

**State of California
Office of Administrative Law**

In re:

California Gambling Control Commission

Regulatory Action:

Title 4, California Code of Regulations

Adopt sections: 12486

Amend sections:

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Section 11349.6

OAL File No. 2009-0619-02 EE

This regulatory action readopts an emergency regulatory action effective January 1, 2009 which established the procedure for interim approval of bingo card-minding devices. This regulatory action also readopts a later amendment to the same section by an emergency regulatory action operative on April 24, 2009 and another later amendment to the same section in a much larger emergency regulatory action operative on May 18, 2009. The readoption of these emergency regulatory actions is deemed an emergency by the Legislature pursuant to Section 19850.6 of the Business and Professions Code.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 6/25/2009 and will expire on 12/23/2009. The Certificate of Compliance for this action is due no later than 12/22/2009.

Date: 6/25/2009

CRAIG TARPENNING

Craig S. Tarpenning
Senior Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Terri A. Ciau
Copy: James Allen

EMERGENCY

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2009-0619-02EE
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For use by Office of Administrative Law (OAL) only

2009 JUN 19 AM 9:42
OFFICE OF ADMINISTRATIVE LAW

ENDORSED FILED IN THE OFFICE OF

2009 JUN 25 PM 1:19

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
California Gambling Control Commission

AGENCY FILE NUMBER (if any)
CGCC-GCA-2008-04-E

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Interim Approval of Bingo Card-Minding devices	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2008-1218-06 E; 2009-0414-01 E; 2009-0508-02 E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT § 12486
	AMEND §
TITLE(S) 4	REPEAL §

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) n/a

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY		
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON James Allen	TELEPHONE NUMBER (916) 263-4024	FAX NUMBER (Optional) (916) 263-0499	E-MAIL ADDRESS (Optional) jallen@cgcc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Herb Bolz</i>	DATE 6-18-09
TYPED NAME AND TITLE OF SIGNATORY HERB BOLZ, Senior Legal Counsel	

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ENDORSED APPROVED

JUN 25 2009

Office of Administrative Law

1 CALIFORNIA GAMBLING CONTROL COMMISSION
2 SPECIFIC LANGUAGE OF PROPOSED REGULATIONS
3 INTERIM APPROVAL OF CARD-MINDING DEVICES
4 CGCC-GCA-2008-04-E

5 TITLE 4. BUSINESS REGULATIONS.

6 DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.

7 CHAPTER 8. BINGO.

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9 ARTICLE 2. BINGO EQUIPMENT, DEVICES AND SUPPLIES.

10 **Section 12486. Approval of Card-Minding Devices.**

11 (a) Beginning January 1, 2009, any card-minding device that is used in the play of any bingo
12 game, as described in subdivision (p) of section 326.5 of the Penal Code, shall be approved by
13 the Commission in advance as meeting the requirements of section 326.5. An interim approval
14 process is established to further the legislative intent of avoiding disruption of fundraising efforts
15 by nonprofit organizations as expressed in Business and Professions Code section 19850.6.
16 Until such time as the Commission establishes in regulation specific additional criteria for the
17 approval of card-minding devices, interim approval may be obtained from the Commission
18 pursuant to this section, subject to the following conditions:

19 (1) An interim approval shall be valid for one year from the date it is granted by the Commission
20 or until regulations specifying additional criteria for card-minding devices become effective,
21 whichever is later.

22 (2) An interim approval does not obligate the Commission to grant a regular approval and does
23 not create a vested right in the holder to either an extension of the interim approval or to the granting
24 of a subsequent regular approval.

25 (3) An interim approval does not in any way change the legal requirement that the applicant
26 bears the burden of establishing that a specific device is manufactured to be used in compliance with
27 all of the provisions of paragraphs (1) and (2) of subdivision (p) of section 326.5 of the Penal Code.

28 (4) Issuance of an interim approval concerning a specific card-minding device has no bearing on
29 the question of whether the manufacturer of the device, or any affiliated person, will qualify for
30 issuance of any Commission permit, registration, or license. Any interim approval will be cancelled
31 in the event that the manufacturer of the device is subsequently determined to be ineligible for
32 licensure.

1 (5) If, during the term of an interim approval, it is determined that any particular card-minding
2 device is not qualified for approval, the Executive Director shall prepare an order to show cause why
3 that device's interim approval should not be cancelled. The manufacturer of the device shall be
4 given at least 30 days, but not more than 90 days, to respond in writing. After receipt of the
5 manufacturer's response, or if the manufacturer fails to respond within the specified time, the matter
6 shall be set for consideration at a noticed Commission meeting. The manufacturer may address the
7 Commission by way of an oral statement at the Commission meeting and, either in writing not less
8 than ten days prior to the meeting or at the meeting itself, may request an evidentiary hearing. Any
9 evidentiary hearing shall be conducted in accordance with applicable provisions of subsection (b) of
10 Section 12050 of this division.

11 (b) A specific model of card-minding device and its designated software version shall be
12 deemed approved on an interim basis by the Commission if the following requirements are
13 satisfied:

14 (1) The chief executive officer or other authorized representative of the business entity that
15 manufactures the card-minding device certifies under penalty of perjury using the form
16 "Application for Interim Approval of Bingo Card-Minding Device," CGCC-615 (New 11/08),
17 which is attached in Appendix A to this chapter, that the specific model and its designated
18 software version satisfies all the requirements set out in Penal Code section 326.5(p)(1)(A-D)
19 and (2)(A-D). An application fee of \$50 for each specified model and its designated software
20 version for which approval is being requested shall accompany the application.

21 (2) The Commission has issued an interim approval for the specified model and its
22 designated software version, having found that the certification has satisfied the requirements of
23 this section.

24 (c) Any material change in the software used in a previously approved card-minding device
25 shall require application for approval of the subject model and its revised software version, as
26 provided in subsection (b)(1), and approval by a designated member of the Commission staff.

27 (d) When using any card-minding device, players shall manually input or daub each
28 individual number or symbol announced by a live caller into the individual player-operated
29 units or components of the device; automatic daubing shall not be permitted. Any card-
30 minding device possessing automatic daubing capabilities shall have that capability
31 disabled as a condition of approval.

1 (e) Each application for interim approval shall be reviewed and, if found to be complete and
2 correct, shall be set for consideration at a noticed Commission meeting. If the application does
3 not satisfy the requirements of this section, the manufacturer shall be provided a written list of
4 deficiencies.

5 Note: Authority cited: Sections 19850.5 and 19850.6, Business and Professions Code; Sections 326.3 and 326.5,
6 Penal Code. Reference: Sections 19850.5 and, 19850.6, Business and Professions Code; Sections_326.3 and 326.5,
7 Penal Code.
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APPENDIX A

**APPLICATION FOR INTERIM APPROVAL
OF BINGO CARD-MINDING DEVICE**

CGCC-615 (New 11/08)



State of California
California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, CA 95833-4231
 (916) 263-0700; Fax: (916) 263-0452
www.cgcc.ca.gov

APPLICATION FOR INTERIM APPROVAL OF BINGO CARD-MINDING DEVICE

Pursuant to California Code of Regulations, Title 4, section 12482 and California Penal Code (PC) section 326.5(p)(3), the California Gambling Control Commission (Commission) shall approve in advance any card-minding device to be used in the play of any bingo game. Card-minding devices must meet all requirements indicated in PC section 326.5(p)(1)(A-D) and must not perform any of the functions indicated in PC section 326.5(p)(2)(A-D).

Send the completed *Application for Interim Approval of Bingo Card-minding Device* form with a **\$ 50.00** application fee for each card-minding device model and its designated software version to: California Gambling Control Commission, 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231. Please make all checks payable to the California Gambling Control Commission.

APPROVAL TYPE			
<input type="checkbox"/> Initial Approval		<input type="checkbox"/> Modification of Commission-Approved Device	
SECTION 1a – MANUFACTURER BUSINESS INFORMATION			
Name of Business			
Principal Place of Business Address			
Mailing Address (If different than business address)			
Telephone Number ()	Fax Number ()	Website Address (If any)	
Name of Contact Person		Title	
Telephone Number ()	Fax Number ()	E-mail Address (If any)	
SECTION 1b – MANUFACTURER LICENSE INFORMATION			
If additional space is needed, please attach a listing of the requested information on a separate sheet of paper.			
Has the business been licensed with any gaming agency including any other State, City, County, Federal, Country, or Tribal agency? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, please list the gaming agency and the license, certificate, registration, etc. information below.			
Gaming Agency Name	License Number	Expiration Date	

SECTION 2 – CARD-MINDING DEVICE INFORMATION

Complete the information below for each card-minding device model and its designated software version you are certifying as meeting the requirements indicated in PC 326.5(p)(1) and (2). Any material change in the software used in a previously approved card-minding device requires a modification approval. If you are requesting interim approval of more than four devices, please make an additional copy of this page and attach to the application.

Model Name	Model Number
Software (Firmware) Version	Software (Firmware) Build Date

Answer the following questions regarding the card-minding device model and its designated software version listed above.

1. Is the model a hand-held, portable device?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Has this model and software version been previously tested and certified by an independent laboratory? If yes, attach copies of certification documents.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is this device model and its designated software version capable of automatic daubing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>Complete only if you answered "Yes" to question 3.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Can the automatic daubing function be disabled?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Model Name	Model Number
Software (Firmware) Version	Software (Firmware) Build Date

Answer the following questions regarding the card-minding device model and its designated software version listed above.

1. Is the model a hand-held, portable device?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Has this model and software version been previously tested and certified by an independent laboratory? If yes, attach copies of certification documents.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is this device model and its designated software version capable of automatic daubing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>Complete only if you answered "Yes" to question 3.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Can the automatic daubing function be disabled?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Model Name	Model Number
Software (Firmware) Version	Software (Firmware) Build Date

Answer the following questions regarding the card-minding device model and its designated software version listed above.

1. Is the model a hand-held, portable device?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Has this model and software version been previously tested and certified by an independent laboratory? If yes, attach copies of certification documents.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is this device model and its designated software version capable of automatic daubing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>Complete only if you answered "Yes" to question 3.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Can the automatic daubing function be disabled?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Model Name	Model Number
Software (Firmware) Version	Software (Firmware) Build Date

Answer the following questions regarding the card-minding device model and its designated software version listed above.

1. Is the model a hand-held, portable device?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Has this model and software version been previously tested and certified by an independent laboratory? If yes, attach copies of certification documents.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is this device model and its designated software version capable of automatic daubing?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<i>Complete only if you answered "Yes" to question 3.</i>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Can the automatic daubing function be disabled?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

SECTION 3 – CERTIFICATION / SIGNATURE

An authorized representative of the manufacturer must sign on behalf of the business.

I certify under penalty of perjury under the laws of the State of California that I have personally completed this form and know that the contents thereof, the information contained herein and in any attachments, is true, accurate, and complete. I also certify that any card-minding device and its designated software version indicated on this form meets the requirements of PC 326.5(p) and understand that the interim approval is subject to the following conditions:

- (1) An interim approval shall be valid for one year from the date it is granted by the Commission or until regulations specifying additional criteria for card-minding devices become effective, whichever is later.*
- (2) 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 the interim approval or to the granting of a subsequent regular approval.*
- (3) An interim approval does not in any way change the legal requirement that the applicant bears the burden of establishing that a specific device complies with all of the provisions of paragraphs (1) and (2) of subdivision (p) of section 326.5 of the Penal Code.*
- (4) Issuance of an interim approval concerning a specific card-minding device has no bearing on the question of whether the manufacturer of the device, or any affiliated person, will qualify for issuance of any Commission permit, registration, or license. Any interim approval will be cancelled in the event that the manufacturer of the device is subsequently determined to be ineligible for licensure.*
- (5) If, during the term of an interim approval, it is determined that any particular card-minding device is not qualified for approval, the Executive Director shall prepare an order to show cause why that device's interim approval should not be cancelled. The manufacturer of the device shall be given at least 30 days to respond in writing. After receipt of the manufacturer's response, the matter shall be set for consideration at a noticed Commission meeting. The manufacturer may address the Commission by way of an oral statement at the Commission meeting and, either in writing not less than ten days prior to the meeting or at the meeting itself, may request an evidentiary hearing.*
- (6) Any card-minding device and its designated software version that possess an automatic daubing capability shall have that capability disabled.*

Name of Individual Completing this Application (typed or printed)	Title
Signature	Date