

Michael Rodgers
Director of Policy and Legislation
Ohio Attorney General's Office
December 2, 2020

Good afternoon Chairman Coley, Vice Chair Huffman, Ranking Member Craig, and members of the Senate Government Oversight and Reform Committee. My name is Mike Rodgers and I am the Director of Policy and Legislation for Attorney General Dave Yost. Thank you for allowing me the opportunity to testify today in support House Bill 282 on behalf of the Attorney General.

Litigation Background

Before proceeding directly into our support for HB 282, Chairmen Coley asked that I provide the members of the committee with a brief procedural background that should help to provide additional context for our interest and support for HB 282.

In December 2013, the Ohio Veterans and Fraternal Charitable Coalition and others filed a complaint seeking a declaratory judgement and injunctive relief against the Attorney General's Office (AGO) and the Ohio Liquor control Commission, along with a temporary restraining order. This litigation sought to do two main things: 1) have a judge determine that the Electronic Raffle Machines (ERMs) being operated by the Vet and Fraternal Organizations are legal under Ohio law; and 2) to restrain our office and the Ohio Liquor Control Commission from taking any action against these entities for use of the machines.

In 2016, the Liquor Control Commission reached a settlement with plaintiffs and was dismissed from the litigation. The AGO and plaintiffs filed competing motions for summary judgment. In October 2016, the trial court held a limited evidentiary hearing and entertained oral argument on the sole issue of whether ERMs conduct a raffle within the meaning of how that term is defined in R.C. 2915.01(CC). Ultimately, the trial court concluded that ERMs do not meet the definition of a raffle as defined in in Ohio law, granted the AG's motion for summary judgement, and entered judgement in favor of the AG. The plaintiffs timely appealed.

The Tenth District Court of Appeals agreed with the trial court's determination that the plaintiff's ERMs do not satisfy the definition of a raffle in Ohio law and affirmed the trial court's decision. The plaintiffs filed a discretionary appeal with the Ohio Supreme Court in January 2019, and after filing a pleading arguing that the Supreme Court should not accept jurisdiction, the parties have mutually agreed to hold that court's jurisdictional decision in abeyance. That order will expire on December 30, 2020.

Despite our successes in the courtroom, our intent is not to deprive charities or the organizations that depend on their donations of much needed resources. The modern and electronic bingo game advocated for in HB 282, represents a commonsense way to achieve this objective.

Charitable Gaming at the AGO

The Charitable Law section within the Attorney General's Office (AGO) is the sole overseer and regulator for charitable bingo in Ohio. In 2019, charities in Ohio brought in \$105 million through Type I, II, and III bingo. Charities and organizations wishing to conduct bingo must apply for and

receive a license from the Ohio Attorney General's office, provide annual reports, and submit to periodic inspections from the Charitable Law Section to ensure that all of the legal requirements are met, and all charitable resources are accounted for. Existing law also provides a number of stringent restrictions on who may conduct bingo and how much they may earn directly from conducting a bingo game. Entities that are eligible to conduct bingo include 501(c)(3)'s, volunteer fire and rescue organizations, veteran, fraternal, and sporting organizations so long as they have existed for more than two years prior to obtaining a license. As of a recent check, there are 1593 licensed bingo operators in Ohio, down from roughly 1736 a year ago.

What are the different types of bingo?

Type I bingo is the traditional game with a caller announcing numbers where paper sheets are used to track numbers and determine winners at the luck of the draw.

Type II bingo covers the sale of instant bingo in conjunction with the traditional bingo game.

Type III bingo is instant bingo being conducted outside of a traditional game.

- In this version of the game, there is a “deal” of instant tickets—often referred to as pull-tabs—that are distributed in stacks where winners are predetermined, and the odds of winning are clearly disclosed on each card. House Bill 282 will modernize Type III bingo to allow the game to be played in an electronic format. In doing so, Ohio would join six other states (Kentucky, Michigan, Minnesota, Mississippi, North Dakota, and Virginia) that allow instant bingo as a charitable game.

Suggested Changes

I know the sponsors explained to the committee the nuts and bolts of HB 282, and we support the bill as written. I wanted to spend the remaining moments of my testimony discussing a few suggested changes our office has been working on with the bill's sponsors as well as other interested parties that makes the bill even stronger. The AGO is proposing additional rulemaking authority be provided to our Charitable Law section to enhance their enforcement capabilities. Included in these efforts are new rulemaking provisions that cover the licensure process for distributors and manufacturers including the denial, revocation, or suspension of a license. Similar authority is also being requested for electronic bingo game operators. Additionally, the AGO is seeking to provide further regulatory guidance, through rule, on what acceptable changes may be made to existing technology and the games themselves. Part of this component is a new requirement that would require manufacturers to own their own intellectual property or properly demonstrate having a license to use an application. This provision follows statutes and best practices in place in North Dakota. All of this authority would help strengthen the existing regulations in this area as Ohio looks to modernize Type III bingo.

In contemplating these modernization efforts, the AG's office has conducted significant outreach to other entities and states that have existing expertise in this area. These efforts are already bearing fruit. For the first time, our office is now partnering with the Ohio Casino Control Commission and our charitable gaming organizations to make sure that problem gambling resources are available to the charitable community. We've consulted with counterparts in other states, experts in the electronic gaming, and others to make sure that our modernization efforts promote a secure and legal game,

bolster our charitable partners, and continue monetary support for countless worthy causes across our great state.

Conclusion

Chairman Coley and members of the committee, thank you again for allowing me to testify today in support of House Bill 282. I'd also like to thank the bill's sponsors, Representative Holmes and Representative LaRe for their leadership on this issue. I would be happy to answer any questions you may have today, and I also have Dan Fausey, the Chief of our Charitable Law section, with me who can answer any technical questions beyond my grasp.