

The New Mexico Bingo and Raffle Act

60-2F-01 (2009)

NM Gaming Control Board

7/1/2009

Contents

60-2F-1. Short title.....	1
60-2F-2. Purpose.....	1
60-2F-3. Gaming control board to administer act.....	1
60-2F-4. Definitions.....	1
60-2F-5. Application of act.....	3
60-2F-6. Board; powers.	4
60-2F-7. Organizations eligible for bingo licenses.....	4
60-2F-8. Classifications of licenses and permits.....	5
60-2F-9. Disclosure of background information.....	5
60-2F-10. Application for licenses or permits.	5
60-2F-11. Standards for granting a license or permit.	6
60-2F-12. Licenses and permits; specific requirements.....	6
60-2F-13. Fees for licenses and permits; disposition of revenue.....	6
60-2F-14. Forfeiture of license; ineligibility to apply for license or permit.	7
60-2F-15. Persons permitted to conduct bingo and pull-tab games; premises.....	7
60-2F-16. Display of license.....	7
60-2F-17. Equipment.	8
60-2F-18. Conduct of games of chance.	8
60-2F-19. Quarterly reports required; accounting requirements.....	9
60-2F-20. Expenses; compensation.	9
60-2F-21. Tax imposition.	10
60-2F-22. Violation of act.....	10
60-2F-23. Enforcement hearings.....	10
60-2F-24. Appeals.....	11
60-2F-25. Duty to enforce act; criminal penalties.	12
60-2F-26. Exemptions.....	12

60-2F-1. Short title.

Sections 1 through 26 of this act may be cited as the "New Mexico Bingo and Raffle Act".
History: Laws 2009, ch. 81, § 1.

60-2F-2. Purpose.

The purpose of the New Mexico Bingo and Raffle Act is to authorize and regulate certain games of chance by licensed nonprofit organizations.

History: Laws 2009, ch. 81, § 2.

60-2F-3. Gaming control board to administer act.

The gaming control board shall implement the state's policy on games of chance consistent with the provisions of the New Mexico Bingo and Raffle Act. It shall fulfill all duties assigned to it pursuant to the New Mexico Bingo and Raffle Act, and it shall have the authority necessary to carry out those duties.

History: Laws 2009, ch. 81, § 3.

60-2F-4. Definitions.

As used in the New Mexico Bingo and Raffle Act:

A. "bingo" means a game of chance in which each player has one or more bingo cards printed with different numbers on which to place markers when the respective numbers are drawn and announced by a bingo caller;

B. "bingo caller" means the individual who, in the game of bingo, draws and announces numbers;

C. "bingo employee" means a person connected directly with a game of chance such as cashiers, floor sales clerks and pull-tab workers. A bingo employee may or may not be a member of a qualified organization;

D. "bingo manager" means the person responsible for overseeing bingo and pull-tab activities conducted pursuant to a bingo license;

E. "board" means the gaming control board;

F. "charitable organization" means an organization, not for pecuniary profit, that is operated for the relief of poverty, distress or other condition of public concern in New Mexico and that has been granted an exemption from federal income tax as an organization described in Section 501(c) of the United States Internal Revenue Code of 1986, as amended or renumbered;

G. "chartered branch, lodge or chapter of a national or state organization" means a branch, lodge or chapter that is a civic or service organization, not for pecuniary profit, and that is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose in New Mexico;

H. "distributor" means a person, other than a manufacturer, who provides equipment to a qualified organization but does not manufacture the equipment;

I. "educational organization" means an organization within the state, including recognized student organizations, not organized for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction;

J. "environmental organization" means an organization within the state, not organized for pecuniary profit, that is primarily concerned with the protection and preservation of the natural environment;

K. "equipment" means:

- (1) with respect to bingo:
 - (a) the receptacle and numbered objects drawn from it;
 - (b) the master board upon which the numbered objects are placed as drawn;
 - (c) the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them;
 - (d) the board or signs, however operated, used to announce or display the numbers or designations as they are drawn; and
 - (e) all other articles having a significant effect on the outcome of a game and necessary to the operation, conduct and playing of bingo; and

- (2) with respect to pull-tabs:
 - (a) the pull-tabs;
 - (b) the pull-tab flares; and
 - (c) the dispensing machines;

L. "fraternal organization" means an organization within the state, not for pecuniary profit, that is a branch, lodge or chapter of a national or state organization and that exists for the common business, brotherhood or other interests of its members;

M. "game accountant" means the individual in charge of preparing and submitting the quarterly report form;

N. "game of chance" means that specific kind of game of chance commonly known as bingo, that specific kind of game of chance commonly known as a raffle or that specific game of chance commonly known as pull-tab;

O. "gross receipts" means proceeds received by a bingo licensee from the sale of bingo cards, raffle tickets or pull-tab tickets; the sale of rights in any manner connected with participation in a game of chance or the right to participate in a game of chance, including any admission fee or charge; the sale of playing materials; and all other miscellaneous receipts;

P. "lawful purposes" means:

(1) educational, charitable, patriotic, religious or public-spirited purposes that benefit an indefinite number of persons either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them in establishing themselves in life, by erecting or maintaining public buildings or works, by providing legal assistance to peace officers or firefighters in defending civil or criminal actions arising out of the performance of their duties or by otherwise lessening the burden of government. "Lawful purposes" includes the erection, acquisition, improvement, maintenance, insurance or repair of property, real, personal or mixed, if the property is used for one or more of the benefits stated in this paragraph; or

(2) augmenting the revenue of and promoting the New Mexico state fair;

Q. "licensee" means any qualified organization to which a bingo license has been issued by the board or any person to which a manufacturer's or distributor's license has been issued by the board;

R. "manufacturer" means a person who manufactures, fabricates, assembles, produces, programs or makes modifications to equipment for use or play in games of chance in New Mexico or for sale or distribution outside of New Mexico;

S. "occasion" means a single gathering at which a series of successive bingo games are played;

T. "permittee" means any person issued a permit by the board;

U. "premises" means a room, hall, enclosure or outdoor area that is identified on a license issued pursuant to the New Mexico Bingo and Raffle Act and used for the purpose of playing games of bingo or pull-tabs;

V. "prize" means cash or merchandise won for participation in a game of chance;

W. "progressive pot" means a prize from a pull-tab or a portion of a prize from a pull-tab that is allowed to carry over from one pull-tab game to the next so that the carried-over prizes are allowed to accumulate into a larger prize;

X. "pull-tab" means gaming pieces used in a game of chance that are made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses or a gaming piece that is made completely of paper or paper products with an instant-win component that must be exposed by the player on a concealed card and can be used in a speed round for additional winnings utilizing a bingo blower. A "pull-tab" includes a tip board and can include a progressive pot;

Y. "qualified organization" means a bona fide chartered branch, lodge or chapter of a national or state organization or any bona fide religious, charitable, environmental, fraternal, educational or veterans' organization operating without profit to its members that has been in existence in New Mexico continuously for a period of two years immediately prior to conducting a raffle or making an application for a license under the New Mexico Bingo and Raffle Act and that has had a membership engaged in carrying out the objects of the corporation or organization. A voluntary firefighter's organization is a qualified organization and a labor organization is a qualified organization for the purposes of the New Mexico Bingo and Raffle Act if they use the proceeds from a game of chance solely for scholarship or charitable purposes;

Z. "raffle" means a drawing where multiple persons buy tickets to win a prize and the winner is determined by the drawing of the ticket stub out of a container that holds all the ticket stubs sold for the event;

AA. "religious organization" means an organization, church, body of communicants or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place; and

BB. "veterans' organization" means an organization within the state or any branch, lodge or chapter of a national or state organization within this state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States.

History: Laws 2009, ch. 81, § 4; 2011, ch. 73, § 1.

60-2F-5. Application of act.

The New Mexico Bingo and Raffle Act applies to:

A. unless exempted pursuant to Section 26 [60-2F-26 NMSA 1978] of that act, qualified organizations that conduct games of chance and the games of chance conducted by the qualified organizations;

B. persons who provide equipment to qualified organizations for use or play of games of chance in New Mexico; and

C. persons who manufacture, fabricate, assemble, produce, program or make modifications to equipment for use or play of games of chance in New Mexico or for sale or distribution outside of New Mexico.

History: Laws 2009, ch. 81, § 5.

60-2F-6. Board; powers.

The board may:

A. grant, deny, suspend, condition or revoke licenses or permits issued pursuant to the New Mexico Bingo and Raffle Act, establish the terms for each classification of license to be issued pursuant to that act and set fees for submitting an application for a license;

B. compel the production of documents, books and tangible items, including documents showing the receipts and disbursements of a licensee;

C. investigate the operations of a licensee and place a designated representative on the premises for the purpose of observing compliance with the New Mexico Bingo and Raffle Act and rules or orders of the board;

D. summon witnesses;

E. take testimony under oath for the effective discharge of the board's authority;

F. appoint a hearing officer to conduct hearings required by the New Mexico Bingo and Raffle Act or rules adopted pursuant to that act;

G. make rules to hold, conduct and operate all games of chance held in the state except those specifically exempted under the New Mexico Bingo and Raffle Act;

H. adopt rules to implement the New Mexico Bingo and Raffle Act and to ensure that games of chance conducted in New Mexico are conducted with fairness and that the participants and patrons are protected against illegal practices on any premises;

I. determine qualifications for licensees;

J. establish a system of standard operating procedures for licensees;

K. adopt rules establishing a system of licensing distributors and manufacturers and licensing and governing qualified organizations;

L. adopt rules establishing a system of permits for individuals designated as bingo managers, bingo callers and such other bingo employees as the board requires;

M. require a statement under oath by the applicant for a license to be issued pursuant to the New Mexico Bingo and Raffle Act that the information on the application is true;

N. inspect any games of chance being conducted;

O. make on-site inspections of premises where games of chance are being held;

P. inspect all equipment used for games of chance;

Q. regulate the monetary value of prizes to be awarded for games of chance;

R. require disclosure of information sufficient to make a determination of the suitability of an applicant for a license or permit to be issued pursuant to the New Mexico Bingo and Raffle Act;

S. adopt and enforce all rules necessary to implement and administer the provisions of the New Mexico Bingo and Raffle Act; and

T. provide an annual report to the governor regarding the board's administration of the New Mexico Bingo and Raffle Act.

History: Laws 2009, ch. 81, § 6.

60-2F-7. Organizations eligible for bingo licenses.

A. Any qualified organization is eligible to apply for a bingo license to be issued by the board under the New Mexico Bingo and Raffle Act.

B. The New Mexico state fair:

(1) may apply to the board for and shall be issued a bingo license pursuant to the New Mexico Bingo and Raffle Act to conduct games of chance on the grounds of the New Mexico state fair during the state fair; and

(2) shall pay a licensing fee to the board of one hundred dollars (\$100) per calendar year at the time of application for or renewal of a license issued pursuant to the New Mexico Bingo and Raffle Act.

C. A qualified organization may conduct a raffle on the grounds of the New Mexico state fair during the state fair only after obtaining express prior approval of the state fair commission and the board.

History: Laws 2009, ch. 81, § 7.

60-2F-8. Classifications of licenses and permits.

A. The board shall establish and may issue the following categories of licenses:

- (1) bingo license;
- (2) distributor's license; and
- (3) manufacturer's license.

B. The board shall establish and may issue permits for the following employees:

- (1) bingo manager;
- (2) bingo caller; and
- (3) any other bingo employee position for which the board, by rule, requires a permit.

History: Laws 2009, ch. 81, § 8.

60-2F-9. Disclosure of background information.

A. The board may require an applicant for a license or permit to be issued pursuant to the New Mexico Bingo and Raffle Act to disclose information sufficient for the board to make a determination as to the applicant's suitability. The board may adopt rules to coordinate the manner in which the information is produced.

B. An applicant shall provide all of the information required by the board.

C. The cost of a background investigation, not to exceed one hundred dollars (\$100), shall be paid by the applicant.

History: Laws 2009, ch. 81, § 9.

60-2F-10. Application for licenses or permits.

A. Each applicant for a license or permit to be issued under the New Mexico Bingo and Raffle Act shall file with the board a written application in the form prescribed by the board, duly executed and verified and containing:

- (1) the name and address of the applicant;
- (2) if not an individual, sufficient facts relating to its incorporation or organization to enable the board to determine whether or not the applicant is qualified and the names and addresses of its officers, members of the board of directors and managers;
- (3) such other information deemed necessary by the board to ensure that the applicant complies with the provisions of the New Mexico Bingo and Raffle Act and rules adopted pursuant to that act; and

(4) an affirmation signed by the applicant or the applicant's agent that the information contained in the application is true and accurate. The application shall be signed by the applicant or the applicant's agent, and the signature shall be notarized.

B. In addition to the requirements of Subsection A of this section, each applicant for a bingo license shall provide the board with the following:

(1) the names of the bingo manager, the bingo caller and the game accountant, and a statement from those persons that they shall be responsible for the holding, operation and conduct of games of chance in accordance with the terms of the license and the provisions of the New Mexico Bingo and Raffle Act;

(2) sufficient facts relating to the organization to enable the board to determine whether or not it is a qualified organization;

(3) the exact location at which the applicant will conduct bingo and pull-tabs;

(4) the specific kind of games of chance intended to be conducted; and

(5) whether the premises are owned or leased and, if leased, the name and address of the fee owner of the land or, if the owner is a corporation, the names of the directors and members of the board of directors.

C. The failure to accurately and truthfully provide the information required in Subsection A or B of this section is a violation of the New Mexico Bingo and Raffle Act and shall subject the applicant to the provisions of Sections 14 [60-2F-14 NMSA 1978], 23 [60-2F-23 NMSA 1978] and 25 [60-2F-25 NMSA 1978] of that act.

History: Laws 2009, ch. 81, § 10.

60-2F-11. Standards for granting a license or permit.

A. An application for a bingo license shall not be granted unless the applicant is a qualified organization and is authorized to do business in New Mexico.

B. An application for a manufacturer's license or a distributor's license shall not be granted unless the applicant is qualified to do business in New Mexico.

C. An application for a permit shall not be granted if the applicant has been convicted of a felony offense or a violation of the New Mexico Bingo and Raffle Act within ten years of the date of application.

D. The board may establish by rule additional qualifications for a licensee or permittee as it deems in the public interest.

History: Laws 2009, ch. 81, § 11.

60-2F-12. Licenses and permits; specific requirements.

A. A license issued pursuant to the New Mexico Bingo and Raffle Act shall be valid for three years and may be renewed for successive three-year terms.

B. A permit issued pursuant to the New Mexico Bingo and Raffle Act shall be valid for three years from the date of issuance and may be renewed for successive three-year terms.

C. A license or permit or a renewal of a license or permit is not transferable.

History: Laws 2009, ch. 81, § 12.

60-2F-13. Fees for licenses and permits; disposition of revenue.

A. Fees for licenses and permits issued pursuant to the New Mexico Bingo and Raffle Act shall be established by board rule but shall not exceed the following amounts:

(1) bingo license, five hundred dollars (\$500) for the initial license and five hundred dollars (\$500) for each renewal;

(2) manufacturer's license, five hundred dollars (\$500) for the initial license and five hundred dollars (\$500) for each renewal;

(3) distributor's license, five hundred dollars (\$500) for the initial license and five hundred dollars (\$500) for each renewal; and

(4) permit, seventy-five dollars (\$75.00) for the initial permit and seventy-five dollars (\$75.00) for each renewal.

B. All administrative receipts, including license and permit fees, collected pursuant to the New Mexico Bingo and Raffle Act shall be deposited in the general fund.

History: Laws 2009, ch. 81, § 13.

60-2F-14. Forfeiture of license; ineligibility to apply for license or permit.

Any person who makes a material false statement in an application for a license or permit to be issued pursuant to the New Mexico Bingo and Raffle Act or in any statement submitted with the application, fails to keep sufficient books and records to substantiate the quarterly reports required under Section 19 [60-2F-19 NMSA 1978] of the New Mexico Bingo and Raffle Act, falsifies any books or records insofar as they relate to a transaction connected with the holding, operating and conducting of a game of chance under any such license or permit or violates any of the provisions of the New Mexico Bingo and Raffle Act or of any term of the license or permit, in addition to any other criminal or civil penalties that may be imposed, may, at the option of the board, be required to forfeit any license issued under that act and be ineligible to apply for a license under that act for at least one year thereafter.

History: Laws 2009, ch. 81, § 14

60-2F-15. Persons permitted to conduct bingo and pull-tab games; premises.

A. The officers of a bingo licensee shall designate a bingo manager to be in charge and primarily responsible for the conduct of all games of bingo and pull-tabs. The bingo manager shall supervise all activities on the occasion for which the bingo manager is in charge. The bingo manager shall be familiar with the provisions of the state laws, the rules of the board and the provisions of the bingo license. The bingo manager shall be present on the premises continuously during the games and for a period of at least thirty minutes after the last game.

B. The bingo manager shall designate a game accountant to be primarily responsible for the proper preparation of the quarterly reports in accordance [with] the New Mexico Bingo and Raffle Act.

C. For a bingo game, the bingo manager shall designate a bingo caller to be responsible for drawing and announcing the bingo numbers.

D. The premises where any game of chance is being held, operated or conducted or where it is intended that any equipment be used shall at all times be open to inspection by the board and its agents and employees and by peace officers of the state or any political subdivision of the state.

E. No owner or co-owner of the premises or, if a corporation is the owner of the premises, any officer, director or stockholder owning more than ten percent of the outstanding stock shall be designated as a bingo manager, a game accountant or a bingo caller.

History: Laws 2009, ch. 81, § 15.

60-2F-16. Display of license.

Each license issued pursuant to the New Mexico Bingo and Raffle Act shall contain a statement of the name and address of the licensee, date of issuance and date of expiration. Any

such license issued for the conduct of any games of bingo or pull-tab shall be conspicuously displayed at the place where the games are to be conducted.

History: Laws 2009, ch. 81, § 16.

60-2F-17. Equipment.

A. No bingo or pull-tab game shall be conducted with any equipment except that which is purchased or leased from a licensed distributor or manufacturer or another bingo licensee.

B. The equipment used in the playing of a bingo or pull-tab game and the method of play shall be such that each bingo card or pull-tab has an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection.

C. Electronic bingo machines and video pull-tabs are not authorized for use on the premises.

History: Laws 2009, ch. 81, § 17.

60-2F-18. Conduct of games of chance.

A. For games of bingo:

(1) a bingo licensee may hold, operate or conduct no more than two hundred sixty occasions in any twelve-month period;

(2) occasions shall not be conducted more than six times in any one calendar week, with no occasion lasting more than four hours and not more than three occasions conducted in one calendar day by any one licensee;

(3) when any merchandise prize is awarded in a bingo game, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash;

(4) the aggregate amount of all prizes offered or given in all bingo games played on a single occasion shall not exceed two thousand five hundred dollars (\$2,500), exclusive of pull-tabs, raffles and door prizes;

(5) all objects or balls to be used in a game shall be present in the receptacle before the game is begun. All numbers announced shall be plainly and clearly audible to all the players present. Where more than one room is used for any one game, the receptacle and the bingo caller shall be present in the room where the greatest number of players are present, and all numbers announced shall be plainly audible to the players in that room and also audible to the players in the other rooms;

(6) the receptacle and the bingo caller who removes the objects or balls from the receptacle shall be visible to all the players at all times except where more than one room is used for any one game, in which case the provisions of Paragraph (5) of this subsection shall prevail;

(7) the particular arrangement of numbers required to be covered in order to win the game and the amount of the prize shall be clearly and audibly described and announced to the players immediately before each game is begun;

(8) any player is entitled to call for a verification of all numbers drawn at the time a winner is determined and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the bingo manager; and

(9) no person who is not physically present on the premises where the game is actually conducted shall be allowed to participate as a player in the game.

B. For a raffle:

- (1) all raffle tickets sold shall be represented in the container from which the winner is drawn;
- (2) the drawing shall be open to the public;
- (3) each raffle ticket shall display all information as directed by the board; and
- (4) when any merchandise prize is awarded in a raffle, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash.

C. For games of pull-tabs:

- (1) pull-tabs shall be sold only on the premises;
- (2) winners shall be paid only on the premises; and
- (3) when any merchandise prize is awarded in a pull-tab game, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash.

History: Laws 2009, ch. 81, § 18.

60-2F-19. Quarterly reports required; accounting requirements.

A. On or before April 25, July 25, October 25 and January 25, the game accountant shall file with the board, upon forms prescribed by the board, a duly verified statement covering the preceding calendar quarter showing the amount of the gross receipts derived during that period from games of chance, the total amount of prizes paid, the name and address of each person to whom has been paid six hundred dollars (\$600) or more and the purpose of the expenditure, the gross receipts derived from each game of chance and the uses to which the net proceeds have been or are to be applied. It is the duty of each bingo licensee to maintain and keep the books and records necessary to substantiate the particulars of each report.

B. If a bingo licensee fails to file reports within the time required or if the reports are not properly verified or not fully, accurately and truthfully completed, the licensee is subject to disciplinary action, including a suspension, until the default has been corrected.

C. All money collected or received from the sale of admission, extra regular cards, special game cards, sale of supplies and all other receipts from the games of chance shall be deposited in a bingo and raffle operating account of the bingo licensee that shall contain only such money. All expenses for the game shall be withdrawn from the account by consecutively numbered checks duly signed by specified officers of the licensee and payable to a specific person or organization. There shall be written on the check the nature of the expense for which the check is drawn.

D. No check shall be drawn to "cash" or a fictitious payee.

E. No portion of any contribution to lawful purposes, after it has been given over to another organization, shall be returned to the donor organization.

History: Laws 2009, ch. 81, § 19.

60-2F-20. Expenses; compensation.

A. No item of expense shall be incurred or paid in connection with the holding, operating or conducting of a game of chance held, operated or conducted pursuant to a bingo license except bona fide expenses in reasonable amounts for goods, wares and merchandise furnished or services rendered reasonably necessary for the holding, operating or conducting of a game of chance. Bona fide expenses include expenditures for payroll, building and equipment rent, utilities, security, janitorial supplies, office supplies, equipment, insurance, bank charges,

automated teller machine fees, legal fees, advertising, accounting fees, state and federal payroll-related taxes, state and federal gaming-related taxes and all other reasonable expenses necessary for the operation of games of chance.

B. A qualified organization desiring to retain the receipts derived from games of chance in the bingo and raffle operating account and for a period longer than one year shall apply to the board for special permission and, upon good cause shown, the board shall grant the request.

History: Laws 2009, ch. 81, § 20.

60-2F-21. Tax imposition.

A. A bingo and raffle tax equal to one-half percent of the gross receipts of any game of chance held, operated or conducted for or by a qualified organization shall be imposed on the qualified organization.

B. No other state or local gross receipts tax shall apply to a qualified organization's receipts generated by a game of chance authorized by the New Mexico Bingo and Raffle Act.

C. The tax imposed pursuant to this section shall be submitted quarterly to the taxation and revenue department on or before April 25, July 25, October 25 and January 25.

D. The taxation and revenue department shall administer the tax imposed in this section pursuant to the Tax Administration Act [7-1-1 NMSA 1978].

History: Laws 2009, ch. 81, § 21.

60-2F-22. Violation of act.

A. Unless exempted pursuant to Section 26 [60-2F-26 NMSA 1978] of the New Mexico Bingo and Raffle Act, it is a violation of that act for a qualified organization to hold a game of bingo or pull-tabs for profit or gain in any manner unless the person has been issued a bingo license by the board and has been authorized by the board to hold the game of chance.

B. It is a violation of the New Mexico Bingo and Raffle Act for a person who does not manufacture, fabricate, assemble, produce, program or make modifications to equipment to provide equipment to a qualified organization for use or play of games of chance in New Mexico unless the person has been issued a distributor's license pursuant to that act.

C. It is a violation of the New Mexico Bingo and Raffle Act for a person to manufacture, fabricate, assemble, produce, program or make modifications to equipment for use or play of games of chance in New Mexico or for sale or distribution outside of New Mexico unless the person has been issued a manufacturer's license pursuant to that act.

D. It is a violation of the New Mexico Bingo and Raffle Act for a person to act as a bingo manager, a bingo caller or any other bingo employee position for which the board, by rule, requires a permit unless the person has been issued a permit pursuant to that act.

History: Laws 2009, ch. 81, § 22.

60-2F-23. Enforcement hearings.

A. A license or permit shall not be revoked or suspended without just cause.

B. The board shall make appropriate investigations to:

(1) determine whether there has been any violation of the New Mexico Bingo and Raffle Act or of any regulations adopted pursuant to that act;

(2) determine any facts, conditions, practices or matters that it deems necessary or proper to aid in the enforcement of the New Mexico Bingo and Raffle Act or regulations adopted pursuant to that act; or

(3) aid in adopting regulations.

C. If after an investigation the board is satisfied that a license or permit issued pursuant to the New Mexico Bingo and Raffle Act or prior approval by the board of any transaction for which approval was required by the provisions of the New Mexico Bingo and Raffle Act should be limited, conditioned, suspended or revoked, or that a fine should be levied, the board shall initiate a hearing by filing a complaint and transmitting a copy of it to the licensee or permittee, together with a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the board. The complaint shall be a written statement of charges that sets forth in ordinary and concise language the acts or omissions with which the respondent is charged. It shall specify the statutes or regulations that the respondent is alleged to have violated but shall not consist merely of charges raised in the language of the statutes or regulations.

D. The respondent shall file an answer within thirty days after service of the complaint.

E. Upon filing the complaint, the board shall appoint a hearing examiner to conduct further proceedings.

F. The hearing examiner shall conduct proceedings in accordance with the New Mexico Bingo and Raffle Act and the regulations adopted by the board. At the conclusion of the proceedings, the hearing examiner may recommend that the board take any appropriate action, including revocation, suspension, limitation or conditioning of a license or permit issued pursuant to the New Mexico Bingo and Raffle Act or the imposition of a fine not to exceed one thousand dollars (\$1,000) for each violation or any combination of the foregoing actions.

G. The hearing examiner shall prepare a written decision containing the hearing examiner's recommendation to the board and shall serve it on all parties.

H. The board shall by a majority vote accept, reject or modify the recommendation.

I. If the board limits, conditions, suspends or revokes any license or permit issued pursuant to the New Mexico Bingo and Raffle Act or limits, conditions, suspends or revokes any prior approval or imposes any fine, it shall issue a written order specifying its action.

J. The board's order is effective on the date issued and continues in effect unless reversed upon judicial review, except that the board may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

History: Laws 2009, ch. 81, § 23.

60-2F-24. Appeals.

A. The decision of the board in denying, suspending or revoking any license or permit issued pursuant to the New Mexico Bingo and Raffle Act or imposing any fine shall be subject to review. A licensee or permittee aggrieved by a decision of the board may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. No proceeding to vacate, reverse or modify any final order rendered by the board shall operate to stay the execution or effect of any final order unless the district court, on application and three days' notice to the board, allows the stay. In the event a stay is ordered, the petitioner shall be required to execute the petitioner's bond in a sum the court may prescribe, with sufficient surety to be approved by the judge or clerk of the court, which bond shall be conditioned upon the faithful performance by the petitioner of the petitioner's obligation as a licensee or permittee

and upon the prompt payment of all damages arising from or caused by the delay in the taking effect or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with the proceedings.

History: Laws 2009, ch. 81, § 24.

60-2F-25. Duty to enforce act; criminal penalties.

A. It is the duty of all law enforcement officers to enforce the provisions of the New Mexico Bingo and Raffle Act. It is the duty of the district attorney of the county in which a violation is committed to prosecute such violation of that act in the manner and form as is now provided by law for the prosecutions of crimes and misdemeanors.

B. A licensee, a permittee or an officer, agent or employee of a licensee or any other person who willfully violates or who procures, aids or abets in the willful violation of the New Mexico Bingo and Raffle Act is guilty of a misdemeanor and, upon conviction thereof:

(1) for a first offense, shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six months, or both; or

(2) for a subsequent offense, shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500) or by imprisonment for not more than one year, or both.

History: Laws 2009, ch. 81, § 25.

60-2F-26. Exemptions.

A. Except as provided in Subsection B of this section, nothing in the New Mexico Bingo and Raffle Act shall be construed to apply to:

(1) a drawing or a prize at a fair or fiesta held in New Mexico under the sponsorship or authority of the state or any of its political subdivisions, or for the benefit of a religious organization situated in this state or for charitable purposes when all the proceeds of the sale or drawing shall be expended within New Mexico for the benefit of that political subdivision, religious organization or charitable purpose; or

(2) a bingo or a raffle held by a qualified organization that holds no more than one bingo occasion or one raffle in any three consecutive calendar months and not exceeding four occasions in one calendar year.

B. Notwithstanding the provisions of Subsection A of this section, no raffle with an individual prize exceeding seventy-five thousand dollars (\$75,000) shall be held without a ten-day prior notification to the board of the conduct of the event and a subsequent notification to the board of the names, addresses and phone numbers of all prize winners.

C. Nothing in the New Mexico Bingo and Raffle Act shall be construed to apply to a lottery established and operated pursuant to the New Mexico Lottery Act [6-24-1 NMSA 1978] or gaming that is licensed and operated pursuant to the Gaming Control Act [60-2E-1 NMSA 1978].

History: Laws 2009, ch. 81, § 26.