

# House Bill 2986

Sponsored by Representative BURLEY

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes charitable, fraternal or religious organization licensed to conduct bingo, lotto, raffle or Monte Carlo event to use independent contractor in conducting event. Eliminates maximum limits on compensation paid to employee or independent contractor involved in conducting gaming event for licensed organization.

## A BILL FOR AN ACT

1  
2 Relating to gaming events conducted by tax-exempt organizations; amending ORS 167.118, 464.250,  
3 464.310 and 464.390.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 167.118 is amended to read:

6 167.118. (1) When a charitable, fraternal or religious organization is licensed by the Department  
7 of Justice to conduct bingo, lotto or raffle games or Monte Carlo events, only the organization itself  
8 or an employee **or independent contractor** thereof authorized by the department shall receive  
9 money or property or otherwise directly profit from the operation of the games, except that:

10 (a) The organization operating the games may present a prize of money or other property to any  
11 player not involved in the administration or management of the games.

12 (b) An organization licensed to conduct Monte Carlo events may contract with a licensed sup-  
13 plier of Monte Carlo event equipment to operate the event, including the provision of equipment,  
14 supplies and personnel, provided that the licensed supplier is paid a fixed fee to conduct the event  
15 and the imitation money is sold to players by employees or volunteers of the licensed charitable,  
16 fraternal or religious organization.

17 (c) A person may sell, rent or lease equipment, including electronic equipment, proprietary  
18 computer software and real property to a licensed charitable, fraternal or religious organization.  
19 Rent or lease payments must be made in compliance with the provisions of ORS 464.510.

20 (d) An organization licensed by the department may act as an escrow agent to receive money  
21 or property to be awarded as prizes.

22 (2) A charitable, fraternal or religious organization may not operate bingo, lotto or raffle games  
23 or Monte Carlo events except at such locations and upon such days and for such periods of time  
24 as the department authorizes pursuant to this section and ORS 464.250 to 464.380, 464.420 and  
25 464.450 to 464.530.

26 (3)(a) An organization licensed by the department to operate bingo or lotto games may not  
27 award a prize exceeding \$2,500 in value in any one game. An organization licensed by the depart-  
28 ment to operate a Monte Carlo event may not present any prize of money, or a cash equivalent, to  
29 any player.

30 (b) Notwithstanding any provision of this chapter to the contrary, a bingo licensee may operate

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 two games per year with a prize not to exceed \$10,000 per game and, if approved by the department,  
 2 may also participate in a linked progressive game involving only Oregon licensees, without regard  
 3 to the number of games or the size of the prize awarded.

4 (4) Each charitable, fraternal or religious organization that maintains, conducts or operates any  
 5 bingo, lotto or raffle game or Monte Carlo event under license of the department must operate such  
 6 games in accordance with rules adopted by the department.

7 (5) It is unlawful for a licensee to permit the operating expenses of the games to exceed 18  
 8 percent of the annual handle of its bingo, lotto and raffle operation.

9 (6) It is unlawful for a charitable, fraternal or religious organization licensed by the department  
 10 to operate bingo, lotto or raffle games if:

11 (a) The handle of the games and events exceeds \$250,000 in a year; and

12 (b) The games and events do not generate for the organization's purposes, after the cost of prizes  
 13 and operating expenses are deducted from the handle, an amount that equals or exceeds five percent  
 14 of the handle.

15 **SECTION 2.** ORS 464.250 is amended to read:

16 464.250. (1) The Department of Justice has the following powers and duties relating to the reg-  
 17 ulation of bingo, lotto or raffle games or Monte Carlo events:

18 (a) To authorize and regulate the operation of bingo, lotto and raffle games and Monte Carlo  
 19 events permitted under ORS 167.117 and to adopt rules in accordance with applicable provisions of  
 20 ORS chapter 183 for the performance of the department's duties.

21 (b) To issue and renew licenses and permits for operation of bingo, lotto and raffle games and  
 22 Monte Carlo events, including the manufacturers and suppliers of equipment and supplies necessary  
 23 for the operation of such activities and escrow agents holding money or property to be awarded as  
 24 a prize, and to adopt license and permit fees. Licenses and permits are valid for a period of one year  
 25 unless renewed. The department shall set fees at an amount sufficient to cover all costs incurred  
 26 by the department in its activities. License fees consist of an initial payment, which shall be in an  
 27 amount established by rule, prior to issuance or renewal of the license, together with a monthly  
 28 payment constituting a percentage of the licensee's monthly gross income from the operation each  
 29 month thereafter. An applicant for a license or a permit shall submit with the application a sum  
 30 adequate to pay the required initial fee payment. If the application is later withdrawn by the appli-  
 31 cant or if it is denied by the department, the department shall retain the portion of the amount  
 32 submitted to it that will pay the reasonable costs expended for processing and investigating the  
 33 application. In a particular case, if the fee adopted by the department is less than the actual ex-  
 34 penses of the department to investigate that particular application, the department may charge to  
 35 that particular applicant an additional fee to repay the department for those costs. The department  
 36 may refuse to proceed with its investigation or to issue a license until the department has been fully  
 37 paid for those costs. The department shall create at least two classes of licenses for each activity  
 38 regulated under this section. The licensing and operational requirements for licensees and the extent  
 39 to which background checks are conducted under paragraph (d)(B) of this subsection shall be  
 40 commensurate with the size of the licensee's bingo, lotto, raffle or Monte Carlo event operations.  
 41 The department shall adopt rules exempting from licensing any organization that would otherwise  
 42 qualify for a license and that is engaged in minimal bingo, lotto or Monte Carlo event activity.

43 (c) To prescribe the manner and method of payment of all moneys to be paid to or collected by  
 44 the department.

45 (d) To adopt requirements as to what information an applicant must provide to the department.

1 However, each license applicant must provide, and the department shall require, the names and ad-  
2 dresses of all persons having a management or ownership interest in the bingo, lotto, raffle or Monte  
3 Carlo event operation or in the premises on which the operation is conducted and the names and  
4 addresses of all officers and directors of the applicant organization. The department shall also re-  
5 quire the names and addresses of all persons employed in bingo, lotto, raffle or Monte Carlo event  
6 operations. The following apply to applications under this paragraph:

7 (A) An applicant shall certify, under oath, that the persons named on the application are all of  
8 the persons known by the applicant to have an interest in the bingo, lotto, raffle or Monte Carlo  
9 event operation or the premises on which the operation is conducted including all officers and di-  
10 rectors of the applicant organization.

11 (B) The department may require fingerprints, a photograph, a handwriting sample and back-  
12 ground checks, including state and nationwide criminal records checks under ORS 181.534, on any  
13 person seeking a license from it or any person holding an interest in any bingo, lotto, raffle or  
14 Monte Carlo event operation or in the premises on which it is conducted. The department may also  
15 require fingerprints or background checks, including state and nationwide criminal records checks  
16 under ORS 181.534, of any manager or other employee of such a bingo, lotto, raffle or Monte Carlo  
17 event operation.

18 (e) To adopt record keeping requirements for licensees of the department and the submission of  
19 reports to the department as the department determines necessary. The department may require  
20 licensees to record and report income from bingo, lotto, raffle, Monte Carlo events, concessions and  
21 other related operations, the amounts received from each player, the costs and expenses of oper-  
22 ations, the nature and value of prizes and the fact of distribution of such prizes to the winners  
23 thereof. The department may adopt internal financial and inventory control requirements under this  
24 paragraph that are based on and commensurate with the size of a licensee's bingo, lotto, raffle or  
25 Monte Carlo event operations.

26 (f) To regulate and establish maximum limits on income derived by licensees from bingo, lotto,  
27 raffles or Monte Carlo events. However, in establishing limits, the department shall take into ac-  
28 count:

29 (A) The nature, character and scope of the activities of the licensee;

30 (B) The sources of other income to the licensee; and

31 (C) The percentage or extent to which income derived from bingo, lotto, raffles or Monte Carlo  
32 events is used for charitable purposes, as distinguished from nonprofit purposes other than charity.

33 (g) To regulate the manner of operation of bingo, lotto and raffle games and Monte Carlo events  
34 conducted by licensees, including the approval of which games may be played and the equipment to  
35 be used. The department shall regulate the types of equipment, rules and methods of play to ensure  
36 the integrity and fairness of the games.

37 (h) To cooperate with state and local law enforcement agencies in investigating matters within  
38 the scope of the department's duties and responsibilities.

39 *[(i) To establish maximum limits on compensation paid to persons employed by charitable, fraternal*  
40 *or religious licensees, for the purpose of conducting licensed games, not to exceed 200 percent of the*  
41 *federal minimum wage standard, or in the case of a person who supervises a bingo, lotto, raffle or*  
42 *Monte Carlo event operation for a charitable, fraternal or religious organization and is subject to the*  
43 *limitations of ORS 464.340, 300 percent of the federal minimum wage standard, and to establish max-*  
44 *imum limits for other expenses connected with such operations. In establishing these limits, the de-*  
45 *partment shall consider the amount of income received, or expected to be received, by the organization*

1 *from the bingo, lotto, raffle, Monte Carlo events, concessions and other related operations and the*  
 2 *amount of money the operation could generate for the organization's purposes absent such expenses.*  
 3 *The department may also take into account other factors, including but not limited to whether charita-*  
 4 *ble purposes are benefited by the activities.]*

5 (2) The department may not require persons working as volunteers in a bingo, lotto, raffle or  
 6 Monte Carlo event operation conducted by a bona fide charitable, fraternal or religious organization  
 7 to obtain permits for such work if the persons do not receive compensation of any kind from the  
 8 organization other than reimbursement for actual or reasonable expenses, or have any managerial  
 9 or supervisory responsibility in connection with it. The department may require that bingo, lotto,  
 10 raffle and Monte Carlo event operators employing unlicensed volunteers submit to the department  
 11 periodically the names, addresses and dates of birth of the volunteers. The department may adopt  
 12 reasonable character standards for volunteers, and if a volunteer does not meet the standards, the  
 13 department may require that the licensee not allow the volunteer to work for the licensee.

14 (3) Subject to ORS 167.118, the department by rule may establish value limits for prizes awarded  
 15 at bingo, lotto or raffle games or Monte Carlo events and may regulate or prohibit the giving to  
 16 patrons of any other thing of value to promote attendance at the games.

17 (4) The department by rule may establish a maximum amount that a person may wager at a  
 18 Monte Carlo event.

19 **SECTION 3.** ORS 464.310 is amended to read:

20 464.310. (1) A licensee of the Department of Justice under ORS 167.117 and 167.118 and this  
 21 chapter, or an applicant for a license under ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to  
 22 464.530, without approval of the department, shall not knowingly permit any person to participate  
 23 in the management or operation of any bingo, lotto or raffle game or Monte Carlo event for which  
 24 a license from the department is required if that person:

25 (a) Has been convicted of or forfeited bond upon, or has been granted diversion upon a charge  
 26 involving forgery, theft, willful failure to make required payments or reports to a government agency  
 27 at any level, or filing false reports to such an agency, or of any similar offense, or of bribing or  
 28 otherwise unlawfully influencing a public official or employee of any state or the United States, or  
 29 of any crime, whether a felony or a misdemeanor, involving any gambling activity or physical injury  
 30 to any person, or involving moral turpitude; or

31 (b) Has violated, failed to comply with, or refused to comply with provisions, requirements,  
 32 conditions, limitations or duties imposed by ORS 167.118, 464.250 to 464.380, 464.420 and 464.450 to  
 33 464.530 or the rules of the department.

34 (2) No person other than a member [*or*], employee **or independent contractor** of a licensed  
 35 organization, or any other person authorized under the rules of the Department of Justice, may  
 36 participate in the management or operation of a licensed bingo, lotto, raffle or Monte Carlo event  
 37 operation. No person who participates in the management or operation of any such bingo, lotto,  
 38 raffle, Monte Carlo event, concession or related operation may concurrently participate in the  
 39 management or operation of any other operation unless such participation is approved by the de-  
 40 partment. The department shall adopt rules authorizing concurrent participation on a temporary  
 41 basis in response to emergency circumstances.

42 **SECTION 4.** ORS 464.390 is amended to read:

43 464.390. (1) When the Department of Justice determines that there is a compelling community  
 44 need for the charitable activities funded by a bingo operation, and that funding will be seriously  
 45 reduced by the operation of ORS 167.117 and 167.118 and this chapter, then the department may

1 grant exceptions to ORS [464.250 (1)(i),] 464.340 and 464.350 for any bingo licensee that was operat-  
2 ing a bingo game in January 1987.

3 (2) The department shall review the exceptions granted under this section not less than once  
4 per year, unless the department determines that there has been a material change of circumstances  
5 since the time the exceptions were granted to the licensee, in which case the department shall ini-  
6 tiate an immediate review of the license.

7 (3) The department may not continue an exception to a licensee that otherwise meets the re-  
8 quirements of this section if there has been a material change of circumstances since the time when  
9 the licensee was granted the exception.

10 (4) For purposes of this section, "a material change of circumstances" includes:

11 (a) Failure of the licensee to conduct a bingo game for 18 consecutive months in accordance  
12 with the exceptions previously granted by the department; or

13 (b) Operation by the licensee of its bingo game in a county other than the county in which it  
14 operated its bingo game in January 1987, unless the game remains in the same city.

15 (5)(a) Subject to this section, a bingo licensee may continue to operate a bingo game under the  
16 terms of an exception that was granted under this section prior to October 4, 1997, including but  
17 not limited to any limitation on the annual handle imposed or applicable under the terms of the  
18 exception.

19 (b) On written notice to the department, a licensee may elect to operate a bingo game under  
20 ORS 167.118 without a limitation on the annual handle of the licensee.

21 (c) A licensee that elects to operate a bingo game without a limitation on the annual handle of  
22 the licensee shall comply with ORS 464.350.

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