

By: Representatives Reeves, Guice

To: Ways and Means

HOUSE BILL NO. 1157
(As Passed the House)

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

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

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

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

27 * * *

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

35 (3) None of the proceeds of a bingo game authorized to be
36 held under this section shall be used to purchase, construct or
37 improve a building, hall or other facility * * * for the purpose
38 of conducting or operating a bingo game. However, this subsection
39 (3) shall not apply to any charitable organization described in
40 Section 97-33-53(b)(i)1, which has a national charter or any
41 religious organization.

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

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

53 (6) An organization that conducts bingo games must devote at
54 least twenty-five percent (25%) of its gross receipts for each
55 license year to the specific purposes for which the organization
56 was created.

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

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

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

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

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

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

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

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

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

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

(e) Intentionally causing, aiding, abetting or conspiring with another to cause any person to violate any

provision of Sections 97-33-51 through 97-33-203;

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

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

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

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

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

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

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

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

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

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

(c) Seize and remove from such premises and impound such supplies and equipment for the purpose of examination and inspection pursuant to an appropriate court order;

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

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

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

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

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

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

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

(7) It is the duty of the sheriffs, deputy sheriffs and police officers of this state to assist the commission in the enforcement of the provisions of Sections 97-33-51 through 97-33-203 and to arrest and complain against any person violating the provisions of Sections 97-33-51 through 97-33-203. It is the

duty of the district attorneys of this state to prosecute all violations of the provisions of Sections 97-33-51 through 97-33-203 if requested to do so by the commission.

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

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

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

200 of the State of Mississippi.

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

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

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