

2007
SUNSET
REVIEW

Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform

Regulation of Bingo and Games of Chance including the Bingo-Raffle Advisory Board



October 15, 2007

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

Office of Policy, Research and Regulatory Reform

Bruce Harrelson, Director

1560 Broadway, Suite 1550

Denver, CO 80202

Phone: (303) 894-7855

FAX: (303) 894-7885

www.dora.state.co.us/opr



Bill Ritter, Jr.
Governor

D. Rico Munn
Executive Director

October 15, 2007

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The mission of the Department of Regulatory Agencies (DORA) is consumer protection. As a part of the Executive Director's Office within DORA, the Office of Policy, Research and Regulatory Reform seeks to fulfill its statutorily mandated responsibility to conduct sunset reviews with a focus on protecting the health, safety and welfare of all Coloradans.

DORA has completed the evaluation of Colorado's regulation of charitable gaming. I am pleased to submit this written report, which will be the basis for my office's oral testimony before the 2008 legislative committee of reference. The report is submitted pursuant to section 24-34-104(8)(a), of the Colorado Revised Statutes (C.R.S.), which states in part:

The department of regulatory agencies shall conduct an analysis of the performance of each division, board or agency or each function scheduled for termination under this section...

The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination...

The report discusses the question of whether the regulation provided under Article 9 of Title 12, C.R.S., serves to protect the public health, safety or welfare. The report also discusses the effectiveness of the Colorado Secretary of State and staff in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

D. Rico Munn
Executive Director



2007 Sunset Review Regulation of Bingo and Games of Chance including the Bingo-Raffle Advisory Board

Department of Regulatory Agencies

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Executive Summary

Quick Facts

What is Regulated? The Colorado Secretary of State (SOS) licenses and regulates charitable organizations, landlords, suppliers and their agents, and manufacturers and their agents, who are associated with providing games of chance such as bingo, raffles, and pull-tabs.

Who is Regulated? In calendar year 2006 there were 1,422 active licensees, as follows:

- 1,297 Bingo/Raffle Licensees
 - 30 Landlord Licensees
 - 15 Supplier Licensees
 - 35 Supplier Agent Licensees
 - 16 Manufacturer Licensees
 - 29 Manufacturer Agent Licensees

How is it Regulated? The SOS is required by law to provide licensure standards and requirements for prospective licensees. This involves processing and evaluating applications from prospective licensees, administering examinations for games manager positions, enforcing minimum standards of games of chance play as defined by law, and disciplining those in violation of the law. The Bingo-Raffle Advisory Board is not involved in the direct regulation of this industry.

What Does it Cost? The FY 05-06 expenditure to oversee this program was \$806,692, with total revenues of \$775,310. There were 10 full-time equivalent employees associated with this program.

In 2006, license fees consisted of:

Charitable Organizations	\$100
Landlords	\$1,000
Suppliers and Manufacturers	\$600
Agents	\$160

What Disciplinary Activity is There? During the five year period of 2002 - 2006, the disciplinary matters handled by the SOS consisted of:

Complaints Filed	220
Revocations	4
Number of Fines	1,599

Where Do I Get the Full Report? The full sunset review can be found on the internet at:

<http://www.dora.state.co.us/opr/oprpublications.htm>

Key Recommendations

Continue the regulation of bingo and games of chance, and sunset the Colorado Bingo-Raffle Advisory Board (Board). The licensure of charitable organizations, landlords, manufacturers, suppliers, and their agents, benefits all people in Colorado by providing a basic assurance that potential harm to individuals and organizations, is reduced by licensing the entities involved and through general oversight of the industry.

The staff of the SOS performs effectively to license, discipline, and provide guidance to the various categories of licensees. Consequently, as an essential component of the existing regulatory scheme, licensure and regulatory enforcement by the SOS should be continued.

However, the same cannot be said of the Board. The Board functions solely in an advisory capacity. This sunset review found no evidence that the Board served any function that could not just as easily be performed by the SOS's licensing and enforcement divisions, without compromising public protection. Therefore, the Board should be repealed.

Repeal the requirement that Landlord Licensees submit blueprints as a condition of licensure. When bingo was approved in 1958, facilities were frequently inappropriate for large gatherings of bingo players, due mainly to concerns relating to overcrowding and fire hazards. These concerns are addressed today through other government entities, and consequently, facility blueprints no longer need to be submitted to the SOS as a condition of licensure.

Allow Bingo-Raffle (B/R) Licensees to conduct an unlimited number of bingo occasions yearly. Currently, section 12-9-107(7), C.R.S., restricts a B/R Licensee to 158 bingo occasions per calendar year. This number is arbitrary and restrictive to charitable organizations that desire to hold bingo occasions on a more frequent basis. Although, many smaller charitable organizations will not be affected by this recommendation, because they do not have the resources to hold the maximum number of bingo occasions, larger organizations, with a substantial number of volunteers, will be able to benefit financially by increasing the number of bingo occasions that are held.

...Key Recommendations Continued

Repeal the restriction on cash promotional prizes. Licensees may currently offer tangible promotional prizes for the purposes of commercial advertisement, the creation of goodwill, or the promotion of new products or services. Licensees are prohibited from offering promotional prizes in the form of cash. Consequently, a licensee may offer a \$200 television as a promotional prize but not offer \$200 in cash. This restriction is arbitrary and should be repealed.

Major Contacts Made During This Review

Colorado Secretary of State and staff
Colorado Department of Revenue
Colorado Games Manager Training Providers
Representatives of other States' Regulatory Authorities
Colorado Charitable Bingo Association

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether or not they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are Prepared by:
Colorado Department of Regulatory Agencies
Office of Policy, Research and Regulatory Reform
1560 Broadway, Suite 1550, Denver, CO 80202
www.dora.state.co.us/opr

Table of Contents

Background	1
<i>The Sunset Process</i>	1
<i>Methodology</i>	3
<i>Profile of the Profession</i>	4
<i>History of Regulation</i>	10
Legal Framework.....	16
Program Description and Administration	27
<i>Secretary of State Administration</i>	28
<i>Licensing and Certification</i>	28
<i>Complaints/Disciplinary Actions</i>	34
<i>Fees</i>	36
<i>Accounting and Reporting Requirements</i>	37
<i>Inspections</i>	38
Analysis and Recommendations.....	39
<i>Recommendation 1 – Continue regulation of bingo and games of chance by the Secretary of State for nine years, until 2017, and sunset the Colorado Bingo-Raffle Advisory Board.</i>	39
<i>Recommendation 2 – Repeal the requirement that Landlord Licensees submit blueprints of their facilities as a condition of licensure</i>	45
<i>Recommendation 3 – Allow B/R Licensees to conduct an unlimited number of bingo occasions each year</i>	45
<i>Recommendation 4 – Repeal the statutory restriction on cash promotional prizes</i> ...	46
Appendix A – Sunset Statutory Evaluation Criteria	47

Background

The Sunset Process

Regulation, when appropriate, can serve as a bulwark of consumer protection. Regulatory programs can be designed to impact individual professionals, businesses or both.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation. Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection – only those individuals who are properly licensed may use a particular title(s) – and practice exclusivity – only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements – typically non-practice related items, such as insurance or the use of a disclosure form – and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency – depending upon the prescribed preconditions for use of the protected title(s) – and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

As regulatory programs relate to businesses, they can enhance public protection, promote stability and preserve profitability. But they can also reduce competition and place administrative burdens on the regulated businesses.

Regulatory programs that address businesses can involve certain capital, bookkeeping and other recordkeeping requirements that are meant to ensure financial solvency and responsibility, as well as accountability. Initially, these requirements may serve as barriers to entry, thereby limiting competition. On an ongoing basis, the cost of complying with these requirements may lead to greater administrative costs for the regulated entity, which costs are ultimately passed on to consumers.

Many programs that regulate businesses involve examinations and audits of finances and other records, which are intended to ensure that the relevant businesses continue to comply with these initial requirements. Although intended to enhance public protection, these measures, too, involve costs of compliance.

Similarly, many regulated businesses may be subject to physical inspections to ensure compliance with health and safety standards.

Regulation, then, has many positive and potentially negative consequences.

The regulatory functions of the Colorado Secretary of State (SOS) and the Colorado Bingo-Raffle Advisory Board (Board) in accordance with Article 9 of Title 12, Colorado Revised Statutes (C.R.S.), shall terminate on July 1, 2008, unless continued by the General Assembly. During the year prior to this date, it is the duty of the Department of Regulatory Agencies (DORA) to conduct an analysis and evaluation of the SOS and Board pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation of charitable gaming should be continued for the protection of the public and to evaluate the performance of the SOS and staff. During this review, the SOS and Board must demonstrate that the regulation serves to protect the public health, safety or welfare, and that the regulation is the least restrictive regulation consistent with protecting the public. DORA's findings and recommendations are submitted via this report to the legislative committee of reference of the Colorado General Assembly. Statutory criteria used in sunset reviews may be found in Appendix A on page 48.

Methodology

As part of this review, DORA staff attended Board meetings, interviewed SOS staff, reviewed SOS and Board records and minutes including complaint and disciplinary actions, interviewed officials with state and national professional associations, reviewed Colorado statutes and SOS rules, and reviewed the laws of other states.

Colorado law allows charitable entities to obtain licenses to operate games of chance (bingo, raffles, and pull-tab games) for the financial benefit of the charitable entities. The law requires that charitable entities with a bingo license run the bingo games subject to certain restrictions, codified under the Colorado Bingo and Raffles Law. Overviews of the different games of chance allowable in Colorado are as follows:

Bingo

Most bingo players play bingo on disposable paper, although the trend today is to utilize computer-driven bingo aids. These devices allow a player to simultaneously play 36 individual bingo cards. Bingo paper is most commonly purchased in packs which consist of multiple sheets. Each sheet typically contains up to six bingo faces. The basic rules of conduct for bingo occasions are as follows:

- All equipment used must be owned, not leased, by a Bingo/Raffle (B/R) Licensee or a Landlord Licensee. Typically, bingo equipment consists of the machine which dispenses the balls/numbers, video monitors, public address systems, lighted display boards, and most recently, computer-driven bingo aids.
- No one participating or volunteering in the conduct of a bingo occasion may play at that occasion.
- All numbers drawn must be visually displayed and audibly called. No number is official until properly called.
- The aggregate value of all prizes awarded for any single bingo occasion may not exceed \$2,000, unless the game consists of a progressive jackpot, then the prize may not exceed \$15,000.
- If more than one valid bingo is verified during a single bingo game, the prize for that game is to be divided equally among the verified winners.
- A B/R License entitles the B/R Licensee to hold no more than 158 bingo occasions per year.

Pull-tabs

Pull-tabs are similar in concept and appearance to a lottery scratch game. With a pull-tab ticket, however, the player pulls back a strip of paper to reveal various combinations of symbols which determine whether that ticket is a winner. A pull-tab deal is a package or series of packages consisting of pull-tab tickets with the same game name, form number, serial number and color code. The basic rules of conduct for pull-tab operations are as follows:

- No volunteer who works or assists at any occasion may purchase or play any pull-tab.
- No volunteer who works in any capacity at a bingo occasion or other place where pull-tabs are sold may indicate in any way to the purchaser of pull-tabs the number or type of tickets that have been redeemed or that remain in the deal.
- Each pull-tab game offered for sale must be accompanied by a flare which displays the name and form number of the game, the manufacturer name and logo, the number of tickets in the deal and the cost per ticket, and the prize structure, including the number of winning tickets by denomination and their respective winning symbol combinations.
- All winning pull-tab tickets must be defaced at the time of redemption so that they may not be re-played.
- Any winning pull-tab must be redeemed within 10 days of its determination as a winner.
- All winning pull-tab tickets worth \$20 or more must be retained by the B/R Licensee for six months following the quarter in which the prizes were awarded.
- Once a pull-tab deal is opened, that deal must be offered for sale at each occasion until the deal is sold-out.
- Pull-tab game tickets may be sold at face value only. Discounting or other price structures are prohibited.

Raffles

Raffles are the most common games of chance conducted by B/R Licensees. In fact, a majority of B/R Licensees conduct only raffles and do not conduct bingo or pull-tab operations. In a raffle, the player purchases and retains one part of a two-part ticket. The other half of the ticket is deposited into a container from which the drawing takes place. The period in which raffle tickets are sold vary from a single bingo occasion up to a year. The basic rules of conduct for a raffle are as follows:

- Only *bona fide* members of the B/R Licensee conducting the raffle may sell raffle tickets.
- The sale of raffle tickets at bingo occasions must take place at a location separate from the sale of bingo packs, cards or sheets.
- The sale of a raffle ticket may not be conditioned upon the purchase of the right to play bingo or payment of admission to a bingo occasion.
- No more than one raffle may be held during any single bingo occasion.
- All prizes offered must be owned by the B/R Licensee free of any debts, liens or encumbrances prior to the sale of any raffle ticket.
- Alcohol may not be offered as a prize.
- For raffles in which the value of all prizes offered totals \$1,000 or more, special consecutively numbered raffle tickets must be printed and filed with the SOS. Such tickets must indicate the B/R Licensee's license number; the cost of the ticket; the time, place and date of the drawing; a description of the prizes; and state the word "raffle."
- For raffles in which the value of all prizes offered totals \$250 or more, all winning ticket stubs, non-winning ticket stubs, and all unsold tickets must be retained by the B/R Licensee for six months following the quarter in which the drawing was held.

Primarily, the games must be run so that the entire net proceeds of the games are exclusively devoted to the lawful purposes of organizations permitted to conduct such games, and so that no person receives any remuneration or profit for participation in the management or operation of the games. Each charitable organization, generally defined as an organization not for pecuniary profit, must run the games. Consequently, no person except *bona fide* members of the organization can participate in the management or operation of the games. These members must volunteer their time, unpaid. In many cases, these games can be run at a for-profit facility, if such facility has been issued a Landlord License by the SOS. Supplies for bingo and pull-tab games are provided by licensed suppliers from licensed manufacturers. Each entity, B/R Licensee, Landlord Licensee, Manufacturer Licensee, and Supplier Licensee has certain forms and reports that are required to be filed with the SOS regularly to ensure compliance with Colorado's laws.

The Bingo and Raffles Law and the rules promulgated by the SOS contain specific requirements concerning how games of chance are to be conducted. B/R Licensees must designate a games manager to be responsible for the conduct of bingo and to supervise all activities at the occasion for which they are in charge. In addition, no person shall assist in the operation of any game of chance unless they are a *bona fide* and active member of the B/R Licensee. Persons who assist in the operation of bingo, (i.e., callers, cashiers and floor workers) may not receive remuneration or profit of any kind for participating in the management or operation of any game of chance.

While the general rule is that all persons who assist in the operation of a game of chance must be volunteers, there are exceptions. B/R Licensees may hire bookkeepers, security personnel, and janitorial services for bingo occasions. However, payment for each of these services may not exceed \$75 per occasion. B/R Licensees may also allocate a part of the gross proceeds for advertising and attorney fees at the customary and prevailing rate.

Each B/R Licensee must prominently post the rules of each type of game it conducts. No one under the age of 18 may purchase the opportunity to participate in any game of chance.

Net profits derived from the holding of games of chance must be devoted, within one year, to the lawful purposes of the B/R Licensee.

A bingo occasion consists of one or more bingo games. Many B/R Licensees also conduct pull-tab operations at their bingo occasions and some sell raffle tickets at their bingo occasions.

A B/R Licensee's B/R License must be displayed at all bingo occasions and anywhere pull-tab operations are conducted. The B/R License must also be displayed at the time and location of a raffle drawing.

The SOS is designated as the licensing authority of the Bingo and Raffles Law pursuant to section 12-9-102(13), C.R.S. The powers and duties of the SOS include granting or refusing licenses; suspending or revoking licenses for any violation of the law, rules and regulations; the authority to promulgate rules and regulations; enforcing the reporting requirements of appropriate laws; supervising the administration of charitable gaming; hearing and determining the validity of all complaints; and keeping records of all transactions and actions of the licensing authority.

Section 12-9-104, C.R.S., provides that, upon application for a B/R License from the SOS, and payment of a fee (currently \$100), any *bona fide* chartered branch of a national or state organization of a charitable, labor, religious, educational, fraternal, voluntary firefighters' or veterans' organization may be licensed to conduct games of chance providing:

- it has been in existence for five years;
- it operates without profit to its members; and
- it has had, during the entire five-year period, a dues-paying membership engaged in carrying out the objectives of the organization.

Chart 1, below, sets forth numerous statistics related to bingo occasions in Colorado over the past decade. It generally substantiates the industry's assertions that charitable gaming is declining in Colorado, in terms of both revenue and the number of players. Industry attributes this decline to several factors, most notably the advent of casino gambling, the demographics of bingo players (an aging population), and a prohibition on smoking in bingo halls.

**Chart 1
Bingo Statistics**

Year	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Bingo Occasions	38,851	37,593	35,917	35,227	34,747	33,249	31,519	29,820	28,132	24,265
Percent Decrease from Previous Year	N/A	3.24%	4.46%	1.92%	1.36%	4.31%	5.20%	5.39%	5.66%	13.75%
Percent Decrease from Year 1996	N/A	N/A	N/A	N/A	N/A	N/A	18.87%	24.02%	29.84%	41.41%
Number of Occasions Decrease from Previous Year	N/A	1,258	1,676	690	480	1,498	1,730	1,699	1,688	3,867
Number of Occasions Decrease from 1996	N/A	N/A	N/A	N/A	N/A	N/A	7,332	9,031	10,719	14,586
Number of Players	N/A	N/A	N/A	N/A	N/A	3,389,625	3,108,605	2,814,024	2,651,093	2,274,124
Percent Decrease from Previous Year	N/A	N/A	N/A	N/A	N/A	N/A	8.29%	9.48%	5.79%	14.22%
Number of Players Decrease from Previous Year	N/A	N/A	N/A	N/A	N/A	N/A	281,020	294,581	162,931	376,969
Gross Amount Wagered (All Charitable Gaming)	\$222,826,281	\$216,915,950	\$218,473,412	\$208,877,999	\$205,504,316	\$195,642,932	\$185,233,450	\$178,430,046	\$165,057,275	\$145,977,171
Percent Decrease from Previous Year	N/A	2.65%	0.72%	4.39%	1.62%	4.80%	5.32%	3.67%	7.49%	11.56%
Percent Decrease from Year 1996	N/A	2.65%	1.95%	6.26%	7.77%	12.20%	16.87%	19.92%	26.44%	36.79%
Total Dollar Decrease from Previous Year	N/A	\$5,910,331	+\$1,557,462	\$9,595,413	\$3,373,683	\$9,861,384	\$10,409,482	\$6,803,404	\$13,372,771	\$19,080,104
Total Dollar Decrease from Year 1996	N/A	\$5,910,331	\$4,352,869	\$13,948,282	\$17,321,965	\$27,183,349	\$37,592,831	\$44,396,235	\$57,769,006	\$76,849,110
Net profit (Before SOS Administrative Fees)	\$31,146,096	\$31,302,704	\$30,566,193	\$28,161,976	\$28,532,959	\$27,920,409	\$27,071,625	\$25,781,912	\$24,706,582	N/A
Percent Increase (+) / Decrease (-) from Previous Year	N/A	+0.50%	-2.35%	-7.87%	+1.32%	-2.15%	-3.04%	-4.76%	-4.17%	N/A
Total Percent Decrease from Year 1996	N/A	-0.50%	1.86%	9.58%	8.39%	10.36%	13.08%	17.22%	20.68%	N/A
Average gross per Occasion	\$5,735.41	\$5,770.12	\$6,082.73	\$5,929.49	\$5,914.30	\$5,884.17	\$5,876.88	\$5,983.57	\$5,867.24	N/A
Average net per Occasion	\$801.68	\$832.67	\$851.02	\$799.44	\$821.16	\$839.74	\$858.90	\$864.58	\$878.24	N/A

N/A – Not Available

History of Regulation

Charitable gaming was authorized in Colorado in 1958, with the adoption of a Constitutional amendment by voters, to provide charitable, non-profit and veterans' organizations with a means of raising money to support the charitable, educational, scientific, religious, civic, and patriotic projects of these groups. With the passage of the Constitutional amendment, the state became directly involved in licensing and overseeing gaming operations. The Constitutional amendment required that the SOS ensure the entire net proceeds of licensed games be exclusively devoted to lawful purposes of the organizations holding such occasions.

The SOS was given the authority to issue B/R Licenses for a \$50 annual license fee to be paid by any organization desiring to conduct games of chance. As set forth in the Constitutional amendment, an organization applying for a license in Colorado was required to provide evidence that it had been in existence for five years and that it was a religious, charitable, benevolent, veterans', or fraternal organization operating as a non-profit institution under the laws of Colorado. Proceeds of the bingo games were taxed by the state and limits were placed on the value of prizes offered and the number of games to be conducted by any one B/R Licensee.

Originally, the state share of bingo proceeds was 2.5 percent of the net proceeds of any bingo or raffle operation. There was a \$250-prize limit on any one bingo game and a \$1,500-limit on prize value for one day's operation. The law provided for a limit on raffles of \$15,000 per year, but there was no annual maximum set for bingo. In 1959, the first year of operation, state revenues from bingo and raffles were \$12,236.

Only 439 B/R Licenses were issued in 1960, a shortfall from the 1,500-1,800 licenses predicted by advocates of legalization. The number of B/R Licenses, however, continued to increase and by 1977, there were more than 900 active licenses and reported net proceeds amounted to approximately \$5 million a year. With the number of B/R Licenses rapidly increasing, the SOS received numerous complaints on abuses that included:

- Callers not calling the number on the ball selected by the bingo machine;
- Collusion between bingo callers and persons on the floor;
- Paying less than advertised prizes; and
- Having no independent verification that the person shouting "bingo" in fact had successfully completed a valid bingo.

The growth of gaming activities and stories of impropriety prompted concerns about the industry. In an effort to address the skimming of bingo receipts and the problems mentioned above, rules and regulations were adopted by the SOS to standardize games of chance operations throughout the state. Previously, Colorado did not have official regulations for games of chance. The 1958 amendment failed to spell out details of administering the law and failed to make any provision for license revocation.

The proposed 1977 rules and regulations imposed strict guidelines for reporting revenues and conducting games. Several non-profit organization representatives, however, argued that the regulations would require too much paperwork from operators of bingo games. The SOS contended that the regulations would benefit game operators by removing almost all of the opportunities for fraud or mistakes in the conduct of the games.

The regulations adopted in 1977 included the following provisions:

- Requiring the caller to turn each ball, randomly picked by the number-selecting machine, toward the players so they could see both the letter and number;
- Providing for randomly chosen bingo participants to verify the winner of each game;
- Requiring disclosure of all prizes and prizes;
- Positioning the caller to prevent the caller from seeing players' cards; and
- Elaborate accounting procedures to minimize the possibility of skimming.

Police Scandals

In 1983, there was a scandal surrounding alleged profit skimming with police bingo operations. Top police officials were accused of sitting in on a meeting in which a Denver police officer told them how to skim profits from bingo games run by the Denver Junior Police Band. Although criminal charges were never filed, the Denver Police Chief was suspended and subsequently retired, the Denver Manager of Public Safety was suspended and later replaced, and a Denver Police Division Chief retired before the investigation was finished.

Interest in bingo game regulation was rekindled by a 1989 investigation of three Denver police fraternal organizations. In October 1989, the SOS filed complaints against three police groups alleging that they had breached dozens of bingo laws including keeping incomplete records and awarding prizes illegally. Among the most serious allegations were that the groups failed to account for \$425,000 in gross sales and \$71,000 in profits that they should have generated based on the number of pull-tab games purchased. In addition, pull-tab tickets valued at \$700,000 that would have generated \$300,000 in profits were found missing. Investigations were focused on whether operators of the police bingo games were skimming profits to pay "volunteers" for a night's work in the bingo hall. Under the Colorado Constitution and state law, only security personnel, accountants, bookkeepers, and janitorial staff may be compensated to work bingo games.

The police unions admitted that they broke more than 20 state laws while running their bingo games. The Denver Police Department and the District Attorney's Office conducted a joint criminal investigation into the police union's alleged bingo operations. The alleged unlawful acts of the Denver Police Department with regard to bingo and pull-tabs were influential factors in the introduction of House Bill 1299 in 1990.

Subsequently, the unions reached a settlement with the SOS and agreed to halt bingo operations for six months. Ultimately, the police groups disbanded, sold their bingo hall, and surrendered their B/R License. The police scandal demonstrated the need for stricter regulation of charity bingo games and pull-tabs.

The 1990 legislature passed House Bill 1299, making numerous changes to the regulation of charitable gaming, including:

- Requiring the total count of bingo players per session, number of bingo cards and pull-tabs sold, and cash value of prizes awarded be reported to the SOS;
- Giving the SOS the authority to assess civil penalties in the form of fines against any Landlord Licensee;
- Requiring certification training for games managers;
- Implementing licensing requirements for bingo hall landlords, manufacturers, suppliers, and manufacturers' and suppliers' agents;
- Revising the bingo caller membership requirement from one year of membership in a charitable organization, to three months; and
- Requiring suppliers to number and record all bingo cards and pull-tabs sold to Colorado operators.

House Bill 92-1368

The Colorado General Assembly passed legislation in the 1992 session that made a significant change to the Bingo and Raffles Law. The new legislation stated that free product giveaways for purposes of advertisement, creation of goodwill, or promotion of new products should not be subject to regulation under the Bingo and Raffles Law if such giveaways are incidental to events conducted by non-profit organizations to further educational purposes. Such giveaways are exempt if they fulfill all of the following requirements:

- tickets or chances are given away without cost or obligation to the recipient;
- if conditions for general admission of an event with no fewer than 10 separate activities require an additional fee or charge for prizes by chance;
- the owner or lessee of the premises does not participate directly or indirectly in the allotment of prizes by chance; and
- the owner or lessee of the premises is a Colorado non-profit organization whose primary purpose is education, with an emphasis on children and young adults and has been in existence for at least 21 years.

The impetus for House Bill 92-1368 was an incident that occurred at the 1992 National Western Stock Show. Investigators from the SOS issued cease and desist orders to several exhibitors who were holding product giveaways. The statutory violation was twofold. First, section 12-9-102(7), C.R.S., which defines games of chance, refers to a raffle as:

that specific game of chance commonly known as raffles which is conducted by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such a game.

The law states that if, in order to participate in a drawing, you must first have purchased a ticket to an event, then the drawing is a raffle and subject to the Bingo and Raffles Law. Second, because the exhibitors were holding a raffle by definition, they were, in fact, in violation of Colorado Constitution Article XVIII, Section 2(2), which requires all organizations conducting games of chance to have a license.

House Bill 92-1368 addressed the National Western Stock Show problem precisely, but did not look at the broader scope of the law. The specific requirement that non-profit organizations be in existence for at least 21 years was overly restrictive and limited the number of organizations eligible for free product giveaways.

Senate Bill 93-52

As a result of the 1992 Sunset Report prepared by DORA and the 1991 State Auditor's Report, the General Assembly passed legislation implementing several of the recommendations located therein. The major alteration made to the Bingo and Raffles Law concerned the authority of the SOS to conduct hearings. Prior to 1993, the SOS could conduct suspension and revocation hearings on its own motion and with its own staff. The SOS acted as the police, the prosecutor, and the judge regarding games of chance issues. Many licensees felt that they were not receiving fair and impartial hearings because the hearing officers would side with the SOS employees.

Consequently, the 1993 legislation mandated that in order to discipline a license, the SOS would be required to present its evidence of violations to an administrative law judge.

Other changes included the definition of the term "bingo," clarification of the term "raffle," which effectively resolved the National Western Stock Show problem discussed earlier, the establishment of age limitations for individuals assisting in the operations of bingo and pull-tabs, and repealed the ability of the SOS to impose fines or civil penalties for violations of the Bingo and Raffles Law and the rules and regulations promulgated thereunder.

1996 Rule Changes

While new rules promulgated in 1996 contained many cosmetic changes, they did serve to modernize the rules and became more current with the reality of the charitable gaming industry. The main substantive changes in the 1996 rules included:

- The regulation of bingo packs as opposed to bingo cards;
- Increases in how much a B/R Licensee may pay for bookkeeping and janitorial services;
- Increased regulation of the Landlord Licensee - B/R Licensee relationship;
- Regulations regarding the verification of a "bingo" by use of electronic bingo equipment; and
- New regulations regarding consecutive bingo sessions.

House Bill 99-1187

House Bill 99-1187 was passed by the General Assembly, and became law on June 5, 1999, without the Governor's signature. This bill established the seven-member Board, although it retained the SOS as the licensing authority. This legislation also set forth the responsibilities and duties of the Board, which most notably include:

- Formulate and recommend changes to the law; and
- Offer advice to the SOS on the following issues:
 - Types of charitable gaming and rules for those activities;
 - Licensure requirements and qualifications;
 - Criteria for discipline of licensees;
 - Establishment of a fine schedule;
 - Licensure fee amounts;
 - Criteria for games manager certification; and
 - Standardizing audit rules and procedures.

House Bill 01-1154 and House Bill 02-1321

House Bill 01-1154 was signed into law by the Governor on March 23, 2001. This bill modified the definition of bingo to allow bingo play with the aid of an electronic device. It also required that winning bingo be verified by a paper card or sheet independent of the electronic aid. Additionally, House Bill 01-1154 permitted the use of up to 36 bingo cards per person with electronic aids. In 2002, House Bill 02-1321 became law. This bill provided for the certification of games managers, and set forth the criteria for certification. It also authorized progressive bingo and progressive pull-tab games.

House Bill 06 -1086

Most recently, the General Assembly enacted House Bill 06-1086. To clear up confusion between the authority of the person of the Secretary of State and the SOS as a state agency, this bill referred to both entities as the "licensing authority." Additionally, this bill required that the licensing authority approve or disapprove a license within 45 days for all applicants who had submitted a complete application. If the licensing authority fails to affirmatively act in those 45 days, the license is deemed approved. This legislation also required that games managers be at least 18 years of age. Consolation and secondary jackpot prizes were authorized for progressive bingo games, subject to specific limitations.

Legal Framework

Charitable gaming was authorized in Colorado in 1958, with the adoption of a Constitutional amendment by voters, to provide charitable, non-profit and veterans' organizations with a viable means of raising money to support the legitimate and legal projects of these groups.¹ With the passage of the Constitutional amendment, Colorado became directly involved in the licensing and regulatory enforcement of charitable gaming operations. The Constitutional amendment, among other things, provided that the Colorado Secretary of State (SOS) would be responsible for the licensing of charitable organizations seeking a state license to conduct games of chance, such as bingo and raffles.²

Games of chance are defined as:

that specific kind of game of chance commonly known as bingo or lotto in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and that specific kind of game of chance known as raffles that is conducted by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such a game.³

The three types of charitable gaming allowed in Colorado are bingo, pull-tab games, and raffles.⁴

Statutes regulating games of chance have been enacted by the Colorado legislature for the general purpose of protecting the public. For example, Colorado prohibits fraud and deception by all licensees in the charitable gaming industry.⁵ Specifically, all licensees are prohibited from:

- Employing any device, scheme, or artifice to defraud or deceive;⁶
- Intentionally making any untrue or misleading statement of fact;⁷ and
- Engaging in any act, practice, or course of conduct constituting fraud or deceit.⁸

¹ Constitution of Colorado, Article XVIII, Section 2, (1) through (6).

² Constitution of Colorado, Article XVIII, Section 2, (2) and (3).

³ § 12-9-102(7), C.R.S.

⁴ § 12-9-102(1.7), C.R.S.

⁵ § 12-9-102.3(1), C.R.S.

⁶ § 12-9-102.3(1)(a), C.R.S.

⁷ § 12-9-102.3(1)(b), C.R.S.

⁸ § 12-9-102.3(1)(c), C.R.S.

Colorado's regulation of games of chance is currently under the licensing and enforcement authority of the SOS.⁹ As part of its enforcement authority, the SOS may suspend or revoke a license after a hearing before an administrative law judge (ALJ).¹⁰ In lieu of seeking a license suspension or revocation, the SOS may impose a fine for statutory violations, not to exceed \$100 per citation. Said fine may be appealed to an ALJ.¹¹

The SOS has statutory authority to adopt, amend, and repeal rules and regulations governing the holding, operating, and conducting of games of chance.¹²

The SOS has the power to issue a letter ruling granting or denying approval for any new concept, method, technology, practice, or procedure that may be applied to, or used in the conduct of games of chance that is not in conflict with the Colorado Constitution or Colorado statutes.¹³

The SOS may grant or refuse to grant a bingo-raffle license (B/R License), or a license to landlords, manufacturers, or suppliers (or their agents),¹⁴ and this license denial may also be appealed to an ALJ.¹⁵ ALJ decisions in any controversy concerning licensing, imposition of fines, or the approval of any proposed new concept, method, technology, practice or procedure are considered final and subject to review by the Colorado Court of Appeals.¹⁶

All fees collected by the SOS are transmitted to the State Treasurer, who credits the transfer to the Department of State Cash Fund. These funds are subject to annual appropriation by the General Assembly for the purposes of financing the licensing and enforcement activities of the SOS.¹⁷

Licensing fees are established by the SOS, in consultation with the Bingo-Raffle Advisory Board (Board), in amounts sufficient to ensure that the total revenue generated by the collection of such fees approximates the direct and indirect costs incurred by the SOS in carrying out its duties. The actual amount of all licensure fees is reviewed annually.¹⁸

⁹ § 12-9-103(1), C.R.S.

¹⁰ § 12-9-103(1)(a)(I), C.R.S.

¹¹ § 12-9-103(1)(a)(II), C.R.S.

¹² § 12-9-103(1)(b), C.R.S.

¹³ § 12-9-103(1)(d), C.R.S.

¹⁴ § 12-9-103(1)(a)(I), C.R.S.

¹⁵ § 12-9-103(1)(a)(III), C.R.S.

¹⁶ § 12-9-103(3)(b), C.R.S.

¹⁷ § 12-9-103.5(1), C.R.S.

¹⁸ § 12-9-103.5(3), C.R.S.

The nine-member Board has specific duties and responsibilities which are set forth in section 12-9-202, Colorado Revised Statutes (C.R.S.). The Board's major duties and responsibilities include:¹⁹

- To conduct a continuous study of charitable gaming throughout Colorado to determine whether the statutes and rules governing games of chance suffer from defects.
- To formulate and recommend changes to Article 9 of Title 12, C.R.S., to the General Assembly.
- To offer advice to the SOS on numerous areas specifically related to the operation of games of chance.

Any qualified organization in Colorado is eligible for a B/R License.²⁰ A qualified organization is any *bona fide* chartered branch, lodge, or chapter of a national or state organization of a *bona fide* religious, charitable, labor, fraternal, educational, voluntary firefighters', or veterans' organization operating without profit to its members that has been in existence continuously for a period of five years immediately prior to submitting a licensure application, and that, during the entire five-year period, had a dues-paying membership engaged in carrying out the objectives of said organization.²¹

In the event any license is revoked by the SOS, the B/R Licensee is not eligible to apply for another license until after the expiration of five years from the date of said revocation.²²

A Landlord Licensee is an individual who holds a current and valid commercial Landlord License from the SOS.²³ Only a Landlord Licensee may rent to any B/R Licensee any premises used to conduct games of chance.²⁴ However, Landlord Licensees may not require, induce, or coerce a B/R Licensee to enter into any contract, agreement, or lease.²⁵ Also, a Landlord Licensee cannot require, induce, or coerce a B/R Licensee to purchase or lease supplies or equipment from a particular supplier, distributor, or manufacturer as a condition of conducting games of chance at a commercial bingo facility.²⁶

¹⁹ §§ 12-9-202(2)(a)-(l), C.R.S.

²⁰ § 12-9-104(1), C.R.S.

²¹ § 12-9-102(19), C.R.S.

²² § 12-9-104(1), C.R.S.

²³ § 12-9-102(9.5), C.R.S.

²⁴ § 12-9-104.5(1), C.R.S.

²⁵ § 12-9-104.5(2), C.R.S.

²⁶ § 12-9-104.5(3), C.R.S.

Landlord Licensees and their agents and employees may not assist with the conduct, management, or operation of any game of chance, unless that Landlord Licensee is also a B/R Licensee and conducting such activities exclusively on its own behalf.²⁷

All applicants for a B/R License must file a written application with the SOS.²⁸ An applicant must include sufficient facts to enable the SOS to determine whether the applicant is a qualified organization.²⁹ The applicant must also indicate the specific type of games of chance intended to be conducted by the applicant.³⁰ Each designated games manager must have been an active member of the applicant's organization for at least six months immediately preceding the designation, and be certified as a games manager prior to assuming games management duties.³¹

Similar applications must be filed with the SOS to acquire a Landlord License,³² Manufacturer License,³³ Supplier License,³⁴ or for a Manufacturer or Supplier Agent License.³⁵

Officers of a B/R Licensee must designate one or more members of the licensee as a games manager.³⁶ Games managers are primarily responsible for, and supervise, all aspects of the bingo occasion. At least one games manager must be present continuously during the games, and for a period sufficient to ensure that all books and records for the occasion have been closed, and that all supplies and equipment have been secured.³⁷

An applicant for games manager certification, who has passed an examination administered by the SOS, and has thereby demonstrated sufficient knowledge of Colorado law, and who has paid the established fee, shall be issued a games manager certification.³⁸ However, a games manager applicant is not eligible for certification if such person has been convicted of a felony or any offense involving gambling.³⁹

²⁷ § 12-9-104.5(6), C.R.S.

²⁸ § 12-9-105(1), C.R.S.

²⁹ § 12-9-105(1)(b), C.R.S.

³⁰ § 12-9-105(1)(d), C.R.S.

³¹ § 12-9-105(2)(b), C.R.S.

³² § 12-9-105.3, C.R.S.

³³ § 12-9-105.5, C.R.S.

³⁴ § 12-9-105.7, C.R.S.

³⁵ § 12-9-105.9, C.R.S.

³⁶ § 12-9-107(2)(a), C.R.S.

³⁷ *Ibid.*

³⁸ § 12-9-105.1(1), C.R.S.

³⁹ § 12-9-105.1(2), C.R.S.

No person, firm, or organization may hold, operate or conduct a bingo event in Colorado without first acquiring a valid license from the SOS.⁴⁰ Allowable expenses incurred by the B/R Licensee are limited to *bona fide* expenses in a reasonable amount for goods, wares and merchandise furnished, or services rendered, which are reasonably necessary for operating and conducting a bingo event.⁴¹

The premises where any game of chance is held or conducted must be open to inspection by the SOS, peace officers, or any political subdivision of the state.⁴²

The maximum number of bingo occasions that any one licensee can hold is 158 occasions in any calendar year,⁴³ and alcoholic beverages may not be offered as a prize.⁴⁴

The net proceeds derived from games of chance must be devoted, within one year, to the lawful purposes of the organization conducting the game, unless extended by the SOS for good cause shown.⁴⁵

During bingo occasions, B/R Licensees may initiate a game of progressive bingo, in which the game is won when a previously designated arrangement of numbers and spaces on the card or sheet is covered within a previously designated number of objects or balls drawn, and if the game is not won, it will be replayed during each occasion the B/R Licensee conducts bingo at the same location, using the previously designated arrangement of numbers or spaces.⁴⁶

A B/R Licensee may award a consolation prize for a game of progressive bingo in which the prize is not won.⁴⁷

B/R Licensees may fund a secondary jackpot from 10 percent of the gross proceeds collected from the sale of progressive cards or sheets at the occasion where the game is offered. The amount in the secondary jackpot may be used to start a single game of progressive bingo after a previous progressive jackpot has been won.⁴⁸

The SOS sets the maximum amount allowable jackpot for progressive bingo which may not be less than \$15,000.⁴⁹

⁴⁰ § 12-9-107(1)(a), C.R.S.

⁴¹ § 12-9-107(1)(a), C.R.S.

⁴² § 12-9-107(6), C.R.S.

⁴³ § 12-9-107(7), C.R.S.

⁴⁴ § 12-9-107(10), C.R.S.

⁴⁵ § 12-9-107(11), C.R.S.

⁴⁶ § 12-9-107(13)(b), C.R.S.

⁴⁷ § 12-9-107(13)(c), C.R.S.

⁴⁸ § 12-9-107(13)(d), C.R.S.

⁴⁹ § 12-9-107(13)(e), C.R.S.

B/R Licensees may offer progressive pull-tab games in which the prize may be carried over and increased from one deal to another, until a prize is awarded. Such game may include a subsequent pull-tab deal bearing a different serial number from that offered in a previous deal. However, the SOS may limit the types of progressive pull-tab games allowed to be sold by Supplier Licensees. The maximum prize allowable in a progressive pull-tab game is \$5,000.⁵⁰

To ensure fairness to all players, the equipment and method of play in the playing of bingo must be such that each card has an equal opportunity to be a winner.⁵¹

The receptacle apparatus and the caller must be visible to all players at all times unless there is more than one room utilized by the B/R Licensee.⁵² Where more than one room is used for any one game, the receptacle and the caller must be present in the room where the greatest numbers of players are present.⁵³

The pattern of numbers required to be covered in order to win a game, and the amount of the prize must be clearly and audibly announced to the players immediately before each game is begun.⁵⁴ Additionally, any player is allowed to request 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.⁵⁵

A bingo caller must have been a member in good standing of the B/R Licensee for three months immediately prior to the bingo occasion in which the caller's services will be utilized and the caller may not have a felony conviction or a conviction of any crime involving gambling.⁵⁶

No B/R Licensee may possess, use, sell, offer for sale, or put into play any device that reveals the winning or nonwinning status of a pull-tab ticket unless such device has been tested, approved, and licensed by the SOS, and not subsequently altered or tampered with.⁵⁷ Any of the following persons that are found to have violated this requirement shall be subject to immediate and permanent revocation of all licenses:

- The manufacturer of the device,⁵⁸
- The supplier through which the device was supplied,⁵⁹

⁵⁰ § 12-9-107(13)(g), C.R.S.

⁵¹ § 12-9-107(14), C.R.S.

⁵² § 12-9-107(15), C.R.S.

⁵³ § 12-9-107(14), C.R.S.

⁵⁴ § 12-9-107(16), C.R.S.

⁵⁵ § 12-9-107(17), C.R.S.

⁵⁶ § 12-9-107(19)(a), C.R.S.

⁵⁷ § 12-9-107(21.5)(b), C.R.S.

⁵⁸ § 12-9-107(21.5)(c)(I), C.R.S.

⁵⁹ § 12-9-107(21.5)(c)(II), C.R.S.

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- The Landlord Licensee on whose premises the device was found,⁶⁰ and
 - The B/R Licensee sponsoring the occasion during which the device was present.⁶¹

No B/R Licensee may possess, use, sell, offer for sale, or put into play any bingo or pull-tab game, ticket, card, or sheet for which it does not have, at the location of the game, an invoice from its licensed supplier showing at least the name, description, color code (if any), and serial number of the pull tab, card, or sheet.⁶²

No B/R Licensee shall sell, offer for sale, or put into play any pull-tab ticket except at the location of and during its licensed bingo occasions or upon premises that are:

- Owned, leased, or rented by the B/R Licensee, used as its principal place of business, and controlled so that admittance to the premises is limited to the B/R Licensee's members and *bona fide* guests;⁶³ or
- Owned, leased, or rented by a Landlord Licensee.⁶⁴

Eighteen is the minimum age to purchase an opportunity to participate in games of chance.⁶⁵ However, at age 14 an individual is allowed to assist in the conduct of bingo or pull-tab games.⁶⁶

If a card or sheet is played with the aid of an electronic device, a winning bingo may be determined and verified by reference to such card or sheet or may be determined and verified by reference to the electronic device. Nothing in the statutes shall be construed to authorize the playing of bingo solely by means of an electronic device.⁶⁷

A B/R Licensee must adequately mark, destroy, or dispose of cards or sheets played with the aid of an electronic device in order to prevent the reuse of such cards or sheets.⁶⁸

⁶⁰ § 12-9-107(21.5)(c)(III), C.R.S.

⁶¹ § 12-9-107(21.5)(c)(IV), C.R.S.

⁶² § 12-9-107(23), C.R.S.

⁶³ § 12-9-107(24)(a), C.R.S.

⁶⁴ § 12-9-107(24)(b), C.R.S.

⁶⁵ § 12-9-107(25), C.R.S.

⁶⁶ § 12-9-107(26), C.R.S.

⁶⁷ § 12-9-107(28)(a), C.R.S.

⁶⁸ § 12-9-107(28)(b), C.R.S.

The SOS may establish, by rule, the maximum number of bingo cards that a bingo player who plays using the aid of an electronic device shall be permitted to use with the aid of such a device per game; except that such maximum number must not be less than 36.⁶⁹

A B/R Licensee shall not be required to use or offer the use of electronic devices used as aids in the game of bingo during a bingo session.⁷⁰

With the application for a letter ruling pursuant to section 12-9-103(1)(d), C.R.S., for the approval of a new type of electronic device used in the aid of bingo, the manufacturer of such device must provide the following to the SOS:

- A prototype of the new type of electronic device used in the aid of bingo with a prototype bingo aid computer system and a user's manual used for such electronic device;⁷¹ and
- A certification by the manufacturer that the new type of electronic device used in the aid of bingo and all such electronic devices used in the state meet the following standards:
 - The electronic device provides a means for the input of numbers announced by a bingo caller;⁷²
 - The electronic device compares the numbers entered to the numbers contained on bingo cards previously stored in the electronic data base of such electronic device;⁷³
 - The electronic device identifies winning bingo patterns;⁷⁴ and
 - The electronic device signals when a winning bingo pattern is achieved.⁷⁵

The SOS must return any prototype electronic device used in the aid of bingo, the prototype bingo aid computer system, and the user's manual submitted no later than 45 days after receiving such items.⁷⁶

⁶⁹ § 12-9-107(28)(c), C.R.S.

⁷⁰ § 12-9-107(28)(d), C.R.S.

⁷¹ § 12-9-107(29)(a)(I), C.R.S.

⁷² § 12-9-107(29)(a)(II)(A), C.R.S.

⁷³ § 12-9-107(29)(a)(II)(B), C.R.S.

⁷⁴ § 12-9-107(29)(a)(II)(C), C.R.S.

⁷⁵ § 12-9-107(29)(a)(II)(D), C.R.S.

⁷⁶ § 12-9-107(29)(b), C.R.S.

When a complaint regarding an electronic device used in the aid of bingo that is in use in the state of Colorado has been filed with the SOS, the manufacturer of such device must provide to the SOS a sample of such device and bingo aid computer system to assist the investigation by the SOS. The SOS must return such electronic device and bingo aid computer system no later than 45 days after receiving such items, unless the SOS needs such electronic device longer to complete the investigation.⁷⁷

A bingo aid computer system used by a B/R Licensee for bingo sessions must meet the following standards:

- Such system shall contain a record of all transactions occurring during a bingo-raffle session. Such record shall be retained in memory until the transactions have been totaled, printed, and cleared by the B/R Licensee, regardless of whether the power supply has been interrupted.⁷⁸
- Such system shall be able to compute and total all transactions processed by the system during a bingo occasion and to print all information required by the SOS, in the form prescribed by the SOS.⁷⁹
- Such system shall maintain and control the transaction number, time, and date of sale. Such information shall be secure enough that only a manufacturer's qualified personnel can change or reset such information. A detailed record, supported by service documents, shall be retained by such personnel for each service call that involves a change of the time, date of sale, or transaction number.⁸⁰

If an electronic device used as an aid in the game of bingo complies with all of these requirements, the SOS shall approve such electronic device and computer system for use by a letter ruling pursuant to section 12-9-103(1)(d), C.R.S.⁸¹

⁷⁷ § 12-9-107(29)(c), C.R.S.

⁷⁸ § 12-9-107(30)(a), C.R.S.

⁷⁹ § 12-9-107(30)(b), C.R.S.

⁸⁰ § 12-9-107(30)(c), C.R.S.

⁸¹ § 12-9-107(31), C.R.S.

Effective December 1, 2006, the SOS has repealed and re-enacted 16 rules (with numerous subparts) for the purpose of regulating and administering the bingo and games of chance industry. These administrative rules are titled “Rules Covering and Regulating Bingo/Raffles,” and are found at Volume 8 of the Code of Colorado Regulations, Part 2, Section 1505. The general topics covered in the re-enacted Rules Covering and Regulating Bingo/Raffles are as follows:

- Definitions of Bingo and Raffle Terms
- Bingo-Raffle Licensees
- Bingo Games
- Sale and Use of Bingo Cards, Packs, and Sheets
- Sale and Use of Pull Tabs
- Electronic Bingo Aid Devices
- Promotions by Bingo–Raffle Licensees
- Raffles
- Prize Amounts and Payments
- Accounting for Receipts and Deposits
- Rental Agreements
- Landlord Licensees
- Manufacturer and Supplier Licensees
- Electronic Devices
- Fines

Some additional areas that fall under the control of the SOS include:

- Section 12-9-102(19.3), C.R.S., authorizes the SOS to determine the random method of selecting numbers for a raffle.
- Sections 12-9-102.5(4)(a), (b) and (d), C.R.S., authorize the SOS to set maximum dollar amounts for Landlord Licensee and B/R Licensee promotions and establish the disclosures required in rental agreements.
- Section 12-9-103(1)(b), C.R.S., authorizes the SOS to adopt, amend, and repeal rules and regulations governing the holding, operating, and conducting of games of chance, and the purchase of equipment and the establishment of a schedule of reasonable fine to the end that games of chance shall be held, operated and conducted only by licensees for the purposes and in conformity with the state Constitution and state law.

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- Section 12-9-104.5(7), C.R.S., authorizes the SOS to establish specific criteria by which Landlord, Supplier or Manufacturer Licensees may instruct and train B/R Licensees in the repair, operation and maintenance of bingo-raffle equipment.
 - Sections 12-9-105.1(1) and (3), C.R.S., authorize the SOS to establish the time period during which games manager certifications may be valid and establish the circumstances under which a person may be designated and serve as games manager for more than three but in no event more than five B/R Licensees.
 - Sections 12-9-107(13)(a), (b), (e), (f), (g) and (j), C.R.S., authorize the SOS to establish: the method of play and the maximum dollar amount of prizes that may be awarded in any single game and for any single bingo occasion; the maximum amount of money that may be used to start a progressive jackpot bingo game; the maximum amount of the progressive jackpot that may be awarded; the maximum number of progressive games that may be offered by a B/R Licensee during a single occasion; the types of progressive pull-tab games allowed to be sold by Supplier Licensees; and safeguards to protect the B/R Licensee's players against defaults in charitable gaming debts owed or to become payable by the B/R Licensee.
 - Section 12-9-107.7, C.R.S., authorizes the SOS to adopt rules to regulate the licensing, shipment, importation and use of mechanical, electronic, or electromechanical devices that reveal the winning or nonwinning status of pull-tab tickets.
 - Sections 12-9-108(6)(a)(II)(B), (D) and (E), C.R.S., authorize the SOS to establish reasonable amounts that B/R Licensees may pay for preparing financial reports, for janitorial services, and for security services.
 - Section 12-9-109, C.R.S., authorizes the SOS to require that B/R Licensees that have failed to keep proper books and records in accordance with generally accepted accounting principles adopt certain internal financial controls and attend training to ensure integrity in the reporting of games of chance activities.

Program Description and Administration

Section 12-9-104, Colorado Revised Statutes (C.R.S.), provides that, upon application for a bingo/raffle license (B/R License) from the Office of the Secretary of State (SOS), and payment of a fee (currently \$100), any *bona fide* chartered branch of a national or state organization, or charitable, labor, religious, educational, fraternal, voluntary firefighters' or veterans' organization may be licensed to conduct "games of chance" providing:

- It has been in existence for five years;
- It operates without profit to its members; and
- It has had, during the entire five-year period, a dues-paying membership engaged in carrying out the objectives of the organization.

The Bingo and Raffles Law and the rules promulgated by the SOS contain specific requirements concerning how games of chance are to be conducted. B/R Licensees must designate a games manager to be responsible for the conduct of bingo and to supervise all activities at the occasion for which they are in charge. In addition, no person shall assist in the operation of any game of chance unless he/she is a *bona fide*, active member of the B/R Licensee. Persons who assist in the operation of bingo, (i.e., callers, cashiers and floor workers) may not receive remuneration or profit of any kind for participating in the management or operation of any game of chance.

While the general rule is that all persons who assist in the operation of a game of chance must be volunteers, there are exceptions. B/R Licensees may hire bookkeepers and janitorial services for bingo occasions. B/R Licensees may also hire security personnel.

Each B/R Licensee must prominently post the rules of each type of game it conducts. No one under the age of 18 may purchase the opportunity to participate in any game of chance. However, such individuals may receive such opportunities as gifts. Thus, minors may legally play and win games of chance; they simply cannot pay for the game pieces themselves.

Net profits derived from the holding of games of chance must be devoted, within one year, to the lawful purposes of the B/R Licensee.

A bingo occasion consists of one or more bingo games. Many B/R Licensees also conduct pull-tab operations at their bingo occasions and some sell raffle tickets at their bingo occasions.

A B/R Licensee's B/R License must be displayed at all bingo occasions and anywhere pull-tab operations are conducted. The B/R License must also be displayed at the time and location of a raffle drawing.

Secretary of State Administration

Employees and staff within the SOS provide administrative support to the Colorado Bingo-Raffle Advisory Board (Board). Currently, the SOS devotes a total of 10 full-time equivalent (FTE) employees to provide professional and administrative support to the Board and the charitable gaming program. Chart 2 sets forth the specific positions, and indicates that six positions consist of compliance investigators.

Chart 2
Secretary of State, Licensing Division - Bingo-Raffle Section FTE Employees

Position	FTE Employees
Administrative Officer	1.0
Compliance Investigator II	1.0
Compliance Investigator I	5.0
Audit Intern	1.0
Administrative Assistant III	1.0
Program Assistant I	1.0
TOTAL	10.0

Licensing and Certification

Games Manager Certification

The SOS is authorized to certify games managers. Games managers are required by statute and are comprised of those individuals who are members of B/R Licensees that have consented to take responsibility for supervising all of the conduct and activities that occur during a bingo occasion, including pull-tabs and raffles. A B/R Licensee may have an unlimited number of games managers. However, a games manager may serve as such for only three B/R Licensees simultaneously (unless granted a waiver by the SOS, which may allow a games manager to oversee bingo occasions for up to five individual B/R Licensees). The SOS requires prospective games managers to attend a training session, pass an examination, and to swear an oath prior to certification. The SOS has clear statutory authority to revoke or suspend such certification pursuant to section 12-9-105.1(1), C.R.S.

Bingo/Raffle License

Only a B/R Licensee may actually conduct games of chance. The licensing procedure is basically administrative in nature as long as certain minimum requirements are satisfied. The Colorado Constitution and section 12-9-104(1), C.R.S., authorize the SOS to issue a B/R License, upon application, to any *bona fide* chartered branch or lodge or chapter of a national or state organization or to any *bona fide* religious, charitable, labor, fraternal, educational, voluntary firefighters' or veterans' organization which:

- has been in existence for five continuous years;
- operates without profit to its members; and
- has had, during the entire five-year period, a dues-paying membership engaged in carrying out the objectives of the organization.

The B/R License application requires an applicant to supply the SOS with its name and address, certain facts and documents relating to its incorporation, the names and addresses of its officers, the types of games of chance to be conducted and where such games of chance are intended to be conducted and the amount of rent to be paid, a statement that no workers will be paid for participating in the conduct of games of chance, and the names of designated members of the applicant to be responsible for the conduct of games of chance.

Chart 3 sets forth the B/R License statistics for the past five years, including the number of B/R Licenses issued and the amount of fees generated by said licensure. License fees are paid yearly, upon the issuance of a B/R License. Administration fees are assessed quarterly based upon the amount of revenue generated by the charitable organization's gaming activities and set forth in its quarterly reports to the SOS.

Chart 3
Bingo Licensing Information by Calendar Year

	2002	2003	2004	2005	2006
Number of B/R Licensees	1,448	1,440	1,381	1,342	1,297
B/R License Fees	\$90,500	\$90,000	\$86,312	\$83,875	\$81,062
B/R Administration Fees	\$676,890	\$654,498	\$608,979	\$567,598	\$495,813
B/R Total Fees	\$767,390	\$744,498	\$695,291	\$651,473	\$576,875

Chart 3 substantiates that the number of B/R Licensees is declining. Between 2002 and 2006, approximately 10 percent of the B/R Licensees did not renew their gaming licenses. Consequently, the amount of fees generated by licensure has also substantially declined.

Applicants must submit a license fee of \$100 with each application. Pursuant to Article XVIII, Section 2 (2) of the Colorado Constitution, all B/R Licenses, regardless of date of issue, expire on December 31 of the year of issue. Thus, all B/R Licenses must be renewed annually at the beginning of each calendar year.

Landlord License

Since most B/R Licensees lack the need or resources to maintain permanent bingo facilities, commercial bingo facilities have become the facilities where most bingo events are held. A "commercial bingo facility" is defined as "premises rented by a B/R Licensee for the purpose of conducting games of chance."⁸² In order to operate a commercial bingo facility, the facility's operator must first obtain a Landlord License from the SOS.

An applicant for a Landlord License must provide specific information to the SOS with its name and address and, if applicable:

- The names and addresses of persons holding ownership interests of 10 percent or more;
- The name and address of the applicant's resident agent if the applicant is located outside of Colorado;
- The location of the premises for which the license is sought and a blueprint of the facility and its dimensions;
- Copies of the applicant's lease or deed to the premises, and copies of all zoning, building, fire safety and other clearances and permits for use of the facility as a commercial bingo facility;
- A statement that the applicant or its officers are familiar with the laws governing games of chance and that such person(s) accept responsibility for compliance with such laws; and
- An affidavit stating that the applicant or, if applicable, each officer, director, partner and associate, has not been convicted of any felony or any gambling-related offense.

Like the B/R Licenses, Landlord Licenses expire on December 31 of the year of issue and must be renewed annually. The fee for a Landlord License is \$1,000 per year.

⁸² §12-9-102(2.3), C.R.S.

A separate Landlord License must be obtained for each commercial bingo facility. Therefore, if an individual or corporation owns and operates two commercial bingo facilities, it must obtain two Landlord Licenses, one license for each facility.

Chart 4 sets forth the number of Landlord Licensees. However, B/R Licensees who operate bingo-raffle games in their own facilities and for their own benefit are exempt from this licensure requirement.

Chart 4
Landlord Licensing Information by Calendar Year

	2002	2003	2004	2005	2006	2007*
Number of Landlord Licensees	43	43	44	44	39	30
Landlord License Fees	\$43,000	\$43,000	\$44,000	\$44,000	\$39,000	\$30,000

*Through June 26, 2007

As with this industry in general, Chart 4 demonstrates that the number of Landlord Licensees has decreased significantly over the past six years. Revenues generated by licensure fees have also proportionally declined in this time period.

While a Landlord Licensee may operate a concession stand during a bingo occasion, Landlord Licensees are prohibited from participating in the operation or conduct of any game of chance in any way. If the equipment malfunctions or the B/R Licensee's bingo caller fails to attend, the Landlord Licensee may not, in any way, participate in the occasion. Once the rental period begins, the B/R Licensee is in charge of the occasion and only the B/R Licensee's members may participate in the conduct of the games of chance being offered at that occasion.

Supplier License

A Supplier License authorizes the Supplier Licensee to purchase games of chance-related equipment, which includes but is not limited to bingo paper, pull-tabs and electronic pull-tab machines, from a Manufacturer Licensee and to sell such equipment to B/R Licensees. The Supplier Licensee is essentially a distributor of games of chance-related equipment and serves as the middleman between the Manufacturer Licensee and the B/R Licensee.

An application for a Supplier License must include the name and address of the applicant and, if applicable:

- The names and addresses of all persons holding an ownership interest of 10 percent or more;
- A description of the equipment and supplies to be sold;
- The name and address of the applicant's resident agent if the applicant is located outside of Colorado;
- The names and addresses of all Colorado sales agents of the applicant;
- A statement that the applicant or its officers are familiar with the laws governing games of chance and that such person accepts responsibility for compliance with such laws; and
- An affidavit that the applicant and each officer, director, partner and associate has not been convicted of any felony or any gambling-related offense.

Each application must be accompanied by the annual license fee of \$1,000. All Supplier Licenses expire annually on March 31, regardless of the date of issue.

Supplier Agent Licensees are individuals who interact with B/R Licensees and fulfill the role of the salesperson for the supplier. These agents are responsible for ensuring that the supplies ordered by B/R Licensees are correct and appropriate per the different needs of various B/R Licensees.

Chart 5, below, sets forth the numbers of licensed suppliers and licensed agents over the past six years.

Chart 5
Supplier Licensing Information by Calendar Year

	2002	2003	2004	2005	2006	2007*
Number of Supplier Licensees	20	17	20	15	15	11
Number of Supplier Agent Licensees	76	53	51	45	35	25

*Through June 26, 2007

As with the other categories of licensees in this report, the number of licensed suppliers and agents has dramatically decreased over this time period. Of course, the amount of fees generated by licensure has also substantially decreased.

Manufacturer License

Manufacturers of games of chance-related equipment and supplies that are sold or distributed in Colorado must also be licensed. Manufacturer Licenses, regardless of the date of issue, expire annually on March 31. The fee for a Manufacturer License is \$600 per year.

Applicants for a Manufacturer License must supply the SOS with the name and address of the applicant and, if applicable:

- The names and addresses of all persons holding ownership interests of 10 percent or more;
- A description of the equipment manufactured;
- The name and addresses of the applicant's resident agent in Colorado if the applicant is located outside of Colorado;
- The names and addresses of the applicant's Colorado suppliers and agents;
- A statement that the applicant or its officers are familiar with the laws governing games of chance and that such person(s) accept responsibility for compliance with such laws; and
- An affidavit affirming that the applicant and each officer, director, partner and associate has not been convicted of any felony or gambling-related offense.

Chart 6, below, contains the number of Manufacturer Licensees. Although the number of Manufacturer Licensees has declined in proportion with the industry, the number of Manufacturer Agent Licensees has declined dramatically. This is due, in part, to licensed agents now representing multiple manufacturers.

Chart 6
Manufacturer Licensing by Calendar Year

	2002	2003	2004	2005	2006	2007 *
Number of Manufacturer Licensees	24	22	19	18	16	16
Number of Manufacturer Agent Licensees	49	43	45	39	29	7

*Through June 26, 2007

Again, the declining numbers of licensees translate into lower amounts of revenue generated by licensure fees. This reflects a general downturn in the bingo-raffle industry.

Supplier/Manufacturer Agent License

The agents of Supplier and Manufacturer Licensees must also be licensed by the SOS. These licenses expire annually on March 31, regardless of the date of issue. The license fee for these types of licenses is \$160 per year.

Applicants for a Supplier Agent License or a Manufacturer Agent License must submit, to the SOS:

- The name and address of the applicant, and the names and addresses of those represented by the applicant;
- A statement that the applicant is familiar with and will comply with the laws relating to games of chance;
- An affidavit affirming that the applicant has not been convicted of any felony or any gambling-related offense; and
- A statement by the Supplier Licensee or Manufacturer Licensee represented by the applicant, consenting to such representation.

Charts 5 and 6 above set forth the number of licensed agents for suppliers and manufacturers in Colorado. These statistics reflect the downward trend of the bingo-raffle industry.

Complaints/Disciplinary Actions

The SOS receives complaints from individual players, B/R Licensees, Agent Licensees, Landlord Licensees, and other interested or affected persons. Most complaints are classified as relatively minor, and are resolved expeditiously. Chart 7 indicates that only a small minority of complaints are not resolved by either the licensee or the staff of the SOS. Those complaints that were not resolved generally related to restraint of trade allegations, and were referred to the Attorney General for resolution.

**Chart 7
Complaints by Calendar Year**

Year	Number Of Complaints	Not Resolved
2000	18	0
2001	33	0
2002	40	0
2003	61	0
2004	45	0
2005	44	1
2006	30	1
TOTAL	271	2

The SOS receives numerous complaints relating to the operation of bingo and pull-tab games. The vast majority of them are resolved by the staff and investigators. Bingo games and pull-tab management are the areas that generate the highest number of complaints, with complaints relating to payments of prizes also receiving numerous complaints. Chart 8, below, sets forth the general subject matter of the complaints received by the SOS.

Chart 8
Nature of Complaints by Calendar Year

Year	Total Complaints	Number of Complaints By Type
2000	18	4 complaints = Payment of Prizes 13 complaints = Conduct of Game 1 complaint = Unfair Promotion
2001	33	11 complaints = Pull-Tab Management 10 complaints = Bingo Game Management 6 complaints = Payment of Prizes 3 complaints = Raffle Management 2 complaints = Unfair Trade Practices 1 complaint = Illegal Promotion
2002	40	21 complaints = Bingo Game Management 7 complaints = Pull-Tab Management 4 complaints = Payment of Prizes 3 complaints = Improper Landlord Activity 2 complaints = Raffles 2 complaints = Unfair Trade Practices 1 complaint = Promotions
2003	61	24 complaints = Bingo Game Management 11 complaints = Payment of Prizes 9 complaints = Pull-Tab Management 6 complaints = Landlord Violations 3 complaints = Raffles 3 complaints = Bingo Volunteers Being Paid 1 complaint = Unfair Trade Practices 1 complaint = Unlicensed Bingo Game 1 complaint = Allowing use of the Electronic Bingo Aid Devices 1 complaint = Manufacturer/Supplier 1 complaint = Suspected Player Cheating
2004	45	11 complaints = Prize Payment Disputes 8 complaints = Bingo Game Management 7 complaints = Landlord Violations 6 complaints = Pull-Tab Management 2 complaints = Non-Members Working Bingo 2 complaints = Volunteers Playing Bingo 2 complaints = Players Cheating 2 complaints = Manufacturer/Supplier 1 complaint = Volunteers Being Paid 1 complaint = Improper Use of Bingo Funds 1 complaint = Allowing the Use of Electronic Bingo Aid Devices 1 complaint = Unlicensed Bingo Game 1 complaint = Raffle Management
2005	43	18 complaints = Bingo Game Management 3 complaints = Pull-Tab Management 8 complaints = Prize Disputes 5 complaints = Non-Members Working or Volunteers Playing Bingo 2 complaints = Landlord Issues 2 complaints = Rental Disputes 2 complaints = Suspected Cheating by Licensee 2 complaints = Suspected Improper Use of Bingo Revenue 1 complaint = Unfair trade practices

Year	Total Complaints	Number of Complaints By Type
2006	30	10 complaints = Pull-Tab Management 8 complaints = Prize Disputes 6 complaints = Bingo Game Management 2 complaints = Suspected Improper Use of Bingo Proceeds 1 complaint = Rental Dispute 1 complaint = Volunteers Playing Bingo 1 complaint = Non-Compliance Issue 1 complaint = Raffle Management

Chart 9, below, sets forth the SOS's fining activity between 2002 and 2006. The SOS staff indicates that the number of fines increased in 2006 to the point of more than double the previous year, due primarily to heightened enforcement policies in the SOS. The majority of the fines issued were due to a failure on the part of a B/R Licensee to file quarterly reports in a timely fashion. However, licensees that failed to comply with compliance warning letters and fines for failure to file timely reports were subject to license revocation.

**Chart 9
Compliance Action Totals by Calendar Year**

Year	Licensees	Fines	Suspensions	Revocations
2002	1,448	245	0	1
2003	1,440	119	0	0
2004	1,381	295	0	0
2005	1,342	309	0	2
2006	1,297	631	0	1

Fees

The Bingo and Raffles Law allows the SOS to collect fees in two primary ways. First, each licensee must pay an annual license fee. As noted, the licensing fees are \$100 for a B/R License, \$1,000 for a Landlord License, \$600 for a Supplier or Manufacturer License, and \$160 for a Supplier or Manufacturer Agent License.

In addition, administrative fees are collected on a quarterly basis from B/R Licensees in the amount of 0.35 percent of gross receipts between \$10,000 and \$100,000, and 0.5 percent of gross receipts over \$100,000.

The quarterly fee payable to the SOS with each quarterly report filed by a Manufacturer or Supplier Licensee is 1.25 percent of the total gross sales or leases of bingo-raffle equipment by the reporting licensee during the quarter covered by the report.

Accounting and Reporting Requirements

All B/R Licensees, Supplier Licensees and Manufacturer Licensees are required to submit reports to the SOS at the end of each fiscal quarter. Landlord Licensees must submit copies of the rental agreements they enter into with B/R Licensees yearly, unless the rental agreements or parties change during the licensure period. Supplier Agent Licensees and Manufacturer Agent Licensees have no reporting requirements.

Those licensees required to submit quarterly reports, must do so by April 30, July 31, October 31 and January 31 of each year. Once a report is logged-in by the SOS, it is scanned into the SOS's computer imaging system. This process makes the unprocessed information contained in the report immediately available to the investigative staff, who reviews the quarterly reports for accuracy and completeness.

Approximately one week after the reports are due, the SOS sends late notices to those licensees whose reports have not been received. Approximately 150 such letters are sent to licensees each quarter. The SOS now tracks which licensees habitually file late reports, and although the SOS levies a fine as a penalty, a licensee can request a fine waiver due to extenuating circumstances.

Once the reports are scanned into the imaging system, the SOS has an employee who conducts audits of B/R Licensee reports and an employee who conducts audits of the Manufacturer and Supplier Licensee reports. B/R Licensee audits consist primarily of comparing information from various parts of the report to ensure that the numbers are accurate and balance correctly. If certain information is missing or is unacceptable, the B/R Licensee is notified in writing that it must supplement the report.

Manufacturer and Supplier Licensee audits consist primarily of identifying new games and searching for irregularities. While Manufacturer and Supplier Licensees are required to report some relatively detailed information regarding sales to B/R Licensees, this information is not systematically compared to the records of the B/R Licensees. Generally, the SOS takes the licensee's assurance that the amount of sales, etc. reported is accurate and correct. However, if irregularities arise, an in-depth audit and review is performed.

The audit process is on-going throughout the year, as the SOS deals with non-responsive licensees, or difficulties in acquiring financial records throughout the year as necessary.

B/R Licensee Reporting

Basically, the B/R Licensee report consists of information relating to gross receipts; expenses incurred or paid, along with a description of such expenses and check numbers used to pay such expenses; the name and address of each person to whom has been paid \$300 or more and the purpose of the expenditure; the net proceeds derived from each type of game of chance; and the uses to which net proceeds have been applied.

In addition to these reporting requirements, B/R Licensees are required to keep detailed records regarding each bingo occasion and pull-tabs.

Supplier and Manufacturer Licensee Reporting

Supplier and Manufacturer Licensee reports cover activity for the preceding quarter. Attached to each report must be an administrative fee equal to 1.25 percent of gross sales.

The reports of these licensees must include the quantity, purchaser and price of all pull-tabs, bingo cards, bingo sheets and other equipment sold or distributed in Colorado; the total sales of all equipment; and the names and addresses of all suppliers and agents in Colorado.

Inspections

The investigative staff of the SOS conducts random, unannounced inspections of B/R Licensees. These unannounced inspections generally entail reviewing books, records, invoices, equipment and supplies, to ensure that the games are conducted pursuant to Colorado laws. This includes ensuring that all equipment and supplies are purchased through licensed suppliers and manufacturers.

Although the goal of the SOS is to conduct 20 inspections per month, the realities are that time and resources allow for two or three inspections per week. These random inspections focus more heavily on the larger, more profitable games of chance establishments, as they generate more revenue, and consequently the potential for financial or other impropriety is greater. However, non-random expedited inspections occur when a B/R Licensee is the subject of a complaint.

Analysis and Recommendations

Recommendation 1 – Continue regulation of bingo and games of chance by the Secretary of State for nine years, until 2017, and sunset the Colorado Bingo-Raffle Advisory Board.

The first sunset criterion asks whether regulation is necessary to protect the public health, safety or welfare. With respect to bingo and games of chance, it is necessary to apply this analysis to both regulation and the Colorado Bingo-Raffle Advisory Board (Board).

Since the legalization of bingo and raffles in 1958, the operation of charitable gaming has grown significantly. Today, charitable gaming in Colorado is a multimillion-dollar a year business that has expanded from church basements into large commercial bingo halls. Because of the potential for corruption in charitable gaming, strict regulatory oversight is necessary to ensure the integrity of control over the manufacturers of gambling equipment, the distribution process, bingo hall landlords and the organizations conducting charitable gaming operations.

Lawful gambling is vulnerable to fraud and abuse because large amounts of cash are involved, and because without careful controls there are a variety of ways to misappropriate funds. A licensing program provides the state with a method of identifying charitable gaming activities in the state and thereby uniformly regulating the activities. The State of Colorado has instituted a number of controls over charitable gaming in both statute and rule in order to ensure the integrity of control over the manufacturers of gambling equipment, the distribution channel, and the organizations conducting charitable gaming operations. For example, charitable organizations are required to post their licenses and display the odds of winning, and licensees must maintain accounting records sufficient to substantiate the quarterly reports required by the Colorado Secretary of State (SOS).

Therefore, regulation of bingo and games of chance is necessary to protect the public, and it should be continued.

However, the same cannot be said of the Board. The Board functions in an advisory capacity, and this sunset review found no evidence that the Board served any function that could not just as easily be performed by the SOS's licensing and enforcement divisions without compromising public protection.

Licensing and disciplinary procedures are the sole responsibility of the SOS. The Board does not review license applications, or allegations of a licensee's violation of statutes, rules and regulations. The licensing and disciplinary criteria are clear, and there have been few disputes regarding decisions made by the SOS.

While Board meetings generally last about one hour or less, staff resources are devoted to preparing materials, mailing, and attending meetings. At a minimum, the SOS's Director of Licensing, lead investigator, and at least one administrative assistant assigned to games of chance all attend each meeting. In addition to the costs associated with the time spent by these state employees, there are additional costs associated with staff preparation time, mailing, and copying expenses. Similarly, staff time devoted to preparation for and in Board meetings could be devoted to other activities. Although the members of the Board receive \$50 per meeting, the direct fiscal impact of maintaining the Board is relatively minimal, and the financial impact of eliminating this advisory Board would not be significant. However, the Director of Licensing reports that there would be increased resources available for other activities if Board meetings were eliminated.

It may be suggested that since eliminating the Board will not create cost savings it should be continued. However, the sunset criteria specifically address the issue of efficient use of resources. It is not an efficient use of the program staff time to attend a Board meeting that is not meaningful or does not enhance public protection. The SOS has the regulatory authority to protect the public, and this sunset review has found that the SOS has used that authority to enforce the regulations adequately without the oversight of a Board. This, in effect, makes the continuation of the Board unnecessary.

The Board, created by statute, has specific statutory responsibilities which form a rational basis for the Board's existence. Pursuant to section 12-9-202(1), Colorado Revised Statutes (C.R.S.), the Board has the following duties and responsibilities:

- To conduct a continuous study of charitable gaming throughout the state for the purpose of ascertaining any defects in the Bingo and Raffles Law, or in the rules promulgated pursuant to this law.
- To formulate and recommend changes to the Bingo and Raffles Law.

Section 12-9-202(2), C.R.S., requires the Board to offer advice to the SOS upon subjects which include, but are not limited to, the following:

- The types of charitable gaming activities to be conducted and the rules for those activities;
- The requirements, qualifications, and grounds for the issuance of all types of permanent and temporary licenses required for the conduct of charitable gaming;
- The requirements, qualifications, and grounds for the revocation, suspension, and summary suspension of all licenses required for the conduct of charitable gaming;
- Activities that constitute fraud, cheating, or illegal activities;
- The granting of licenses with special conditions or for limited periods, or both;
- The establishment of a schedule of reasonable fines to be assessed in lieu of license revocation or suspension;
- The amount of fees for licenses issued by the SOS and for the performance of administrative services;
- The establishment of criteria under which a person may serve as a games manager;
- The content and conduct of classes or training seminars to benefit bingo-raffle licensees (B/R Licensees), officers, and volunteers to better account for funds collected from games of chance;
- Standardized rules, procedures, and policies to clarify and simplify the auditing of licensees' records;
- The types of charitable gaming activities to be conducted in the future, based upon a continuing review of the available state of the art equipment in Colorado and elsewhere, and the policies and procedures approved and implemented by other states for the conduct of their charitable gaming activities; and
- The conditions for a licensee's plan for disposal of any equipment and the distribution of any remaining net proceeds upon termination of a B/R License for the licensee's failure to timely or sufficiently renew such license.

However, two Board positions have been unfilled for lengthy time periods. SOS staff indicates that the registered elector Board position has been vacant for over three years (since July 1, 2003), while the Board member position representing veterans' organizations has been vacant for almost two years (since July 1, 2006). The staff also suggested that there is little public interest in filling these Board positions.

Additionally, over the course of this review, several Board meetings have been held, and attended by a Department of Regulatory Agencies (DORA) representative, and, unfortunately the Board has not addressed the majority of the above statutory provisions at any of its meetings. Generally, each meeting consisted of reciting the Pledge of Allegiance, followed by a discussion amongst the Board members on how to financially bolster this declining industry. Examples of topics for Board meeting discussions are advertising and the introduction of new types of electronic games of chance. As set forth in Chart 1, revenues and occasions for bingo games have declined over the past decade. Industry members blame casino gambling, smoking prohibitions, and a general aging of the demographic group who frequent bingo establishments as main causes of the decline.

However, with the exception of the items specified above, the Board meetings have not included discussions, suggestions, or recommendations on the items set forth above in section 12-9-202(2), C.R.S. Staff of the SOS, and several current Board members, have suggested that the Board has outlived its usefulness, and is ripe for termination.

Another reason for this recommendation is that there is a growing distinction between the non-profit representatives and the for-profit members. Generally, the non-profit members consist of charitable organizations, and the for-profit members consist of the manufacturers, suppliers, landlords, and their agents. For the B/R Licensees, bingo is a way of generating money for numerous social programs. However, for the other licensees, bingo is simply a money-generating business.

The basic purpose of allowing bingo-raffle occasions in Colorado is to benefit appropriate charitable organizations by permitting them to conduct games of chance to raise funds for legally acceptable purposes. The general reason for licensure and regulation of these games of chance is to provide B/R Licensees with a set of rules that are fair and balanced to both the licensees and the public.

Landlord, Manufacturer, and Supplier Licensees are involved in charitable gaming solely for profit. Their presence on the Board is somewhat conflicting with the nature of charitable organizations. To be sure, these for-profit licensees benefit financially when the industry in general thrives. However, the underlying rationale for allowing games of chance is to benefit the non-profit organizations, and not ancillary businesses that supply equipment, machinery, or physical premises.

The Board currently has two landlord members, and three of the nine members (one-third) of the Board represent the for-profit oriented licensees. This number is too large; especially when positions for the non-profit Board members go unfilled for extended periods of time.

There is a disparity between each group's ideals and recommendations. For example, at one recent Board meeting the for-profit members of the Board were in favor of spending a portion of B/R Licensee's financial proceeds on advertising, in an attempt to bolster the sagging industry. This measure was opposed by the charitable non-profit members as unnecessary and self-serving.

Industry representatives contend that the duties and responsibilities of the Board should be expanded. However, there is no documentation or evidence that indicates that expanding Board authority will provide additional protection to the public. Of note, at least one current member of the Board did not understand that public protection is a major aspect in regulating the industry.

While it is important to receive input from the regulated community, especially when promulgating new regulations that impact the industry, the need to promulgate new regulations is generally an infrequent event. An *ad hoc* advisory committee or group representing charitable gaming would be as effective and useful as the current Board. If the Board is repealed and the SOS finds a need to promulgate new regulations, industry representatives would be afforded the opportunity to provide input under the provisions of the Administrative Procedure Act.

In the final analysis, the Board does not enhance public protection. As a result, repealing the Board will not jeopardize public protection.

Therefore, based upon all information and evidence submitted, and the Board's apparent lack of meaningful purpose, this recommendation entails permitting the regulation of games of chance to continue through the SOS, and repealing the Board.

Nonetheless, several proposed sunset recommendations that would necessitate amending the Colorado Constitution through a statewide election have been suggested to DORA, although they have not been adopted as recommendations in this report. These suggested recommendations generally relate to industry's perceptions on how to invigorate the declining financial prospects of the Colorado bingo industry. Examples of these suggestions include allowing B/R Licensees to financially compensate bingo workers (currently, they must be unpaid volunteers), and to modify and ease the requirements for a non-profit organization to obtain a B/R License.

The most pervasive suggestion received by DORA was to transfer the regulation of bingo and games of chance from the SOS to the Department of Revenue (DOR). The reasons suggested for this transfer of regulatory oversight generally include the lack of police officer status and authority on behalf of the SOS's investigative staff, and the potential for increased efficiency in regulating games of chance under the current gaming authority of the DOR. The reasons suggested for this proposed transfer are tenuous and not supported by statistical data or evidence.

The regulation of bingo has been within the SOS domain since its constitutional inception in 1958. Throughout this approximately 50 years of regulatory oversight, SOS and staff have adequately performed the necessary licensing and enforcement functions inherent with this regulatory program. Currently, the majority of actions taken by the SOS's enforcement section consist of fines related to the late filing of quarterly reports by licensees.

A general review of complaints and resolutions does not substantiate a need to transfer the regulation of bingo and games of chance from the SOS to the DOR. Specifically, it can be concluded that the enforcement section handles and resolves complaints in an effective manner. Chart 7, located on page 34 of this report, indicates that the SOS received 271 complaints related to bingo events between the years 2000 and 2006. Of those complaints, only five remained unresolved. Three of the five unresolved complaints were restraint of trade disputes, and were consequently referred to the Colorado Attorney General. The SOS's staff notes that the remaining two unresolved complaints did not involve a statutory violation, but were considered unresolved due to the complex nature of the complaints. However, these unresolved complaint matters are now considered closed by SOS staff.

Nonetheless, the SOS has the authority and power to require that some or all of the SOS investigators be Post-Board (police officer) certified if necessary to fulfill the duties and responsibilities of that position. This has not occurred today, or over the past 50 years of SOS regulation.

Finally, transferring the regulatory authority over bingo and games of chance to any department outside of the SOS is a complicated matter, due to the fact that the Colorado Constitution vests licensing authority in the SOS. Thus, there are two options with respect to a transfer of regulatory authority: 1) create a bifurcated system where licensing authority remains vested in the SOS, but enforcement authority is vested in the DOR; or 2) amend the statutes to transfer enforcement authority to DOR and pass a Constitutional amendment to transfer licensing authority as well.

A bifurcated licensing and enforcement system would result in a weakened regulatory structure that lacks sufficient accountability. Given this result, and the lack of a compelling reason to do so, such an endeavor is not justified.

A Constitutional amendment would require a ballot initiative on a statewide election. As such, the time, effort, and expense associated with statewide ballots suggest that an extremely compelling rationale be present to justify the resources needed to accomplish this suggested amendment. However, the rationale here falls far short of that which would justify such effort and expense. The protection afforded to the public would not be increased or enhanced by this transfer of regulatory oversight.

Recommendation 2 – Repeal the requirement that Landlord Licensees submit blueprints of their facilities as a condition of licensure.

Currently, Landlord Licensees must file blueprints of their facilities to be utilized for charitable gaming. Licensees, industry, and the SOS indicate that the requirement for a landlord to file blueprints is unnecessary and does not serve the public interest. It has been suggested that in 1958, many facilities were not appropriate for bingo occasions; however, this condition no longer exists.

Recommendation 3 – Allow B/R Licensees to conduct an unlimited number of bingo occasions each year.

Currently, section 12-9-107(7), C.R.S., restricts a B/R Licensee to 158 bingo occasions per calendar year. This number is arbitrary and restrictive to charitable organizations that desire to hold bingo occasions on a more frequent basis.

Although, many smaller charitable organizations will not be affected by this recommendation, because they do not have the resources to hold the maximum number of bingo occasions, larger organizations, with a substantial number of volunteers, will be able to benefit financially by increasing the number of bingo occasions that are held.

In the end, the charitable purposes of these organizations will benefit from the increased revenue that can be expected to result from more bingo occasions.

Recommendation 4 – Repeal the statutory restriction on cash promotional prizes.

Section 12-9-102.5, C.R.S., allows licensees to utilize prize promotions involving free product giveaways for purposes of commercial advertisement, the creation of goodwill, or the promotion of new products or services. By rule, the SOS has limited the amount of promotional prizes to \$10,000.⁸³ However, section 12-9-102.5(4)(a), C.R.S., prohibits licensees from offering cash prizes for these promotional purposes. Currently, a licensee may offer any type of prize, including vehicles, furniture, vacations, or other items or services, with the exception of cash. This restriction is arbitrary and has no relation to the legitimate regulation of bingo occasions.

Therefore, section 12-9-102.5(4)(a), C.R.S., should be amended to repeal the statutory language preventing licensees from offering cash prizes for promotional activities.

⁸³ 8 CCR 1505-2, Rule 13(c).

Appendix A – Sunset Statutory Evaluation Criteria

- (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;
- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.