



## 2022 South Dakota Legislature

# Senate Bill 37

*Introduced by: The Committee on Taxation at the request of the Department of Revenue*

1 **An Act to repeal the bingo distributor license and bingo manufacturer license and to**  
 2 **repeal the bingo tax.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 22-25-25 be AMENDED:**

5 **22-25-25.** The game, bingo, as defined in § 22-25-23, or lottery, as defined in  
 6 § 22-25-24, may not be construed as gambling or as a lottery within the meaning of § 22-  
 7 25-1, if:

- 8 (1) The bingo game or lottery is conducted by a bona fide congressionally chartered  
 9 veterans' organization; a religious, charitable, educational, or fraternal  
 10 organization; a local civic or service club; a political party; a volunteer fire  
 11 department; a local industrial development corporation as defined in § 5-14-23; or  
 12 a political action committee or political committee on behalf of any candidate for a  
 13 political office which exists under the laws of the State of South Dakota;
- 14 (2) The proceeds therefrom do not inure to the benefit of any individual;
- 15 (3) No separate organization or professional person is employed to conduct the bingo  
 16 game or lottery or assist therein;
- 17 (4) No compensation of any kind in excess of the state minimum wage per hour or sixty  
 18 dollars, whichever is greater, in value is paid to any person for services rendered  
 19 during any bingo session in connection with the conduct of the bingo game or in  
 20 consideration of any lottery. However, the provisions of this subdivision do not  
 21 apply to games or lotteries conducted in connection with any of the following  
 22 events: a county fair conducted pursuant to § 7-27-3, the state fair conducted  
 23 pursuant to chapter 1-21, or a civic celebration recognized by resolution or other  
 24 similar official action of the governing body of a county, municipality, or village;
- 25 (5) No prize in excess of two thousand dollars is awarded at any one play of bingo;

1       ~~(5A)~~(6)       The actual value of any lottery prize is stated before any chances for the  
 2                   lottery are sold. A lottery prize of a stated amount of dollars in value may be given  
 3                   to a person who sells a winning lottery ticket or share as long as the winning lottery  
 4                   ticket or share is selected at random;

5       ~~(6)~~(7) The organizations authorized under subdivision (1) of this section, before  
 6                   conducting a bingo game or before selling any chances for a lottery, give thirty  
 7                   days' written notice of the time and place thereof to the governing body or  
 8                   designated administrative official of the county or municipality in which it intends  
 9                   to conduct the bingo game or lottery, and the governing body does not pass a  
 10                  resolution objecting thereto. However, any organization that conducts a lottery and  
 11                  sells tickets or shares for ~~such the~~ lottery ~~are sold~~ state-wide shall provide written  
 12                  notice of ~~such the~~ lottery pursuant to this subdivision only to the secretary of state  
 13                  and to the governing body where the drawing for ~~such the~~ lottery is held. A  
 14                  municipality pursuant to § 9-29-5 may by ordinance prohibit within the  
 15                  municipality the sale of lottery tickets or shares for ~~such the~~ lottery issued pursuant  
 16                  to this section; and

17       ~~(7)~~(8) No organization authorized to conduct a bingo game or lottery under subdivision  
 18                  (1) of this section may enter into any lease or agreement with any other person or  
 19                  organization to provide equipment or services associated with the conduct of a  
 20                  bingo game or lottery. However, this subdivision does not apply to any lease or  
 21                  agreement with a distributor licensed ~~pursuant to §§ 22-25-28 to 22-25-51,~~  
 22                  ~~inclusive,~~ to provide bingo or lottery equipment and supplies.

23       **Section 2. That § 22-25-28 be AMENDED:**

24                  **22-25-28.** ~~No person may sell, offer for sale, or otherwise furnish bingo or lottery~~  
 25                  ~~equipment and supplies without being licensed as a distributor pursuant to §§ 22-25-28~~  
 26                  ~~to 22-25-51, inclusive. Any person, organization, or other entity which conducts bingo~~  
 27                  ~~games or lotteries may purchase or lease bingo or lottery equipment and supplies or~~  
 28                  ~~pull tabs only from persons licensed pursuant to this chapter. The annual distributor~~  
 29                  ~~license fee is five thousand dollars. All distributor licenses shall be renewed on January~~  
 30                  ~~first of each year. For the purpose of this section, chapter, a distributor is any person who~~  
 31                  purchases bingo or lottery equipment or supplies from a manufacturer and sells, offers for  
 32                  sale, or otherwise furnishes bingo or lottery equipment or supplies in this state, excluding  
 33                  Any any person who rents bingo equipment to another for noncommercial recreational use  
 34                  is exempt from the licensing requirement imposed in this section and the tax imposed in

1       ~~§ 22-25-48.~~ For the purposes of this section, the term, noncommercial recreational use,  
2       means games played for amusement only, not for gain or profit, and not conducted by  
3       any person or organization which receives compensation for sponsoring or operating bingo  
4       games.

5       **Section 3. That § 22-25-29 be AMENDED:**

6               ~~22-25-29.~~ No manufacturer may sell, offer for sale, or otherwise furnish bingo or  
7       lottery equipment and supplies without being licensed as a manufacturer pursuant to  
8       ~~§§ 22-25-28 to 22-25-51, inclusive.~~ The annual manufacturer license fee is two thousand  
9       five hundred dollars. All manufacturer licenses shall be renewed on January first of each  
10      year. No person licensed as a manufacturer may be licensed as a distributor. A  
11      manufacturer may sell bingo and lottery equipment and supplies only to a distributor  
12      licensed under ~~§§ 22-25-28 to 22-25-51, inclusive,~~ and a distributor may purchase bingo  
13      and lottery equipment and supplies only from a manufacturer licensed under ~~§§ 22-25-28~~  
14      ~~to 22-25-51, inclusive.~~ For the purpose of this ~~section~~ chapter, a manufacturer is any  
15      person who assembles from raw materials or subparts completed pieces of bingo or lottery  
16      equipment or supplies.

17      **Section 4. That § 22-25-30 be REPEALED:**

18              ~~Application for a distributor's or manufacturer's license shall be made to the~~  
19      ~~Department of Revenue. The application shall be on forms provided by the secretary of~~  
20      ~~revenue. Such forms shall include at least the following information:~~

- 21      ~~(1) The name of the person responsible for completing the application;~~  
22      ~~(2) The name of the business;~~  
23      ~~(3) The mailing address of the business;~~  
24      ~~(4) The office address if different than the mailing address;~~  
25      ~~(5) The telephone number of the business;~~  
26      ~~(6) The official position of the person completing the application;~~  
27      ~~(7) Whether the applicant is a corporation, partnership or sole proprietorship;~~  
28      ~~(8) A list of the owners, partners, officers, directors, and people in supervisory and~~  
29      ~~management positions. A distributor personnel form shall be completed for each~~  
30      ~~of these individuals;~~  
31      ~~(9) The address of the facility in South Dakota into which all bingo or lottery equipment~~  
32      ~~and supplies is unloaded prior to sale in this state;~~  
33      ~~(10) A statement that the applicant is not a wholesale distributor of alcoholic beverages;~~

1       ~~(11) A statement that the owners, partners, officers, directors, and people in supervisory~~  
 2           ~~and management positions are of good moral character and have never been~~  
 3           ~~convicted of a crime regarding moral turpitude; and~~

4       ~~(12) A statement of consent authorizing law enforcement officers or the secretary of~~  
 5           ~~revenue or his agents to enter upon and inspect any site where bingo or lottery~~  
 6           ~~equipment or supplies are stored by the distributor and authorizing inspection at~~  
 7           ~~any location of any records of the distributor connected to the sale of bingo and~~  
 8           ~~lottery equipment in the state, without warrant or court process.~~

9           ~~The chief executive officer or owner shall verify under oath the statements made~~  
 10       ~~in the application.~~

11       **Section 5. That § 22-25-31 be REPEALED:**

12           ~~The distributor personnel form shall include the following information:~~

- 13       ~~(1) The name of the person completing the form;~~  
 14       ~~(2) The name of the distributor;~~  
 15       ~~(3) The address, date of birth, and name of the spouse of the person completing the~~  
 16           ~~form;~~  
 17       ~~(4) All other current occupations along with the employer's name, address, type of~~  
 18           ~~business, and the position held within that business;~~  
 19       ~~(5) The names of any organizations conducting bingo or lotteries under the provisions~~  
 20           ~~of § 22-25-25 of which the person completing this form is a member;~~  
 21       ~~(6) All criminal convictions, or pending criminal charges, if any, the dates of those~~  
 22           ~~convictions and the location of the court imposing sentence; and~~  
 23       ~~(7) A list of all the places of residence in the last ten years.~~

24           ~~Information on this form shall be verified under oath by the person completing it.~~

25       **Section 6. That § 22-25-36 be REPEALED:**

26           ~~If any information submitted in the application changes, the changes shall be filed~~  
 27       ~~with the secretary of revenue within ten days after the change.~~

28       **Section 7. That § 22-25-37 be REPEALED:**

29           ~~Each distributor and manufacturer shall maintain for five years records relative to~~  
 30       ~~the purchase and sale, lease, rental, or loan of bingo or lottery equipment and supplies at~~  
 31       ~~the distributor's place of business within this state or in the case of a manufacturer at the~~

1 ~~manufacturer's place of business. Sales invoices shall be maintained by a distributor for~~  
2 ~~all bingo or lottery equipment and supplies distributed, whether by sale, lease, rental, or~~  
3 ~~loan, to all qualified organizations. Sales invoices shall be maintained by manufacturers~~  
4 ~~for all bingo or lottery equipment and supplies distributed, whether by sale, lease, rental,~~  
5 ~~or loan, to all qualified organizations or distributors. Bingo or lottery equipment and~~  
6 ~~supplies provided to all qualifying organizations or distributors at no charge shall be~~  
7 ~~recorded on a sales invoice. The sales invoices shall be on a standard form prescribed by~~  
8 ~~the secretary of revenue and shall have the following information as a minimum:~~

9 ~~(1) The license number of the distributor or manufacturer;~~

10 ~~(2) The complete business name and address of the organization or distributor;~~

11 ~~(3) The sales tax license number of the organization or distributor;~~

12 ~~(4) The invoice number;~~

13 ~~(5) The invoice date;~~

14 ~~(6) The date shipped;~~

15 ~~(7) The quantity by the number of deals for pull tabs;~~

16 ~~(8) A full description of each item of bingo or lottery equipment and supplies sold;~~

17 ~~(9) The ideal gross receipts for each different type of pull tab; and~~

18 ~~(10) The ideal net receipts for each different type of pull tab.~~

19 **Section 8. That § 22-25-38 be REPEALED:**

20 ~~The secretary of revenue may examine or cause to be examined the books and~~  
21 ~~records of any distributor or manufacturer to the extent that such books and records relate~~  
22 ~~to any transaction connected to the sale of bingo or lottery equipment and supplies in this~~  
23 ~~state. No distributor or manufacturer may prohibit, interfere with, or otherwise impede~~  
24 ~~such examination, but shall cooperate and assist with the examination and provide such~~  
25 ~~information as may be required.~~

26 **Section 9. That § 22-25-41 be AMENDED:**

27 **22-25-41.** No coin-operated machine or mechanical pull-tab dispensing device  
28 may be sold or otherwise furnished to any organization in this state by a distributor or  
29 manufacturer ~~licensed pursuant to §§ 22-25-28 to 22-25-51, inclusive.~~ However, a  
30 ~~licensed~~ distributor or manufacturer may sell or furnish a coin or bill operated mechanical  
31 pull-tab dispensing device if the device is only sold or furnished to and only used by a  
32 fraternal or charitable organization, local civic or service club, volunteer fire department,  
33 or a congressionally chartered veteran's organization that qualifies under § 22-25-25.1.

1 **Section 10. That § 22-25-48 be REPEALED:**

2 All distributors shall pay a tax to the Department of Revenue of five percent of the  
3 distributor's gross sales of bingo or lottery equipment and supplies or pull tabs for use in  
4 South Dakota. The tax shall be paid by the fifteenth day of the month following the month  
5 in which the sales invoice was prepared on a form provided by the Department of Revenue.

6 **Section 11. That § 22-25-49 be REPEALED:**

7 The secretary of revenue may promulgate rules pursuant to chapter 1-26 to  
8 implement the provisions of §§ 22-25-28 to 22-25-51, inclusive.

9 **Section 12. That § 22-25-50 be AMENDED:**

10 **22-25-50.** Any person who violates any provision of ~~§§ 22-25-28 to 22-25-51,~~  
11 inclusive §§ 22-25-32 to 22-25-35, inclusive, or 22-25-39 to 22-35-47, inclusive, is guilty  
12 of a Class 1 misdemeanor. Any person convicted of a second or subsequent violation of  
13 the provisions of ~~§§ 22-25-28 to 22-25-51, inclusive~~ §§ 22-25-32 to 22-25-35, inclusive,  
14 or 22-25-39 to 22-35-47, inclusive, is guilty of a Class 6 felony.

15 **Section 13. That § 22-25-51 be REPEALED:**

16 The provisions of ~~§§ 22-25-28 to 22-25-51, inclusive,~~ do not apply to a lottery  
17 owned and operated by the State of South Dakota.

18 **Section 14. That § 10-59-1 be AMENDED:**

19 **10-59-1.** The provisions of this chapter may only apply to proceedings commenced  
20 under this chapter concerning the taxes, the fees, the surcharges, or the persons subject  
21 to the taxes, fees, or surcharges imposed by, or any civil or criminal investigation  
22 authorized by, chapters 10-33A, 10-39, 10-39A, 10-39B, 10-43, 10-45, 10-45D, 10-46,  
23 10-46A, 10-46B, 10-46E, 10-47B, 10-50C, 10-52, 10-52A, 10-62, 32-3, 32-3A, 32-5, 32-  
24 5B, 32-6B, 32-9, 32-10, 34-45, and 34A-13 and ~~§§ 22-25-48, 49-31-51,~~ and 50-4-13 to  
25 50-4-17, inclusive.