

By: Representatives Reeves, Guice

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1157

1 AN ACT TO AMEND SECTION 97-33-52, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT PROCEEDS FROM BINGO GAMES MAY NOT BE USED TO
3 PURCHASE, CONSTRUCT OR IMPROVE A FACILITY FOR THE PURPOSE OF
4 CONDUCTING BINGO GAMES; TO PROVIDE THAT PROCEEDS FROM BINGO GAMES
5 MAY NOT BE USED TO PAY START-UP COSTS, ATTORNEYS FEES, APPELLATE
6 FEES, FINES OR OTHER COSTS INCURRED UNDER THE CHARITABLE BINGO LAW
7 UNLESS SUCH USE OF PROCEEDS IS APPROVED BY THE MISSISSIPPI GAMING
8 COMMISSION; TO PROVIDE THAT AN ORGANIZATION THAT CONDUCTS BINGO
9 GAMES MUST DEVOTE AT LEAST FIFTY PERCENT OF ITS ADJUSTED GROSS
10 RECEIPTS TO THE SPECIFIC PURPOSES FOR WHICH THE ORGANIZATION WAS
11 CREATED; TO AMEND SECTION 97-33-61, MISSISSIPPI CODE OF 1972, TO
12 PROVIDE THAT THE APPEAL OF A FINAL DECISION OF THE GAMING
13 COMMISSION DOES NOT STAY THE ENFORCEMENT OF THE DECISION BY THE
14 COMMISSION; TO AMEND SECTION 97-33-75, MISSISSIPPI CODE OF 1972,
15 TO REVISE THE PENALTY FOR CERTAIN VIOLATIONS OF THE CHARITABLE
16 BINGO LAW; TO AMEND SECTION 97-33-109, MISSISSIPPI CODE OF 1972,
17 TO AUTHORIZE THE GAMING COMMISSION TO REQUIRE ACCESS TO BINGO AND
18 CHARITY ACCOUNTS OF BINGO LICENSEES; AND FOR RELATED PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 SECTION 1. Section 97-33-52, Mississippi Code of 1972, is
21 amended as follows:

22 97-33-52. (1) A bingo game may be conducted only * * * when
23 held for the benefit of a charitable organization that (i) is
24 licensed pursuant to Section 97-33-55 or Section 97-33-59, and
25 (ii) is domiciled in the State of Mississippi * * *.

26 * * *

27 (2) Except as may be otherwise provided in Sections 97-33-51
28 through 97-33-203, all net proceeds derived from a bingo game
29 authorized by this section shall be expended only for the purposes
30 for which the organization is created, and no net proceeds derived
31 from a bingo game authorized by this section shall be distributed
32 to a charity outside of the State of Mississippi without the
33 approval of the Mississippi Gaming Commission.

34 (3) None of the proceeds of a bingo game authorized to be

35 held under this section shall be used to purchase, construct or
36 improve a building, hall or other facility * * * for the purpose
37 of conducting or operating a bingo game.

38 (4) Every organization which conducts bingo games shall
39 report to the Mississippi Gaming Commission at such time, in such
40 manner and on such forms as the commission prescribes. All
41 records and reports so filed shall be public records and shall be
42 available for inspection in accordance with the Mississippi Public
43 Records Act of 1983.

44 (5) No proceeds derived from a bingo game may be used to pay
45 start-up costs of an organization, attorneys fees, appellate
46 costs, fines or other costs incurred under the Charitable Bingo
47 Law unless the commission provides written approval for the use of
48 proceeds for such purposes.

49 (6) An organization that conducts bingo games must devote at
50 least fifty percent (50%) of its adjusted gross receipts for each
51 license year to the specific purposes for which the organization
52 was created. Adjusted gross receipts shall be calculated by
53 taking the organization's gross receipts (all revenues received
54 from bingo operations) and subtracting the amount paid out as
55 prizes and the amount of fees paid to the commission.

56 SECTION 2. Section 97-33-61, Mississippi Code of 1972, is
57 amended as follows:

58 97-33-61. No license shall be revoked by the commission
59 until after a hearing is held on due notice. The commission may
60 designate a hearing examiner to hear the case and render a
61 decision. A licensee aggrieved by the decision of the hearing
62 examiner may apply within fifteen (15) days after announcement of
63 the decision in writing to the commission for review of the
64 decision. Review is limited to the record of proceedings before
65 the hearing examiner. The commission may sustain or reverse the
66 hearing examiner's decision.

67 Any person aggrieved by the final decision of the commission

68 may obtain a judicial review thereof in the circuit court of the
69 county in which the bingo games are conducted. The judicial
70 review must be instituted by filing a petition within ten (10)
71 days after the decision is rendered. The filing of a petition
72 does not stay enforcement of the final decision of the commission,
73 and the commission shall have the authority to issue a cease and
74 desist order causing immediate closure of the bingo hall.

75 SECTION 3. Section 97-33-75, Mississippi Code of 1972, is
76 amended as follows:

77 97-33-75. (1) Any person, association or corporation
78 violating any provision of Sections 97-33-51 through 97-33-203 or
79 any rule or regulation of the commission shall be subject to a
80 civil fine imposed by the commission and to suspension or
81 revocation of its license. Additionally, criminal sanctions may
82 be pursued under this section against any such person.

83 (2) Any person who commits any of the following acts, upon
84 conviction, shall be fined not more than Five Thousand Dollars
85 (\$5,000.00) or imprisoned for not less than one (1) year nor more
86 than three (3) years in the State Penitentiary, or both:

87 (a) Making any false statement in any application for a
88 license under Sections 97-33-51 through 97-33-203, or in any
89 official report to the commission;

90 (b) Holding, operating or conducting any bingo game
91 without a license;

92 (c) Knowingly falsifying or making any false entry in
93 any books or records, with respect to any transaction connected
94 with the holding, operating or conducting of any bingo game;

95 (d) Refusing to allow the commission access to any
96 premises where a game of chance is being conducted or to any book,
97 record or document relating to such conduct;

98 (e) Intentionally causing, aiding, abetting or
99 conspiring with another to cause any person to violate any
100 provision of Sections 97-33-51 through 97-33-203;

101 (f) Possessing, displaying, selling or otherwise
102 furnishing to any person any pull-tabs, except as provided for in
103 Section 97-33-77;

104 (g) Using net proceeds from a bingo game for purposes
105 other than which the charitable organization was created, except
106 as otherwise provided in Sections 97-33-51 through 97-33-203;

107 (h) Distributing charitable proceeds outside of the
108 State of Mississippi without the written approval of the
109 commission.

110 (3) Any person who violates any other provision of Sections
111 97-33-51 through 97-33-203 that is not listed in this section or
112 any rule or regulation of the commission may be imprisoned for not
113 more than six (6) months or fined not more than Five Hundred
114 Dollars (\$500.00), or both.

115 (4) Any conviction of any person pursuant to subsections (2)
116 and (3) of this section shall constitute cause for revocation of
117 the license of such person or the organization with which such
118 person is affiliated.

119 SECTION 4. Section 97-33-109, Mississippi Code of 1972, is
120 amended as follows:

121 97-33-109. (1) The commission shall monitor the conduct or
122 business of licensees, both on a routine scheduled and an
123 unscheduled basis, to the extent necessary to ensure compliance
124 with the provisions of charitable bingo game laws and regulations
125 of the state.

126 (2) In carrying out its enforcement responsibilities, the
127 commission may:

128 (a) Inspect and examine all premises in which
129 charitable bingo games are conducted or supplies or equipment for
130 such games are manufactured and distributed;

131 (b) Inspect all such supplies and equipment in, upon or
132 about such premises;

133 (c) Seize and remove from such premises and impound

134 such supplies and equipment for the purpose of examination and
135 inspection pursuant to an appropriate court order;

136 (d) Demand access to and audit and inspect all bingo
137 and charity accounts and other books and records of licensees for
138 the purpose of determining compliance with laws and regulations
139 relative to charitable bingo games;

140 (e) Conduct in-depth audits and investigations; and

141 (f) Mandate that internal controls be executed in
142 accordance with the provisions of the Charitable Bingo Law and
143 other applicable laws and regulations.

144 (3) The commission shall require licensees to maintain
145 records and submit reports.

146 (4) In addition to license revocation or suspension or any
147 criminal penalty imposed, the commission may assess a fine against
148 any person who violates any law or regulation relative to
149 charitable bingo games. Such a fine shall only be assessed after
150 notice and an opportunity for a hearing to be held.

151 (5) All departments, commissions, boards, agencies, officers
152 and institutions of the state, and all subdivisions thereof, shall
153 cooperate with the commission in carrying out its enforcement
154 responsibilities.

155 (6) The Attorney General shall be the attorney for the
156 commission in regard to its duties to regulate the Charitable
157 Bingo Law and he shall represent it in all legal proceedings and
158 shall prosecute any civil action for a violation of the provisions
159 of Sections 97-33-51 through 97-33-203 or the rules and
160 regulations of the commission.

161 (7) It is the duty of the sheriffs, deputy sheriffs and
162 police officers of this state to assist the commission in the
163 enforcement of the provisions of Sections 97-33-51 through
164 97-33-203 and to arrest and complain against any person violating
165 the provisions of Sections 97-33-51 through 97-33-203. It is the
166 duty of the district attorneys of this state to prosecute all

167 violations of the provisions of Sections 97-33-51 through
168 97-33-203 if requested to do so by the commission.

169 (8) (a) Whenever any person who is a resident of the State
170 of Mississippi has reason to believe that a person or organization
171 is or has violated the provisions of Sections 97-33-51 through
172 97-33-203 and that proceedings would be in the public interest, he
173 may bring an action in the name of the state against such person
174 to restrain by temporary or permanent injunction such violation,
175 upon at least five (5) days' summons before the hearing of the
176 action. The action shall be brought in the chancery or county
177 court of the county in which such violation has occurred or, with
178 consent of the parties, may be brought in the chancery or county
179 court of the county in which the State Capitol is located. The
180 said courts are authorized to issue temporary or permanent
181 injunctions to restrain and prevent violations of Sections
182 97-33-51 through 97-33-203, and such injunctions shall be issued
183 without bond.

184 (b) Any person who violates the terms of an injunction
185 issued under this subsection shall forfeit and pay to the state a
186 civil penalty of not more than Five Thousand Dollars (\$5,000.00)
187 per violation which shall be payable to the General Fund of the
188 State of Mississippi. For the purposes of this subsection, the
189 chancery or county court issuing an injunction shall retain
190 jurisdiction, and the cause shall be continued, and in such cases
191 the person bringing the action may petition for recovery of civil
192 penalties.

193 (c) In any action brought under this subsection, if the
194 court finds that a person is willfully violating the provisions of
195 Sections 97-33-51 through 97-33-203, the person bringing the
196 action, upon petition to the court, may recover on behalf of the
197 state a civil penalty of not exceeding Five Hundred Dollars
198 (\$500.00) per violation which shall be payable to the General Fund
199 of the State of Mississippi.

200 (d) No penalty authorized by this subsection shall be
201 deemed to limit the court's powers to insure compliance with its
202 orders, decrees and judgments, or punish for the violations
203 thereof.

204 (e) For purposes of this subsection, a willful
205 violation occurs when the party committing the violation knew or
206 should have known that his conduct was a violation of the
207 provisions of Sections 97-33-51 through 97-33-203.

208 SECTION 5. This act shall take effect and be in force from
209 and after July 1, 1999.