

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION

REMOTE CALLER BINGO

CGCC-GCA-2009-02-C

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described below in the Informative Digest and Policy Statement Overview. 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 August 19, 2010, 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 August 2, 2010**. Written comments 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 Sections 326.3 and 326.5, Penal Code; and to implement, interpret or make specific Sections 19850.5 and, 19850.6 of the Business and Professions Code, and Sections 326.3 and 326.5 of the Penal Code; the Commission is proposing to adopt the following changes to Chapter 8 of Division 18 of Title 4 of the California Code of Regulations (CCR):

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

Senate Bill 1369 (SB1369)¹ 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, 2008² 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, 2009³ and became effective on that date. The emergency adoption of Sections 12488 and 12508 was approved by OAL on May 18, 2009⁴ and became effective on that date.

SPECIFIC PROPOSAL:

Pursuant to its authority under Penal Code Sections 326.3, 326.4, 326.45, and 326.5, the California Gambling Control Commission (Commission) is proposing to amend and adopt regulations pertaining to RCB games. The intent of these proposed regulations is to amend and make the previously adopted emergency regulations permanent. The proposed amendments were found to be necessary to provide clarity, consistency, and technical clean-up due to recent statutory changes. In addition, the Commission is proposing to create a separate interim license type for manufacturers and distributors of bingo CMDs from those businesses that provide bingo equipment, supplies, and services (i.e., vendors) to nonprofit organizations conducting RCB games.

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 issued pursuant to section 19805 of the Business and Professions Code.

CCR, Section 12480, currently provides the definitions that govern the construction of Chapter 8.

¹ Chapter 748, Statutes of 2008, Cedillo and Battin, et. al.

² See OAL File No. 2008-1218-06 E

³ See OAL File No. 2009-0414-02 E

⁴ See OAL File No. 2009-0508-02 E

CCR, Section 12488, currently establishes requirements for the approval of RCB equipment.

CCR, Sections 12492, 12494, and 12496 currently establishes the process to obtain an interim license, criteria for interim license denial, and reporting of a change of business location pertaining to manufacturers and distributors of bingo equipment.

CCR, Sections 12498, 12499, 12501, 12502, 12504, and 12508 relate to RCB and currently establish the process to obtain an interim license or interim work permit, criteria for denial of an interim license or interim work permit, and the requirements for an organization to become authorized to conduct RCB games.

EFFECT OF REGULATORY ACTION:

This proposal makes permanent CCR Sections 12480, 12492, 12494, 12496, 12498, 12499, 12501, and 12502, adopted as an emergency regulation effective April 24, 2009. This proposal also makes permanent CCR Sections 12488 and 12508, adopted as an emergency regulation effective May 18, 2009. This proposal amends and makes permanent the above-mentioned sections as follows:

1. Section 12480 provides the proper references to definitions governing the construction of Chapter 8. Within subsection (b) several amendments are being proposed to provide clarity, to define vendors that provide equipment, supplies, and services relating to RCB, and specifies, where applicable, that an organization may employ an entity to assist with the conduct of RCB games if a written agreement is made.
2. Section 12488 provides the process in which an organization may obtain approval for the use of RCB equipment. This proposal includes a minor amendment which references that any audio and video technology used must be distributed by a licensed vendor.
3. Section 12492 provides an interim approval process for manufacturers and distributors of bingo equipment. This proposal adds a vendor license type that differentiates providers of equipment, supplies, and services relating to RCB and manufacturers and distributors of CMDs.
4. Section 12494 establishes the criteria for interim license denial and applicant disqualification. This proposal would renumber this section to 12493 and does not contain any proposed amendments to the regulation text.
5. Section 12496 establishes the requirement that manufacturers and distributors shall advise the Commission in writing of any new California business locations within 15 days. This proposal adds the vendor license type.
6. Section 12499 establishes initial and renewal interim licenses and conditions thereof. This proposal would renumber the section to 12500 and amends the revision date on the application form. The form contains amendments to provide more clarity and consistency with the proposed changes in the regulation text.

7. Section 12499 establishes the criteria for interim license denial and applicant disqualification. This proposal would renumber this section to 12501 and does not contain any proposed amendments to the regulation text.
8. Section 12501 establishes initial and renewal work permits and conditions thereof. This proposal would renumber the section to 12503, adds language that work permits may be issued by the local governing agency or the Commission and amends the revision date on the application form. The form contains amendments to provide more clarity and consistency with the proposed changes in the regulation text.
9. Section 12502 establishes the criteria for interim work permit denial and applicant disqualification. This proposal would renumber this section to 12504 and does not contain any proposed amendments to the regulation text.
10. Section 12504 establishes the criteria and process that a nonprofit organization must meet in order to become recognized by the Commission as being authorized to conduct RCB. This proposal would renumber this section to 12505 and does not contain any proposed amendments to the regulation text.
11. Section 12508 establishes the requirements of an organization conducting RCB. This proposal revises the title of the section to, "Remote Caller Bingo Requirements" and makes the requirements applicable to vendors providing RCB services by the following amendments:
 - a) Subsection (a) establishes that an organization conducting RCB must be recognized by the Commission
 - b) Subsection (b) establishes that any vendor providing RCB services must be licensed by the Commission
 - c) Subsection (c) establishes that both organizations and vendors providing RCB services must maintain their remote caller bingo records, including how they must be maintained, the length of time, and what the records must contain.
 - d) Subsection (d) establishes that financial records shall be audited by an independent California certified public accountant annually and copies provided to the Commission 120 days after the organization's and vendor's fiscal years.
 - e) Subsection (e) establishes additional requirements that apply solely to the organizations conducting RCB. These requirements remain unchanged from the existing regulation text.
 - f) Subsection (f) establishes the requirement that an organization must provide the Commission with at least 30 days advance written notice of its intent to conduct RCB games and includes the required information the notice must contain.

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.

NONDISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

LOCAL MANDATE:

None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTION 17561 REQUIRES REIMBURSEMENT:

None.

IMPACT ON BUSINESS:

The Commission has made the initial determination that this proposed regulatory action would have no 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 Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action may affect small businesses if any affected manufacturer, distributor, vendor, or nonprofit organization qualifies as a small business.

Any interested person may present statements in writing or request a hearing and present statements orally relevant to the above determinations.

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 upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, 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:

Shannon George, Associate Governmental Program Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-4904
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WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at www.cgcc.ca.gov.