

1977 Assembly Bill 860

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CHAPTER 426, Laws of 1977

AN ACT to repeal 163.01; to amend chapter 163 (title), 163.02 (intro.), (1) and (2), 163.04 (3), 227.026 (1) (a) and 945.01 (2) (am), (3) and (4) (am); and to create 163.03 (12m), (14m) and (17), 163.04 (3) (a) to (g), 163.54 (5), 163.71 (3) and subchapter VIII of chapter 163 of the statutes, relating to the conduct of raffles, making an appropriation, granting rule-making authority subject to legislative approval and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 163 (title) of the statutes is amended to read:

CHAPTER 163

BINGO AND RAFFLE CONTROL ACT

SECTION 2. 163.01 of the statutes is repealed.

SECTION 3. 163.02 (intro.), (1) and (2) of the statutes are amended to read:

163.02 Purpose. (intro.) ~~The purpose of this chapter is to implement section 24 of article IV of the state constitution, as amended by vote of the people at the general election in April, 1973.~~ The legislature hereby declares that:

(1) All phases of the conduct of bingo and raffles, except bingo games using free cards and donated prizes for which no payment of consideration is made by participants, should be closely controlled by appropriate laws and rules which should be strictly and uniformly enforced throughout this state.

(2) The conduct of bingo, raffles and all attendant activities, except bingo games using free cards and donated prizes for which no payment of consideration is made by participants, should be so regulated as to discourage commercialization of bingo and raffles in all its forms, including the rental of commercial premises for bingo or raffles, and to ensure the maximum use of the profits of bingo exclusively for the lawful purposes specified in this chapter.

SECTION 4. 163.03 (12m), (14m) and (17) of the statutes are created to read:

163.03 (12m) "Raffle" means a game of chance in which tickets are sold and a drawing for prizes is held.

(14m) "Regular raffle" means a raffle for which a single drawing for prizes is held on a specified date after the sale of tickets has been completed.

(17) "Special raffle" means a raffle for which one or more drawings are held and prizes awarded on the same day as the tickets are sold.

SECTION 5. 163.04 (3) of the statutes is amended to read:

163.04 (3) Promulgate rules under ch. 227 relating to the issuance, renewal, amendment, suspension and revocation of bingo and raffle licenses and the conduct of bingo under this chapter.

SECTION 6. 163.04 (3) (a) to (g) of the statutes are created to read:

163.04 (3) (a) Prior to any public hearing on a proposed rule under this chapter, or if no public hearing is required, prior to notification of the standing committees, the board shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the board and the revisor of statutes to:

1. Review the statutory authority under which the board intends to adopt the rule. The legislative council shall notify the board, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this subsection and ch. 227 are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules.

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the board submits under this chapter.

(c) The board shall notify appropriate standing committees when proposed rules under this chapter are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The board may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the board to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the board to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The board may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the board may promulgate the rule.

(f) 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The board may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The board may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the board for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the board may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

5. When the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

(g) Paragraphs (a) to (f) do not apply to emergency rules adopted under s. 227.027.

SECTION 7. 163.54 (5) of the statutes is created to read:

163.54 (5) This section does not apply to subch. VIII.

SECTION 8. 163.71 (3) of the statutes is created to read:

163.71 (3) APPLICATION. This section does not apply to subch. VIII.

SECTION 9. Subchapter VIII of chapter 163 of the statutes is created to read:

CHAPTER 163

SUBCHAPTER VIII

RAFFLES

163.90 Qualified organizations. Any local religious, charitable, service, fraternal or veterans organization or any organization to which contributions are deductible for federal or state income tax purposes, which has been in existence for one year immediately preceding its application for a license or which is chartered by a state or national organization which has been in existence for at least 3 years, may conduct a raffle upon receiving a license for the raffle event from the board. No other person may conduct a raffle in this state.

163.91 Limit. No qualified organization under s. 163.90 may conduct more than 2 regular raffles during a year and more than one special raffle during any week.

163.92 License. (1) The board shall prescribe appropriate forms for the application and issuance of licenses to conduct regular raffles or special raffles. The license fee shall be \$5 and shall be remitted with the application. A regular raffle license shall be valid for one raffle event. A special raffle license shall be valid for 12 months. The executive secretary shall issue the license within 30 days after the filing of an application if the applicant qualifies under s. 163.90 and has not exceeded the limits of s. 163.91.

(2) Upon application by an organization licensed under this subchapter a license may be amended if the subject matter of the amendment properly and lawfully could have been included in the original license. An application for an amendment to a license shall be filed and processed in the same manner as an original application. An

application for the amendment of a license shall be accompanied by a \$3 fee. An amendment may revise any of the information on the original license. If the executive secretary approves an application for an amendment to a license, a copy of the amendment shall be sent to the applicant who shall attach it to the original license.

(3) Each license, and all amendments to the license, issued under this subchapter shall be conspicuously displayed at the place where a raffle drawing is conducted and at all times during the conduct of the drawing so as to be easily readable by any patron of the raffle drawing.

(4) Proceedings to suspend or revoke a license to conduct raffles shall be initiated by the board in the same manner as a summons is served under ch. 801. The notice shall state the alleged violations which constitute the grounds for the proceedings. The executive secretary may temporarily suspend the license for a period not to exceed 2 weeks while any such proceeding is pending, and shall notify the licensee of the dates of the temporary suspension, but the period of the suspension may not extend beyond the day prior to any raffle drawing scheduled by the licensee.

163.93 Tickets; drawings. (1) All regular raffle tickets shall be identical in form and include:

- (a) The number of the license issued by the board.
- (b) The name and address of the sponsoring organization.
- (c) The price of the ticket.
- (d) A place for the purchaser to enter his or her name and address.
- (e) The date and place of the drawing.

(2) No raffle ticket may exceed \$5 in cost.

(3) No person may sell raffle tickets unless authorized by an organization licensed under this subchapter.

(4) Tickets for a proposed regular raffle may not be offered for sale more than 120 days preceding the raffle drawing.

(5) All raffle drawings shall be held in public.

(6) All prizes shall be awarded. The purchaser of a ticket need not be present at the drawing to win a prize.

163.94 Profits. All profits from raffles shall inure to the organization conducting the raffles and no salaries, fees or profit shall be paid to any other organization or individual in connection with a raffle. This section does not prohibit the printing of raffle tickets or the purchase of equipment or prizes for a raffle.

163.95 Denial of application; hearing. Within 10 days after receiving written notification of a denial by the executive secretary of a license to conduct a raffle, an applicant may demand in writing a hearing before the board upon the applicant's qualifications and the merit of the application. At the hearing, the burden of proof shall be on the applicant to establish eligibility for a license. If, after the hearing, the board enters an order denying the application, the order shall set forth in detail the reasons for the denial. Upon entry of such an order or upon expiration of the 10-day period during which a hearing may be demanded, the applicant's license fee shall be refunded. If the board approves the license, the executive secretary shall issue it within 14 days after such approval.

163.98 Financial report. (1) Any organization which has conducted one or more raffles during the preceding calendar year shall, on or before April 15 of the current year, report the following information in writing to the board regarding the raffles which it has conducted:

- (a) The number of raffles conducted.
- (b) The receipts.
- (c) The amount of prizes paid.

(d) The net profit or loss.

(2) If a copy of the financial report is not filed or is not fully, accurately and truthfully completed, the executive secretary may refuse to renew a license or may suspend a license until the report in proper form has been filed.

163.99 Penalties. (1) Any person who violates this subchapter shall be fined not more than \$1,000 or imprisoned not more than 30 days or both.

(2) The district attorney of a county of an actual or potential violation may commence an action in circuit or county court in the name of the state to restrain any violation of this subchapter. The court may, prior to entry of final judgment, make such an order or judgment as necessary to restore to any person any pecuniary loss suffered because of the acts or practices involved in the violation.

SECTION 10. 227.026 (1) (a) of the statutes, as affected by chapter 84, laws of 1977, is amended to read:

227.026 (1) (a) The statute pursuant to which the rule was ~~created~~ adopted, amended or repealed provides for an effective date subsequent to legislative review of the proposed action or otherwise prescribes a different effective date; or

SECTION 11. 945.01 (2) (am), (3) and (4) (am) of the statutes are amended to read:

945.01 (2) (am) "Lottery" does not include bingo or a raffle as defined in s. 163.03 ~~(4)~~ if it is conducted pursuant to under ch. 163.

(3) GAMBLING MACHINE. A gambling machine is a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine. "Gambling machine" does not include any device used in conducting a bingo occasion or raffle event under ch. 163.

(4) (am) "Gambling place" does not include a place where bingo or a raffle is conducted ~~pursuant to~~ under ch. 163.

SECTION 12. **Appropriation increase.** The appropriation under section 20.165 (3) (a) of the statutes, as affected by the laws of 1977, is increased by \$18,000 for fiscal year 1977-78 and by \$18,400 for fiscal year 1978-79 for the administration of subchapter VIII of chapter 163 of the statutes, as created by this act.
