

ADVISORY NOTICE

APPROVED REGULATIONS REGARDING:

REMOTE CALLER BINGO VENDORS;
REMOTE CALLER BINGO INTERIM LICENSES AND WORK PERMITS;
RECOGNITION OF AUTHORIZED ORGANIZATIONS; AND
REMOTE CALLER BINGO REQUIREMENTS

(CGCC-GCA-2009-02-C)

(CGCC-GCA-2009-04-C)

On November 2, 2010, the Office of Administrative Law approved amendments to various remote caller bingo emergency regulations that modified several requirements and made the emergency regulations permanent. These regulations were filed with the Secretary of State on November 2, 2010, and became effective upon filing.¹

The California Gambling Control Commission (Commission) in adopting the subject regulations has made permanent 4 CCR Sections 12480, 12492, 12494, 12496, 12498, 12499, 12501, and 12502, adopted as emergency regulations effective April 24, 2009; and 4 CCR Sections 12488 and 12508, adopted as an emergency regulations effective May 18, 2009.

BACKGROUND:

Senate Bill 1369 (SB1369)² authorized “remote caller bingo” (RCB) as a game that would allow specific nonprofit organizations to use audio or video technology to remotely link designated in-state facilities to conduct live bingo games, if authorized pursuant to a local ordinance and approved by the Commission. The Commission is required to regulate RCB, including but not limited to, the development of regulations for licensure and permitting of persons who conduct RCB games and who manufacture and distribute RCB equipment, supplies, and services. As part of SB1369, the Commission was also tasked with approving bingo card-minding devices (CMDs) along with licensing the manufacturers and distributors of the CMDs.

Business and Professions Code section 19850.6 directs the Commission to adopt appropriate emergency regulations as soon as possible, with the initial regulatory action to be filed with the Office of Administrative Law (OAL) by May 1, 2009. The initial regulatory action for the interim approval of bingo CMDs was filed with OAL on December 18, 2008³ and became effective January 1, 2009. The emergency adoption of Sections 12480, 12492, 12494, 12498, 12499, 12501, 12502, and 12504 was approved by OAL on April 24, 2009⁴ and became effective on that date. The emergency adoption of Sections 12488 and 12508 was approved by OAL on May 18, 2009⁵ and became effective on that date.

¹ OAL File No. 2010-0922-02 C

² Chapter 748, Statutes of 2008, Cedillo and Battin, et. al.

³ See OAL File No. 2008-1218-06 E

⁴ See OAL File No. 2009-0414-02 E

⁵ See OAL File No. 2009-0508-02 E

November 3, 2010

EXISTING LAW:

Penal Code section 326.3, subdivision (b), specifies the requirements that nonprofit organizations must meet in order to be eligible to conduct RCB. Subdivision (q) requires that any person who conducts RCB games and any person who directly or indirectly manufactures or distributes supplies, devices, services, or equipment used in RCB games must be licensed by the Commission. In addition, subdivision (r) specifies that persons employed by an authorized organization performing “administrative,” “managerial,” “technical,” “financial,” and “security” duties must have work permits as defined in section 19805 of the Business and Professions Code.

Penal Code section 326.4 created the Charity Bingo Mitigation Fund (CBMF), for specified purposes,⁶ to be administered by the Commission.⁷ A loan to the CBMF from the accrued interest in the Indian Gaming Special Distribution Fund (SDF) was mandated in order for the CBMF to become immediately operable, and an appropriation was made, as specified.⁸ Provision for repayment of the loan was also included which requires nonprofit organizations conducting RCB games to pay to the Commission five percent (5%) of the gross revenues of each RCB game played until the loan is repaid, as specified.⁹

EFFECT OF REGULATORY ACTION:

Pursuant to its authority under Penal Code Sections 326.3, 326.4, 326.45, and 326.5, the Commission has amended and adopted regulations pertaining to RCB games. The intent of this regulatory action was to amend and make the previously adopted emergency regulations permanent. The amendments were found to be necessary in order to provide clarity, consistency, and technical clean-up due to recent statutory changes. In addition, the Commission has created a separate interim license type for businesses that provide bingo equipment, supplies, and services to nonprofit organizations conducting RCB games (i.e., vendors), thus distinguishing them from manufacturers and distributors of bingo CMDs.

This regulatory action amended and made permanent the previously mentioned sections, the key provisions of which are as follows:

1. Section 12480 sets forth definitions governing the construction of Chapter 8. Subsection (a) provides that the definitions in Business and Professions Code section 19805 and Penal Code sections 326.3 and 326.5(p) shall govern the construction of regulations contained in this chapter, in addition to those definitions contained in the subsection (b) of this section. Subsection (b), for purposes of clarity, defines specific terminology as it relates to the recognition of authorized organizations conducting RCB games, interim RCB licenses and work permits, interim licenses of manufacturers and distributors of RCB equipment and bingo CMDs, and vendors that provide equipment, supplies and services used in RCB games. In subsection (b), several amendments are made which provide clarity, define vendors that provide equipment, supplies, and services relating to RCB, and specify, where applicable,

⁶ Penal Code § 326.4(a)

⁷ Penal Code § 326.4(b)

⁸ Penal Code § 326.4(d)(1)

⁹ Penal Code § 326.4(d)(2)

that an organization may employ an entity to assist the organization with the conduct of RCB games, if a written agreement is entered into.

2. Section 12488 establishes a process by which an organization may obtain approval for the use of RCB equipment. This regulatory action includes a minor amendment which provides that any audio and video technology used must be distributed by a licensed vendor.
3. Section 12492 provides an interim approval process and establishes the requirements for interim licenses and the associated conditions, for manufacturers and distributors of RCB equipment and supplies, and bingo CMDs. Section 12492 is amended throughout to add in a vendor license type. This distinguishes manufacturers and distributors of CMDs from vendors of RCB equipment, supplies, and services.
4. Section 12496 requires that manufacturers and distributors notify the Commission in writing of new California business locations, or terminations of existing business locations within 15 days following the change. This section is amended to include the vendor license type.
5. Section 12498 establishes initial and renewal interim licenses and conditions thereof. This regulatory action renumbers this section as 12500, and adds a provision clarifying that an individual may hold more than one interim license type simultaneously, but limits them to performing in the capacity of only one during the same RCB game or session. The regulatory action also makes minor conforming and clarifying amendments, including the revision date of the referenced application form. The application form also contains amendments to provide more clarity and consistency relative to the changes included in this regulatory action.
6. Section 12501 establishes requirement of and process for obtaining initial and renewal work permits and the conditions thereof. This regulatory action renumbers this section as 12503, adds language to clarify that work permits may be issued by either the local governing agency or the Commission, and amends the revision date of the referenced application form. The form itself contains amendments that provide more clarity and consistency relative to the changes included in this regulatory action.
7. Section 12508 establishes the requirements applicable to an organization conducting RCB. This regulatory action revised the title of the section to, "Remote Caller Bingo Requirements" and amended and reorganized the regulation to establish certain requirements applicable to vendors providing RCB services, and distinguish those requirements applicable to organizations. This section was amended as follows:
 - Subsection (a) was amended to indicate that an organization conducting RCB must be recognized by the Commission pursuant to Section 12505.
 - Subsection (b) was amended to indicate that any vendor providing RCB services and assisting with the conduct of the game must have a valid interim license issued by the Commission. The previous provision of this subsection concerning licensure at the local level was deleted.
 - The previous subsection (c) was deleted and replaced by a new subsection (c), consolidating former subsections (e), (f) and (g), to require that organizations *and*

vendors retain records, written in English, in California, for a period of five years. This makes the requirement applicable to organizations *and* to vendors that provide RCB services to organizations.

- Paragraph (1) of subsection (c) incorporates the provisions of former subsection (e). Those provisions were amended by deleting, at the beginning of the sentence, language pertaining only to organizations. The requirement, then, applies to organizations that conduct RCB games *and* to vendors that provide RCB services to organizations.
- Paragraph (2) of subsection (c) was added to indicate that records shall include the names, and license/permit numbers if applicable, of all organization members, including volunteers, and any vendor conducting or providing RCB services.
- The previous subsection (d) was deleted and its provisions became paragraph (2) of subsection (e). The requirements of the previous subsection (i) became the new subsection (d), and were amended to include vendors with organizations in the requirement to have records audited at least annually and copies of the audit reports provided to the Commission within 120 days after the close of their respective fiscal year.
- The previous subsection (e) was renumbered as paragraph (1) of subsection (c). A new subsection (e) was added that specifies the requirements, in addition to those included in subsections (c) and (d), that apply only to organizations conducting RCB. These requirements are simply a consolidation and renumbering of what were previously included in separate subsections. Paragraph (1) was previously subsection (c), paragraph (2) was previously subsection (d), and paragraph (3) was previously subsection (h).

In addition, a provision was added in paragraph (3) that addresses and clarifies how organizations are to submit the loan reimbursement payments specified in Penal Code section 326.4. This provision requires organizations conducting RCB games to pay to the Commission five percent (5%) of the gross revenues of each RCB game played until the loan is repaid, and specifies that the payments are to be made quarterly with the quarterly submission of the organization's RCB records.

- The current subsection (j) was renumbered as subsection (f). This subsection was and continues to be a simple restatement [paragraphs (1) – (8)] of statutory provisions contained in Penal Code section 326.3.¹⁰ As with various other statutory provisions, these provisions are being duplicated in this section for convenience and ease of reference. Paragraph (8) was also amended to conform to recently enacted legislation¹¹ that changed the reference to “*the counties*” to “*any city, county, or city and county,*” in subparagraph (H) of paragraph (4) of subdivision (j) of section 326.3 of the Penal Code.

¹⁰ Penal Code section 326.3(j)(4)

¹¹ Chapter 562, Statutes of 2009 (SB 126, Cedillo), SEC. 2.

AVAILABILITY OF REGULATIONS:

A copy of the recently approved regulations is attached. For additional information, please see the Commission's Web site at:

http://www.cgcc.ca.gov/?pageID=2009_proposed_gambling_control_act_regulations.

QUESTIONS, CONCERNS, SUGGESTIONS:

Please contact the Commission's Bingo Program at (916) 263-0700 with any inquiries concerning the licensing process. Inquiries concerning the rulemaking process for the adoption of these regulations may be directed to lawsandregs@cgcc.ca.gov.