-100.

Comment

This section is substantially identical to its source.

5-2. Municipal disapproval of Amusement Games Licensing Law; resubmission; form of question

a. The Amusement Games Licensing Law shall remain inoperative in a municipality until approved by the voters of the municipality.

b. Within 10 days after a municipality adopts the Amusement Games Licensing Law, it shall file a copy of the ordinance adopting the law with the Commission.

c. If a petition signed by at least 15% of the total votes cast at the preceding general election in the municipality, requesting that the question of adopting the Amusement Games Licensing Law be submitted to the voters, is filed with the municipal clerk, the question shall be submitted to the voters of the municipality at the next general election occurring at least 45 days after the filing date.

d. At any election where the question of adoption of this act shall be submitted, the question upon the official ballots shall read: "Shall the 'Amusement Games Licensing Law' be adopted in this municipality?"

e. In any municipality where a majority of votes is cast against adopting the Amusement Games Licensing Law, if a required petition is filed, the question may not be submitted again until the third general election after the election at which the law was rejected is held.

Source: 5:8-116.

Comment

This section, though simplified, is substantially identical to 5:8-116. It provides that the Amusement Games Licensing Law is not operative in a municipality until approved by that municipality.

5-3. Rescinding disapproval of the Amusement Games Licensing Law

a. In any municipality in which the Amusement Games Licensing Law has been become operative, if a petition signed by at least 15% of the total number of votes cast at the preceding general election in the municipality, requesting that the question of rescinding the Amusement Games Licensing Law be submitted to the voters, is filed with the municipal clerk, the question

shall be submitted to the voters of the municipality at the next general election occurring at least 45 days after the filing date.

b. At any election where the question of rescinding the Amusement Games Licensing Law is submitted to the voters, the question upon the official ballots shall read: “Shall the ‘Amusement Games Licensing Law’ within the municipality be rescinded?”

c. If the majority of votes cast are in favor of the rescission of the Amusement Games Licensing Law, it shall be rescinded and the law shall cease to be operative within the municipality.

d. No petition for submission of the question of adoption of the Amusement Games Licensing Law shall be submitted to the municipality’s voters earlier than the general election in the third calendar year after the vote on rescission.

Source: New.

Comment

This section provides for rescinding the Amusement Games Licensing Law and is patterned on the analogous sections for rescinding the Bingo Licensing Law and the Raffles Licensing Law.

5-4. Place of games

Licensed amusement games may be operated only in the following locations:

a. an amusement park at a seashore or other resort area;

b. an agricultural fair or exhibition held by an association organized for the purpose of holding agricultural fairs or exhibitions.

c. a fair or carnival, operated by an educational, charitable, patriotic, religious or public-spirited or senior citizen association registered with the Commission, approved by the municipality and having a duration of ten days or less.

~~b. No license shall be required for a children’s amusement game that gives prizes in the form of coupons that may be redeemed for merchandise provided the value of all coupons given for winning a single game is less than the price charged to play the game. The value of a coupon is the retail value of any item of merchandise divided by the number of coupons necessary for the item.~~

Source: 5:8-101.

Comment

This section is based on the parts of 5:8-101 that restrict the places where licensed games may be held. However, the section is not identical to its source. It follows widespread practice by allowing games at fairs and carnivals. Subsection (b) is new. It is designed to exempt children’s amusement centers from the location restrictions even when the prize for participation in a game varies with the score achieved. New Jersey is the only state that treats this kind of children’s games as gambling and regulates them.

5-5. Certification of games

a. An amusement game must be certified as permissible by the Commission before a license to operate the game may issue. A certification shall be effective for all licenses issued for the specific kind of game named in the certification.

b. Commission regulations shall list the amusement games that have been certified, describe each game and may limit the number or kind of prizes that may be awarded for the game.

c. Any person may apply to the Commission for certification of a game not already certified. Applications shall be made on the form and with the fee prescribed by regulations.

d. An amusement game shall not be certified if it:

(1) is deceptive or unfair to participants, or

(2) unfairly competes with games of chance operated under the Bingo Licensing Law or the Raffles Licensing Law.

e. The commission shall not certify as an amusement game:

(1) pool selling, the keeping of a gambling resort, or betting on horse racing,

(2) betting on the outcome of any athletic game or contest in which the player does not actively participate;

(3) bingo or raffles ~~other than draw raffles, where prizes have a value not exceeding \$15.00.~~

Source: 5:8-79, 5:8-113, 5:8-112.

Comment

Certification of permissible games is unique to amusement games; there is no counterpart in the Bingo or Raffle laws. This section combines, in streamlined form, the three source sections.

5-6. Application for license to operate an amusement game; fees; hearing; issuance; duration; display; amendment

a. ~~If An applicant for a license to operate an amusement game files shall file a written application with the municipality. The municipality shall forward the application with its recommendation to the Commission, and pays any required fee, The Commission shall send a copy of the application to the municipality in which the game will be operated.~~

(1) ~~If the municipality concurs in recommends acceptance of the application or does not object to the application within 10 days, the Commission shall issue a license upon determining that the applicant is qualified and has paid the license fees set by regulations.~~

(2) If the municipality objects to the application, the Commission after notice to the applicant and the municipality, shall hold a hearing and issue a license upon determining that the applicant is qualified and has paid the license fees.

d. A license shall be effective for no more than one year and shall be displayed conspicuously on site during the entire time the game of chance operates.

e. A license may be amended, upon application to the Commission if the proposed subject lawfully could have been included in the original license, and upon payment of any proper additional license fee and notice to the municipality.

Source: 5:8-101, 5:8-102, 5:8-103, 5:8-104, 5:8-105.

Comment

This section provides that the Commission alone, rather than both the Commission and the municipalities, shall issue licenses for amusement games.

5-7. Qualifications for license to operate an amusement game

a. An application for a license to operate an amusement game shall not be approved unless the applicant, and the officers, directors and stockholders of any corporation holding 10% or more of the capital stock of a corporate applicant, or the partners or members of a partnership or association applicant, are of good moral character and have not been convicted of a crime, or, if convicted of a crime, the disqualification has been removed by the Commission.

b. No license shall issue for premises licensed under an alcoholic beverage license.

Source: 5:8-103.

Comment

Subsection (a) greatly condenses the source provision and raises 5% to 10%. Subsection (b) is new and without a statutory source. It reflects current practice. See NJAC 13:3-1.7.

5-8. Contents of license

A license shall specify:

- a. the name and address of the licensee,
- b. the place at which the games are to be operated,
- c. the particular games that will be operated,
- d. the days and hours of permitted operation, and
- e. the term of the license.

Source: 5:8-103, 5:8-105.

Comment

This section condenses the source provisions.

5-9. Restriction on time of operation of amusement game

No game shall operate at a time prohibited by municipal ordinance.

Source: New.

Comment

No statute explicitly forbids operation of amusement games at times prohibited by municipal ordinance. Current practice, as reflected in NJAC 13:3-1.6., does.

5-10. Charges; prizes

- a. All amusement game prizes shall be merchandise.
- b. All prizes shall be awarded at the conclusion of the game.
- c. The Commission, by regulation:
 - (1) may set the amount which a licensee may charge for playing a game, and
 - (2) shall set the value of a merchandise prize that may be given in a game.

Source: 5:8-107.

Comment

This section is substantially similar to the source provision.

5-11. Reports by licensee

The Commission may require licensees to submit periodical reports and may specify their form, contents and filing times.

Source: 5:8-98.

Comment

This section condenses the source provision.

5-12. Merchandise giveaways

No license shall be required for a manufacturer or seller of a product to give free merchandise or other prizes to randomly selected purchasers of the product if the only cost to the purchaser to be eligible for the prize is the ordinary cost of the product.

Source: New.

Comment

This section allows the unlicensed giveaway of prizes which otherwise could be construed as illegal gambling. Examples include promotions where winners are indicated by bottlecap inserts, and drawings where a winning customer's purchase price is refunded.

AMMENDMENT

5-12. Gambling transactions unlawful

a. Gambling means staking or risking something of value upon an agreement or understanding that the actor will receive something of value in the event of a certain outcome:

(1) of a game in which the outcome depends wholly, or in part, on chance through the use of a mechanism understood to produce a random result, including cards, dice, wheels, drawings and the like;

(2) on a game or contest of skill, if the average participant is unlikely to have the skill to influence the outcome substantially; or

(3) on a future contingent event not under the actor's control or influence.

b. Gambling shall not include:

(1) investments in ordinary financial instruments;

(2) contracts of insurance;

(3) tournaments of recognized games or sports; or

(4) giving free merchandise or other prizes to randomly selected purchasers of the product by a manufacturer or seller if the only cost to the purchaser to be eligible for the prize is the ordinary cost of the product.

~~All wagers, bets or stakes made to depend upon any race or game, or upon any gaming by lot or chance, or upon any lot, chance, casualty or unknown or contingent event,~~

c. Gambling shall be unlawful.

Source: New.