

**TITLE 4.**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING  
CONCERNING  
INTERIM APPROVAL OF BINGO CARD-MINDING DEVICES  
CGCC-GCA-2008-04-C**

**NOTICE IS HEREBY GIVEN** that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 10:00 a.m. on July 2, 2009, at 2399 Gateway Oaks Drive, First Floor Hearing Room, Sacramento, CA 95833-4231.

**WRITTEN COMMENT PERIOD**

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on July 2, 2009**. Written comments not submitted at the hearing should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

**ADOPTION OF PROPOSED ACTION**

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by sections 19850.5 and 19850.6 of the Business and Professions Code, and section 326.5 of the Penal Code; and to implement, interpret or make specific Sections 19850.5 and 19850.6 of the Business and Professions Code, and section 326.5 of the Penal Code; the Commission is proposing the following changes to Chapter 8 of Division 18 of Title 4 of the California Code of Regulations:

## INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

### INTRODUCTION:

The California Gambling Control Commission (Commission) has been specifically directed, pursuant to Business and Professions Code section 19850.6, subdivision (a), to adopt regulations to implement the California Remote Caller Bingo Act (CRCBA<sup>1</sup>). The Commission is proposing to adopt regulations that will establish a process for granting interim approval of bingo card-minding devices used in the play of bingo games. The adoption of the proposed regulations will implement one element of the CRCBA, as mandated by Penal Code section 326.5.

### SPECIFIC PROPOSAL:

This proposal would make permanent the emergency regulations in Section 12486 of Chapter 8 of Division 18 of Title 4 of the California Code of Regulations. Section 12486 establishes a process and criteria for the interim approval of bingo card-minding devices and any modifications to approved devices, as required by Penal Code section 326.5(p). This proposal requires the chief executive officer of the card-minding device manufacturer to self-certify, under penalty of perjury, that the device meets all requirements under the Penal Code, and establishes a process for the review and consideration of applications by the Commission.

### EXISTING LAW:

Effective January 1, 2009, Penal Code section 326.5, subdivision (o), provides that electronic or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of the numbers or symbols, public display of that drawing, and except in connection with the use of hand-held, portable card-minding devices used by players who are physically present at a bingo game. Subdivision (p) provides that players who are physically present at a bingo game may use hand-held, portable card-minding devices that meet specified requirements to assist in monitoring the numbers or symbols announced in a live game. This subdivision also requires that the Commission approve any card-minding device in advance of its use.

Section 12486, Title 4, Division 18, Chapter 8, California Code of Regulations, currently establishes requirements for the interim approval of card-minding devices, and any modifications to approved devices, as well as the use of those devices in the play of bingo.

### EFFECT OF REGULATORY ACTION:

This proposed action permanently establishes Chapter 8 in Division 18 of Title 4 of the California Code of Regulations, as follows:

- Article 2 is established to reflect the title "Bingo Equipment, Devices, and Supplies."
- Section 12486 is established within Article 2 to reflect the title "Approval of Card-Minding Devices" to create an interim approval process for card-minding devices until such time as additional criteria for approval are established in Commission regulation. Subsection (a) imposes the following conditions for approval:

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<sup>1</sup> Chapter 748, Statutes of 2008 (SB 1369, Cedillio and Battin, et al.)

- 1) Paragraph (1) sets the interim approval term at one year from the date granted or until regulations specifying additional criteria for approval become effective, whichever is later.
  - 2) Paragraph (2) states that an interim approval does not obligate the Commission to grant a regular approval and does not create a vested right in the holder to either an extension of an interim approval or the granting of a subsequent regular approval.
  - 3) Paragraph (3) states that an interim approval does not change the legal requirement that the applicant bears the burden of establishing device compliance.
  - 4) Paragraph (4) clarifies that interim approval of a specific card-minding device has no bearing on whether the manufacturer of the device will qualify for a Commission license, and states that an interim approval for a device will be cancelled if the manufacturer is ineligible for licensure.
  - 5) Paragraph (5) establishes a procedure for the cancellation of an interim approval. A notice will be given to the manufacturer, by the Executive Director of the Commission, in the form of an order to show cause as to why the device's approval should not be cancelled. The manufacturer will have at least 30 days, but not more than 90 days, to respond to the order in writing. The matter will then be set for consideration at a Commission hearing, which will be conducted in accordance with applicable provisions of Section 12050(b).
- Subsection (b) states that a specific model of card-minding devices and its designated software version shall be deemed approved if specified requirements are satisfied.
    - 1) Paragraph (1):
      - Requires the chief executive officer or other authorized representative of the entity that manufactures the card-minding device to self-certify, under penalty of perjury, that the specific card-minding device meets requirements established in statute.
      - Provides for the use of Form CGCC-615, "Application for Interim Approval of Bingo Card-Minding Devices" (Rev.05/09).
      - Establishes a \$50 application fee for each model and its designated software for which approval is being requested.
  - Subsection (c) requires a new approval of any device that has undergone a material software upgrade, as required pursuant to Penal Code section 326.5(p)(3)(A).
  - Subsection (d) requires that players, when using a card-minding device, manually input the numbers or symbols announced in the game into the device, and specifically prohibits automatic daubing, as defined. This subsection also requires that any card-minding device

possessing automatic daubing capability have that capability disabled as a condition of approval.

- Subsection (e) establishes the process for review and consideration of applications for approval by the Commission.
- Attachment (A) to Chapter 8 provides the form to collect information regarding the manufacturer of the bingo card-minding device and the specifications of the device [CGCC-615 (Rev. 05/09)]. The included form is an amendment to the form CGCC-615 (New 11/08), and has been amended to clarify that a bingo card-minding device must be both hand-held and portable to qualify for approval.

### **FISCAL IMPACT ESTIMATES**

#### **FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:**

None.

#### **NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:**

None.

#### **LOCAL MANDATE:**

None.

#### **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTIONS 17500 – 17630 REQUIRE REIMBURSEMENT:**

None.

#### **IMPACT ON BUSINESS:**

The Commission has made an initial determination that the adoption of these regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### **IMPACT ON JOBS/NEW BUSINESSES:**

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

#### **COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:**

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, and that are known to the Commission are:

- \$50 application fee for each card-minding device or associated software for which approval is being sought.

**EFFECT ON HOUSING COSTS:**

None.

**EFFECT ON SMALL BUSINESS:**

The Commission has determined that the proposed regulatory action may affect small businesses if any bingo card-minding device manufacturer qualifies as a small business.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

**INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL**

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231.

**AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS**

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

**CONTACT PERSONS**

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231  
Telephone: (916) 263-4024; Fax: (916) 263-0499; E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joy Calkin, Staff Services Analyst  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231  
Telephone: (916) 263-0700; Fax: (916) 263-0499; E-mail: Jcalkin@cgcc.ca.gov

**WEB SITE ACCESS**

Materials regarding this proposed action are also posted on the Commission's Web site at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).