

OKLAHOMA CHARITY GAMES RULES & REGULATIONS

TITLE 45, CHAPTER 50



OKLAHOMA ALCOHOLIC BEVERAGE
LAWS ENFORCEMENT COMMISSION

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OKLAHOMA ABLE COMMISSION

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TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

CHAPTER 50. CHARITY GAMES

SUBCHAPTER 1. GENERAL PROVISIONS

45:50-1-1. Purpose

The rules in this Chapter have been promulgated for the purpose of administrating and enforcing the Oklahoma Charity Games Act, Section 401 et seq., of Title 3A, of the Oklahoma Statutes.

45:50-1-2. Definitions

In addition to the definitions found in the Oklahoma Charity Games Act, the following words and terms, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Charity Games Act, Section 401 et seq., of Title 3A, of the Oklahoma Statutes.

"Auxiliary" means a unit or society which is affiliated with, and organized in accordance with, the bylaws and regulations of the parent organization.

"Bingo equipment" means all paraphernalia used to conduct a bingo game including selection equipment, number display boards, and bingo faces. This definition does not include audio or video equipment which plays no part in the conduct of the game other than communicating the progress of the game or items used to mark numbers on the cards.

"Card number" or "center number" means the number printed in the center space or elsewhere on the bingo face that identifies the unique pattern of numbers printed on that card.

"Concealed bingo face sheet" means a non-reusable bingo face constructed to conceal the bingo face.

"Conduct of a charity game" means the selling of bingo faces, U-Pik-Em game sets and breakopen tickets, the calling of numbers, the verification of winners and the payment or delivery of winnings.

"Conforming face" means a bingo face with the word "Oklahoma" and a facsimile outline of the map of Oklahoma printed thereon.

"Continuous or simultaneous game" means using a bingo face to play more than one game either at the same time or in sequence.

"Designator" means an item such as a ping pong ball, used to select numbers and letters in a bingo game.

"Flare" means the information sheet provided by the manufacturer that sets forth the rules of a particular game of breakopen tickets and that is associated with a specific deal of breakopen tickets. The "flare" shall contain the following information:

- (A) Name of the game;
- (B) Manufacturer name or manufacturer logo;
- (C) Form number;
- (D) Ticket count;
- (E) Prize structure, which shall include the number of winning breakopen tickets by denomination, with their respective winning symbols, numbers or both;
- (F) Cost per play; and
- (G) Deal serial number.

"Member" shall mean those persons defined as members in the organization's constitution, organizational document or by-laws. Member shall include an auxiliary unit or society member.

"Packet" means a combination of bingo sheets that are sold as a unit.

"Prizes" means cash or merchandise awarded to game winners.

"Selection equipment" means a device that may be operated manually or automatically and is used to randomly select bingo designators from a receptacle.

"Serial number" means the unique minimum five (5) digit number printed by the manufacturer on each bingo sheet in a set.

"Series" means the number of unique bingo faces contained in a set. A 1-9000 series, for example, has 9,000 unique faces with center or card numbers ranging from 1-9000.

"Set" means the bingo faces contained within each series.

"Sheet" means a disposable piece of paper containing one or more bingo faces.

"Verification" means the final determination of a winner by use of a verification device.

"Verification device" means a book compiled by the manufacturer of bingo faces which lists the unique pattern of numbers on each face by center number or an

electronic verifier on bingo selection equipment which is used to verify the authenticity of a winning face.

45:50-1-3. Name of organization to be displayed

The name of the licensed organization shall be prominently displayed at the entrance to the premises or room where charity games are conducted.

45:50-1-4. Sale or use of nonconforming bingo faces

The sale of nonconforming bingo faces to licensed organizations by licensed distributors is prohibited. No licensed organization shall conduct charity games with nonconforming bingo faces.

45:50-1-5. Destruction of altered or damaged breakopen ticket cards

All marked, defaced, altered, tampered with or damaged breakopen ticket cards shall be destroyed by shredding or burning.

45:50-1-6. Co-ownership of charity game equipment

Two or more organization licensees may enter into an agreement for the joint ownership of any charity game equipment, except bingo faces, U-Pik-Em bingo games or breakopen ticket cards.

45:50-1-7. Rentals and leases of charity game equipment

(a) Bingo faces, U-Pik-Em bingo games and breakopen ticket cards shall not be leased or rented by a licensed organization.

(b) Charity game equipment, other than bingo faces, U-Pik-Em bingo games and breakopen ticket cards shall be leased or rented to licensed organizations only by a licensed distributor or another licensed organization.

(c) A lease or rental agreement for charity game equipment which will be shared by two or more licensed organizations shall include, as lessees, all organizations that will utilize the equipment to conduct charity games.

45:50-1-8. Use of vending machines prohibited

No vending machine or any mechanized coin-operated machine shall be used to sell breakopen tickets.

45:50-1-9. Bingo Equipment

(a) Equipment used in the conduct of a bingo game shall be free from defect and shall be maintained in good repair and proper working condition.

(b) Equipment used in the conduct of a bingo game shall be operating in a manner so that each player is given an equal opportunity to win.

(c) Designators shall be the same in size, shape, weight and balance so that they are equally agitated in the selection equipment.

(d) Equipment used in the conduct of a bingo game shall be available for inspection by the Commission.

45:50-1-10. Equipment transfer notification

An organization shall notify the Commission in writing before selling or giving any charity game equipment to another organization or entity.

45:50-1-11. Location

(a) An organization shall be allowed to conduct charity games at only one location.

(b) An organization shall not change the location at which it conducts charity games without:

- (1) Requesting and receiving the approval of the Commission; and,
- (2) Complying with the publication requirements applicable to an initial license application.

(c) The location where any charity game is conducted shall be open to inspection by the Commission or its duly appointed representative during the hours when charity games are being conducted.

(d) An organization may be licensed and approved to conduct charity games at a location where another licensed organization conducts charity games. The organization's application shall specify the day or days the organization will conduct charity games at the location. All licensed organizations sharing a location shall comply with the following:

- (1) The license of the organization conducting charity games shall be posted at the location during play.
- (2) Each licensed organization shall maintain a separate bingo face, U-Pik-Em, and breakopen ticket inventory.
- (3) The licensed organizations sharing a location shall not conduct charity games on a day other than that specified by the organization in its application without prior approval of the Commission.

45:50-1-12. Printer exclusion

Printers that print forms, programs or other written materials which are not used directly in the conduct of a charity game shall not be considered a manufacturer or distributor.

SUBCHAPTER 3. LICENSES

45:50-3-1. Organization license

(a) Application for an organization license shall be made on a form prescribed by the Commission.

(b) In addition to the requirements for application provided in the Act, each application shall be accompanied by:

- (1) A letter of tax clearance from the Tax Commission; and
- (2) A consent form permitting the Commission to obtain Internal Revenue Service verification of current 501(C) tax exempt status.

(c) Before submitting an application for an initial license, an organization shall twice publish, in the manner required by law, a notice of intent to apply for a license containing the following information:

- (1) Organization name;
- (2) Organization address; and
- (3) Location where charity game activities will be conducted.

(d) An application for an initial license shall be submitted within sixty (60) days of the publication of the intent to apply.

(e) Publication requirements shall not apply to a renewal application, unless an organization is changing the location at which charity games are conducted.

(f) Any licensed organization that changes any of its officers, directors or officials during the term of the license shall, within thirty (30) days of the change, report the names and addresses of such individuals to the Commission.

(g) An organization license shall expire one year from the date of issuance.

(h) Any organization that holds an unexpired bingo license on July 1, 1993, may conduct a charity game in conformity with the Act until the license expires.

(i) The Commission may impose a fine, suspend or revoke an organization's license for any violation of the Act or rule promulgated by the Commission. An

organization which has had a license revoked in this or any other jurisdiction shall not be eligible for a new license for a period of one (1) year from the date of revocation.

(j) There shall be a fine of Five Dollars (\$5.00) per day for late renewal of an organization license. An organization shall stop conducting charity games during the period the license is expired and before it is renewed.

(k) If a license is damaged, lost or destroyed, an organization may obtain a duplicate by submitting a written request to the Commission.

45:50-3-2. Distributor license

(a) Application for a distributor license shall be made on a form prescribed by the Commission.

(b) In addition to the requirements for application provided in the Act, each application shall be accompanied by a letter of tax clearance from the Tax Commission.

(c) Any licensed distributor that changes any of its officers, directors or officials during the term of the license shall, within thirty (30) days of the change, report the names and addresses of such individuals to the Commission.

(d) A distributor license shall expire one year from the date of issuance.

(e) Any distributor that holds an unexpired bingo license on July 1, 1993, may sell charity game equipment in conformity with the Act until the license expires.

(f) The Commission may impose a fine, suspend or revoke a distributor's license for any violation of the Act or Rule promulgated by the Commission. A distributor which has had a license revoked in this or any other jurisdiction shall not be eligible for a new license for a period of one (1) year from the date of revocation.

(g) There shall be a fine of Five Dollars (\$5.00) per day for late renewal of a distributor license. A distributor shall stop selling charity games equipment during the period the license is expired and before it is renewed.

45:50-3-3. Manufacturer license

(a) Application for a manufacturer license shall be made on a form prescribed by the Commission.

(b) In addition to the requirements for application provided in the Act, each application shall be accompanied by a letter of tax clearance from the Tax Commission.

(c) Any licensed manufacturer that changes any of its officers, directors or officials during the term of the license shall, within thirty (30) days of the change, report the names and addresses of such individuals to the Commission.

(d) A manufacturer license shall expire one year from the date of issuance.

(e) Any manufacturer that holds an unexpired bingo license on July 1, 1993, may sell charity game equipment in conformity with the Act until the license expires.

(f) The Commission may impose a fine, suspend or revoke a manufacturer's license for any violation of the Act or rule promulgated by the Commission. A manufacturer which has had a license revoked in this or any other jurisdiction shall not be eligible for a new license for a period of one (1) year from the date of revocation.

(g) There shall be a fine of Five Dollars (\$5.00) per day for late renewal of a manufacturer license. A manufacturer shall stop selling charity games equipment during the period the license is expired and before it is renewed.

(h) A manufacturer's license shall not be issued to a foreign person unless the applicant provides the full name and business and home addresses of a resident of this state authorized to accept service of process on behalf of the foreign person.

SUBCHAPTER 5. EXEMPTIONS

45:50-5-1. Organization exemption

(a) An organization which conducts not more than four (4) charity games sessions per year may apply to the Commission for certification as an exempt organization.

(b) The application for exemption shall be made on a form provided by the Commission.

(c) The application shall state the anticipated date, time and location of the four (4) sessions.

(d) An organization may change the date, time or location of a charity game session only with the approval of the Director.

(e) The certificate of exemption issued by the Commission shall be posted in a conspicuous place during the conduct of the charity games sessions.

(f) An organization granted an exemption to conduct not more than four (4) charity game sessions per year shall not:

- (1) Conduct a charity game session at a location other than the location provided in the organization's application;

- (2) Conduct a charity game session on a day or time other than one provided in the application;
- (3) Award prizes in an amount greater than the limit specified for organizations in the Act;
- (4) Use electronic facsimile of bingo faces.

(g) An organization which has had an exemption revoked or denied shall not be eligible to apply for another exemption for a period of one (1) year.

45:50-5-2. Health care and retirement facility exemption

(a) A hospital, nursing home, residential care facility, senior citizens center, retirement center or convalescent facility that conducts charity games sessions in which not more than Two Hundred Fifty Dollars (\$250.00) in prizes are awarded in any one day may apply to the Commission for certification as an exempt entity.

(b) The application shall be made on a form prescribed by the Commission.

(c) The certificate of exemption shall be posted in a conspicuous place during the conduct of the charity games sessions.

(d) A health care or retirement facility granted an exemption to conduct charity games shall not:

- (1) Conduct charity games at a location other than the hospital, nursing home, residential care facility, senior citizens center, retirement center or convalescent facility;
- (2) Award prizes in cash or any other thing of value in excess of Two Hundred Fifty Dollars (\$250.00) in any one day; or
- (3) Use electronic facsimile of faces.

(e) A health care or retirement facility which has had an exemption revoked or denied shall not be eligible to apply for another exemption for a period of one (1) year.

45:50-5-3. Games where no consideration is required to play

Bingo games are not subject to the Act if it does not cost anything to play and no admission fee is charged.

SUBCHAPTER 7. OPERATIONS OF CHARITY GAMES

45:50-7-1. Conduct of a bingo game or U-Pik-Em bingo game

(a) The following requirements and restrictions apply to the conduct of bingo games and U-Pik-Em games:

- (1) A licensed organization shall post the organization license containing the licensee's name, location of the game, license number and licensee's business address;
- (2) The licensed organization shall post any house rules governing the game;
- (3) With the exception of concealed face games, bingo faces shall be sold prior to the start of a game;
- (4) Bingo faces shall not be reserved for any player(s), except "braille" cards intended for use by blind players;
- (5) No two bingo faces shall be sold for use in the same game if they have the same center or card number.
- (6) The use of electronic facsimiles of bingo faces is prohibited.
- (7) Before selecting and calling the first number in a game, the bingo caller shall announce or display the pattern or arrangement of squares to be covered to win the game.
- (8) After selecting each number, the bingo caller shall:
 - (A) Clearly announce the number;
 - (B) Display the ball or other device used as a designator in a manner allowing the players to see the number; and,
 - (C) Place the designator in a receptacle so as to prevent it from being placed back in the selection pool;
- (9) Squares shall be covered by daubing with indelible ink.
- (10) To play the bingo game or U-Pik-Em bingo game or have a claim against the prizes offered, players shall be present at the location where the game is conducted;
- (11) No member or employee shall be a player in the same bingo or U-Pik-Em bingo game which he or she is conducting.
- (12) Members and employees who wish to play when they are not conducting a game shall pay to play in the same manner and at the same cost as any other player;
- (13) No member or employee shall conduct charity games while impaired by the consumption of alcohol or drugs.
- (14) Winning faces may be given to the winning player;

- (15) Simultaneous or continuous games are prohibited; and,
 - (16) A face shall be used for only one game.
- (b) The following procedures shall be used to determine a winner of a bingo game:
- (1) A winner is determined when the required pattern of squares is covered by a player on a card.
 - (2) It is the player's responsibility to notify the game operator or caller that he has a winning bingo combination. House rules shall govern whether a winning combination of a bingo player who fails to stop the game before the next number is called will be honored.
 - (3) When a player declares a winning face, the following steps shall be followed for winner verification:
 - (A) The game shall be stopped immediately. If the next number has already been selected, it should be secured to ensure that if the declared "bingo" is invalid, the game continues.
 - (B) The game is verified by one of the following:
 - (i) A working member or employee takes the winning card from the player, holds it in front of a neutral player and calls back the winning combination;
 - (ii) The caller verifies first that the serial number and card color is in play and then verifies the number combination in a verification book; or
 - (iii) The caller verifies by the use of the verifier on the bingo number machine.
 - (C) If the winner disputes the verification, the winner may request a second verification. The game cannot resume until the verification is completed.
 - (D) The neutral player shall not be compensated in money or free faces for his part in verification.
 - (4) If more than one winner is declared in a given bingo game, the organization shall:
 - (A) Divide cash prizes equally among the verified winners for winners at the same level, or proportionately, if at different levels; or

- (B) If the prize is something other than cash and cannot be divided among winners, award substitute prizes of equal proportionate value.
- (5) Once winner verification has been completed, the caller shall announce the prize paid to the previous game's winner(s).

45:50-7-2. Conduct of breakopen ticket games

(a) Only breakopen ticket games approved by the Commission shall be played.

(b) The following restrictions shall apply to breakopen ticket games:

- (1) A member or employee shall not purchase breakopen tickets at the location of the organization during the time the member or employee is selling breakopen ticket cards or redeeming winning breakopen ticket cards;
- (2) An organization shall not change the flare or use a flare that it receives in an altered or defaced condition. A breakopen ticket game deal shall not be placed out for play when the value of the prizes or the cost of the breakopen tickets differs from the flare;
- (3) A member or employee of an organization shall not purchase tickets or redeem prizes on behalf of a player.
- (4) An organization shall not purchase deals of breakopen tickets that have the same manufacturer's form number and serial number. This does not prevent an organization from retaining upon its location breakopen tickets remaining from a deal removed from play, if the organization:
 - (A) Has defaced by marking or punching each breakopen ticket removed and retained immediately upon removal of the breakopen ticket games from play;
 - (B) Has made a written record of the game form and serial number, color trim, and the number of breakopen ticket cards remaining in the deal immediately upon removing the deal from play; and
 - (C) The written record is maintained and available for inspection;
- (5) No organization shall place a deal of breakopen tickets in play unless the game form and serial number of the deal of breakopen tickets corresponds to the game serial number written on the invoice provided the organization. If the game form and serial number does not correspond to the number written on the invoice, the organization shall return the deal of breakopen tickets to the distributor.

(c) Breakopen ticket games shall be conducted as follows:

- (1) An organization shall not put into play any breakopen ticket game that has been marked, defaced, altered, tampered with, damaged or otherwise operated in a manner which tends to deceive the public or affects the chances of winning or losing;
- (2) Each breakopen ticket shall be sold for the single ticket price indicated on the flare and no breakopen ticket shall be provided to a player free of charge or for any other consideration. This paragraph does not apply to the winning of a free play;
- (3) The flare of all deals in play shall be posted in a conspicuous place;
- (4) The play of breakopen tickets shall be clearly identified as a single deal or a commingled deal. If a commingled deal is played, the flare of the last deal played shall be posted;
- (5) House rules governing the sale of breakopen tickets shall be posted in such a manner that players have access to the house rules before buying any breakopen ticket;
- (6) A player shall not be paid any prize unless the player redeems the actual winning breakopen ticket. A prize payout shall not be made to any player for a lost, marked, defaced, damaged or altered breakopen ticket;
- (7) A player shall not be paid a prize for any ticket which has been removed from the location where the game is conducted;
- (8) The organization shall pay a winning player immediately;
- (9) All winning breakopen tickets shall have the winning symbol or number defaced or punched immediately after redemption;
- (10) Placing only a part of a deal out for play is prohibited.
- (11) A copy of the distributor's invoice for each breakopen ticket deal in play and for each breakopen ticket deal on the premises shall be maintained at the location of the charity game and shall be available for inspection by the Commission.

(d) Two or more single deals of breakopen tickets may be commingled in one receptacle subject to the following:

- (1) The deals shall be identical as to a particular type of game and as to the number of breakopen tickets per game;

- (2) Each deal shall have a separate flare and manufacturer's serial number, and
- (3) The flares shall be identical as to the price per ticket, the amount of prizes, and the denominations of prizes.

(e) All records, reports, and receipts relating to a deal of breakopen tickets in play shall be retained at the location and thereafter retained by the organization for a period of three (3) years and made available on demand to the Commission.

(f) Breakopen ticket games paying sixty percent (60%) or more of gross revenues as prizes are considered approved when the Commission receives from a licensed manufacturer a current catalog of breakopen ticket games which comply with the standards of the North American Gaming Regulators Association (NAGRA) for breakopen ticket games. If a game is not in the manufacturer's current catalog, the manufacturer shall submit the game to the Commission prior to its sale in Oklahoma, along with an affidavit stating that the game was manufactured in compliance with North American Gaming Regulators Association (NAGRA) standards. No breakopen ticket game will be approved unless prize payout on the game is equal to or exceeds sixty percent (60%) of gross revenue generated by the sale of all tickets in the game.

SUBCHAPTER 9. ACCOUNTING, RECORDKEEPING, REPORTING

45:50-9-1. Organization operations, accounts, and reports

(a) An organization shall maintain complete, accurate, and legible general accounting journals and ledgers, with detailed supporting subsidiary records sufficient to furnish information regarding all charity game transactions. The monthly accounting records shall be sufficient to adequately reflect gross receipts, prizes, net receipts, expenses, and all other charity game related accounting transactions.

(b) Gross receipts shall be determined by the amount of cash and checks actually received.

(c) Allowable expenses shall be determined by the amount of cash paid out, checks written, and amounts set aside to pay winners for breakopen tickets in play.

(d) Copies of distributor's invoices or invoices from other sources for bingo, U-Pik-Em, and breakopen ticket games in play and in inventory shall be maintained and stored in such a manner as to be available for inspection by the Commission.

(e) Each organization shall deposit its charity game proceeds in a bank account at a financial institution, located within Oklahoma.

(f) A bank reconciliation shall be done each month, which lists outstanding checks, deposits in transit, and beginning and ending book balances for the month.

(g) Each licensed organization that files with the United States Department of the Treasury any forms that are required for organizations exempt from the payment of income tax shall retain a copy of those forms and make them available to the Commission upon request.

(h) All records, reports and receipts required by the Act or by rule shall be maintained and stored in such a manner as to be available for inspection by the Commission on demand.

45:50-9-2. Distributor operations and reporting

(a) A distributor who sells, leases, or otherwise provides charity game equipment shall record the transaction on a sales invoice.

(b) A sales invoice shall contain the following information:

- (1) The license number of the distributor;
- (2) The complete business name and address of the organization or entity;
- (3) The license or the exemption permit number of the organization or entity issued by the Commission;
- (4) The invoice number;
- (5) The date the equipment was shipped;
- (6) A full description of each item of equipment sold;
- (7) The serial numbers of the bingo sets, breakopen ticket games and selection equipment.
- (8) The quantity of U-Pik-Em games;
- (9) The identity of the manufacturer from which the distributor purchased the equipment;
- (10) The date of the sale of the equipment; and
- (11) The name of the person who ordered the equipment.

(c) A distributor, on or before the last day of the month following the end of the quarter, shall submit a quarterly report containing:

- (1) All sales invoice information for sales to licensed organizations or exempt organizations or entities;

- (2) All purchase invoice information for purchases from licensed manufacturers including the amount and price of each item purchased; and
- (3) A reconciliation of inventory of charity game equipment.

(d) All records, reports and receipts required by the Act or by rule shall be maintained and stored in such a manner as to be available for inspection by the Commission on demand.

45:50-9-3. Manufacturer operations and reporting

(a) A manufacturer shall maintain copies of sales invoices to licensed distributors in Oklahoma for a minimum of three (3) years. Invoices shall include:

- (1) Name of manufacturer;
- (2) License number of manufacturer;
- (3) Name of distributor;
- (4) License number of distributor;
- (5) Invoice number;
- (6) Full description of charity game equipment shipped.
- (7) Serial number of equipment; and
- (8) Date equipment shipped.

(b) A manufacturer, on or before the last day of the month following the end of the quarter, shall submit a quarterly report containing:

- (1) Total amount of equipment sold in Oklahoma;
- (2) Total number and the serial and series numbers of bingo faces;
- (3) The quantity of U-Pik-Em games;
- (4) The serial number and quantity of breakopen ticket deals; and
- (5) All sales invoice information for charity game sales to licensed distributors in this state.

(c) In packaging breakopen ticket games, a manufacturer shall comply with the following:

- (1) Each deal's package, box, or other container shall be sealed at the factory with a seal including a warning to the purchaser that the deal may have been tampered with if the package, box, or other container was received by the purchaser with the seal broken.
- (2) A deal's serial number shall be clearly and legibly placed on the outside of the deal's package, box or other container or be able to be viewed from the outside of the box.
- (3) Manufacturer shall seal or tape every entry point into a container of breakopen tickets prior to shipment. The seal or tape shall be of such construction as to guarantee that should the container be opened or tampered with, such tampering or opening would be easily discernible.

(d) All records, reports and receipts required by the Act or by rule shall be maintained and stored in such a manner as to be available for inspection by the Commission on demand.

SUBCHAPTER 11. ADMINISTRATIVE HEARINGS

45:50-11-1. Procedures for conducting hearings

(a) The Director shall have the authority to conduct an initial hearing when a hearing before the Commission is required by law. The Director may employ such hearing officers and assistants as are necessary to conduct the hearings. All hearings shall be conducted in accordance with the Administrative Procedures Act, Section 250 et seq., of Title 75, of the Oklahoma Statutes.

(b) A hearing shall be conducted for the following reasons:

- (1) Receipt of a timely protest to an application for license;
- (2) Receipt of a petition for revocation from the district attorney of the county or the city attorney of the municipality wherein a license has been issued;
- (3) Denial of a license;
- (4) Suspension or revocation of a license;
- (5) Issuance of a cease and desist order; or
- (6) Imposition of an administrative fine.

(c) The Commission shall provide timely notice of a hearing to all parties, stating the date, time, place and subject matter of the hearing.

(d) The Director shall have the authority to issue subpoenas for the attendance of witnesses and the production of books, accounts and records which shall be effective in any part of the state, requiring their attendance or production before the Director at the time and place specified.

(e) Any applicant, licensee or other person who fails to appear as directed, after notice, shall be determined to have waived their right to present their case and a final unappealable order may be entered by the Commission. A failure to appear shall constitute a failure to exhaust administrative remedies.

(f) Hearings shall be conducted by the Commission pursuant to the following procedures:

- (1) A brief statement of facts by the Commission or person protesting the license outlining the reason for denial, suspension or revocation of the license or the alleged violation on the part of the applicant, licensee, or other person shall be given by the Commission.
- (2) The applicant, licensee, or other person, or the representative thereof, shall be given an opportunity to state his position.
- (3) Any pleadings or other documents which either party may wish to have filed may be presented.
- (4) The evidence supporting the requested action shall first be presented at the conclusion of which the applicant, licensee, or other person, or his representative, may present evidence in support of his previously stated position.
- (5) Closing arguments shall then be permitted.

(g) If the hearing is conducted by a hearing officer, the hearing officer shall issue a report to the Director. The report of the hearing officer shall include findings of fact and conclusions of law.

(h) After conducting a hearing or after receiving the report of the hearing officer, the Director shall issue a recommendation to the Commission. Notice of the recommendation of the Director shall be sent to the last known address of the licensee or other person.

(i) If the licensee or other person disagrees with the recommendation of the Director, they may request a hearing before the Commission for a review of the record. If the licensee or other person fails to request a review of the record within fifteen (15) days after the date of the notice of the Director's decision, the recommendation of the Director shall become the final order of the Commission. A failure to request a timely review of the record by the Commission shall constitute a failure to exhaust administrative remedies.

(j) Any party aggrieved by a final order of the Commission may seek judicial review as prescribed by the Administrative Procedures Act.

45:50-11-2. Penalty Schedule

(a) The following violations of Title 3A of the Oklahoma Statutes shall be cause for mandatory revocation:

- (1) 3A - 406A(1)
- (2) 3A - 406A(2)
- (3) 3A - 406B
- (4) 3A - 406C
- (5) 3A - 407A(1)
- (6) 3A - 407A(2)
- (7) 3A - 407A(3)
- (8) 3A - 407B(3)
- (9) 3A - 426

(b) All other violations of Title 3A of the Oklahoma Statutes shall be subject to a maximum penalty of:

- (1) A thirty (30) day license suspension and a \$3,000.00 fine for the first violation;
- (2) A sixty (60) day license suspension and a \$6,000.00 fine for a second violation;
- (3) A ninety (90) day license suspension and a \$9,000.00 fine for a third violation; and
- (4) Revocation of license for a fourth violation.

45:50-11-3. Petition for rule change or declaratory ruling

(a) Interested persons may petition the Commission for the promulgation, amendment, or repeal of a rule or petition the Commission for declaratory ruling in the following manner:

- (1) All petitions for promulgation, amendment, or repeal of rules shall set out in its entirety the requested rule or the suggested amendment or repeal of any rule in effect.
- (2) All petitions filed for declaratory rulings by the Commission concerning any ruling or order by said Commission shall set out fully the views of the petitioner giving the reasons he has in support of such views.
- (3) All petitions filed with the Commission on or before the 29th day of the month shall be set for hearing on the Agenda of the Commission at its next regular meeting of the following month; PROVIDED, That for

good cause shown to the Director or the Commission by mutual agreement between the petitioner and the legal representative of the Commission, the hearing of the petition may be postponed.

- (4) The following forms shall be used in petitioning the Commission for promulgation, amendment, or repeal of any rule or declaratory ruling:

(A) BEFORE THE OKLAHOMA ALCOHOLIC
BEVERAGE LAWS ENFORCEMENT COMMISSION

In the Matter of the Petition for Promulgation,
Amendment or Repeal of a Rule

PETITION

Comes now the undersigned petitioner and respectfully requests the Commission to: _____ and in furtherance hereof asks that this petition be set for hearing before the Commission on the date of its next regular meeting.

WHEREFORE, petitioner asks that upon the hearing of the above requested that such relief be granted by the Commission.

PETITIONER

(B) BEFORE THE OKLAHOMA ALCOHOLIC
BEVERAGE LAWS ENFORCEMENT COMMISSION

In the Matter of the Petition for a Declaratory Ruling

PETITION

Comes now _____ and respectfully requests the Commission for declaratory ruling upon the following rule or Order heretofore entered by the Commission to wit: _____ and in furtherance hereof asks that this petition be set for hearing before the Commission on the date of its next regular meeting.

WHEREFORE, petitioner asks that the Commission render a declaratory ruling interpreting and outlining the policy of the Commission with regard to the rule and Regulation hereinabove referred to.

PETITIONER

INDEX TO OKLAHOMA CHARITY GAMES RULES

TITLE 45 CHAPTER 50

SUBJECT	SECTION	PAGE
« A »		
ABLE Commission (See "Commission")		
Accounting, recordkeeping and reporting (See "Records, recordkeeping" also),		
Distributor	9-2 ..	14-15
Manufacturer	9-3 ..	15-16
Organization	9-1 ..	13-14
Subpoenas for production of	11-1 ..	16-18
Act (See "Oklahoma Charity Games Act" also),		
Defined	1-2	1
Games not subject to, no consideration	5-3	8
Administrative fines,		
Penalty schedule	11-2	18
Reason for hearing	11-1(b)(6)	16
Administrative hearings,		
Administrative Procedures Act	11-1(a), 11-1(j) ..	16, 18
Administrative remedies	11-1(e), 11-1(i)	17
Appeal	11-1(i), 11-1(j) ..	17, 18
Authority to conduct	11-1(a)	16
Closing arguments	11-1(f)(5)	17
Conclusions of law	11-1(g)	17
Director's recommendation to Commission	11-1(h)	17
Evidence	11-1(f)(4)	17
Failure to appear	11-1(e)	17
Findings of fact	11-1(g)	17
Generally	11-1 ..	16-18
Hearing officer's report to Director	11-1(g)	17
Judicial review	11-1(j)	18
Notice	11-1(c)	16
Opening statements	11-1(f)(1), 11-1(f)(2)	17
Pleadings	11-1(f)(3)	17
Procedures,		
Generally	11-1 ..	16-18
Specifically	11-1(f)	17
Reasons for conducting,		
Administrative fine	11-1(b)(6)	16
Cease and desist order	11-1(b)(5)	16
Denial of license	11-1(b)(3)	16
Petition for revocation of license	11-1(b)(2)	16
Protest of license application	11-1(b)(1)	16
Revocation of license	11-1(b)(4)	16

Suspension of license	11-1(b)(4)	16
Recommendation to Commission	11-1(g)	17
Statement of facts	11-1(f)(1)	17
Administrative Procedures Act,		
Hearings conducted in accordance with	11-1(a)	16
Judicial review of hearings	11-1(j)	18
Administrative remedies,		
Failure to exhaust	11-1(e), 11-1(i)	17
Admission fee,		
None, not subject to Act	5-3	8
Agent, service of process,		
Manufacturer,	3-3(h)	7
Alcohol or drug consumption by employees or members, prohibited		
.	7-1(a)(13)	9
Allowable expenses, organizations	9-1(c)	13
Amendment, rules	11-3	18-19
Announcing numbers selected	7-1(a)(8)(A)	9
Announcing prize paid	7-1(b)(5)	11
Announcing winning card	7-1(b)(2)	10
Appeal, administrative hearings	11-1(i), 11-1(j)	17, 18
Application for license,		
Distributor	3-2	6
Exempt organizations	5-1, 5-2	7-8
Manufacturer	3-3	6-7
Nursing home, health care, or retirement facility	5-2	8
Organization,		
Exemption	5-1	7-8
Publication	3-1(c)	5
Requirements	3-1	5-6
Protest, grounds for hearing	11-1(b)(1)	16
Arrangement or pattern of squares	7-1(a)(7)	9
Auxiliary,		
Defined	1-2	1
Availability of records for inspection,		
Distributor	9-2(d)	15
Manufacturer	9-3(d)	16
Organization	9-1(h)	14

« B »

Ball or designator,		
Display	7-1(a)(8)(B)	9
Receptacle	7-1(a)(8)(C)	9
Bank deposits, organizations	9-1(e)	13
Bank reconciliation, organizations	9-1(f)	13
Bingo equipment (See "Equipment" also),		
Bingo faces (See "Bingo faces")		
Co-ownership	1-6, 1-11(d)(2)	3, 4

Defects, free of	1-9(a)	3
Defined	1-2	1
Designators	1-2, 1-9(c)	1, 4
Equal opportunity to win	1-9(b)	4
Inspection by Commission	1-9(d)	4
Printer exclusion	1-12	5
Proper working condition	1-9(a)	3
Quarterly reports,		
Distributor	9-2(c)	14-15
Manufacturer	9-3(b)	15
Rentals and leases	1-7	3
Serial numbers, invoices,		
Distributor	9-2(b)(7)	14
Manufacturer	9-3(a)(7), 9-3(b), 9-3(c)(2)	15-16
Transfer of, notice	1-10	4
Vending machines, breakopen tickets	1-8	3
Bingo faces (cards),		
Braille	7-1(a)(4)	9
Co-ownership	1-6, 1-11(d)(2)	3, 4
Daubing squares	7-1(a)(9)	9
Electronic facsimile, prohibited,		
Exempt organizations	5-1(f)(4)	8
Health care or retirement facility exemption	5-2(d)(3)	8
Organizations	7-1(a)(6)	9
Invoices from distributors	9-1(d)	15
Nonconforming,		
Sale or use	1-4	3
One game only	7-1(a)(16)	10
Rentals and leases	1-7	3
Reserved, prohibited	7-1(a)(4)	9
Sale of	7-1(a)(3)	9
Same center or card number	7-1(a)(5)	9
Winning faces given to winning players	7-1(a)(14)	9
Bingo games,		
Announcing numbers selected	7-1(a)(8)(A)	9
Announcing prizes	7-1(b)(5)	11
Announcing winner	7-1(b)(2)	10
Arrangement or pattern of squares	7-1(a)(7)	9
Calling number	7-1(a)(7), 7-1(a)(8)	9
Conduct of	7-1	8-10
Consideration to play games, subject to Act	5-3	8
Continuous or simultaneous games,		
Defined	1-2	1
Prohibited	7-1(a)(15)	10
Daubing squares	7-1(a)(9)	9
Designator	7-1(a)(8)(B), 7-1(a)(8)(C)	9
Determination of winner	7-1(b)	10-11

Display of ball or designator	7-1(a)(8)(B)	9
Employees and members, restrictions		
.	7-1(a)(11), 7-1(a)(12), 7-1(a)(13)	9
Alcohol or drug consumption prohibited	7-1(a)(13)	9
Cost to play	7-1(a)(12)	9
Restriction on playing while conducting games	7-1(a)(11)	9
Faces (See "Bingo Faces")		
Pattern or arrangement of squares	7-1(a)(7), 7-1(b)(1)	9, 10
Players,		
Employees and members, restrictions		
.	7-1(a)(11), 7-1(a)(12), 7-1(a)(13)	9
Must be present to play or claim prizes	7-1(a)(10)	9
Posting,		
House rules	7-1(a)(2)	9
License	7-1(a)(1)	9
Prizes (See "Prizes")		
Selecting and calling numbers	7-1(a)(7), 7-1(a)(8)	9
Winner,		
Determination of	7-1(b)	10-11
Verification	7-1(b)(3)	10
Winning faces given to winning players	7-1(a)(14)	9
Bingo number machine	7-1(b)(3)(B)(iii)	10
Blind players	7-1(a)(4)	9
Books, bookkeeping (See "Accounting, recordkeeping and reporting" and "Records")		
Braille cards	7-1(a)(4)	9
Breakopen ticket cards (See "Breakopen ticket games" also),		
Altered or damaged	1-5	3
Co-ownership	1-6	3
Deals (See "Breakopen ticket games, deals")		
Defacing	7-2(b)(4)(A), 7-2(c)(9)	11, 12
Destruction if altered or damaged	1-5	3
Flares (See "Flare")		
Invoices from distributors	9-1(d)	13
Manufacturer's form and serial numbers	7-2(b)(4), 7-2(b)(5)	11
Packaging	9-3(c)	15-16
Records	7-2(b)(4)(B), 7-2(b)(4)(C)	11
Rentals and leases	1-7	3
Retention of	7-2(b)(4)	11
Seal on packaging	9-3(c)	15-16
Serial numbers	9-3(a)(7), 9-3(b), 9-3(c)(2)	15, 16
Vending machines, prohibited	1-8	3
Breakopen ticket games (See "Breakopen ticket cards" also),		
Altered or damaged tickets	7-2(c)(1)	12
Approved games only	7-2(a), 7-2(f)	11, 13
Conduct of	7-2, 7-2(c)	11-13
Damaged or defaced	7-2(c)(1)	12

Deals,	
Commingled	7-2(c)(4), 7-2(d) . . . 12-13
Defacing tickets retained	7-2(b)(4)(A), 7-2(c)(9) . . . 11, 12
Manufacturer's form and serial numbers	7-2(b)(4), 7-2(b)(5) . . . 11
Packaging requirements	9-3(c) . . . 15-16
Partial deal prohibited	7-2(c)(10) . . . 12
Placing in play	7-2(b)(5) . . . 11
Records of retained tickets	7-2(b)(4)(B), 7-2(b)(4)(C), 7-2(e) . . . 11, 13
Retention of tickets removed from play	7-2(b)(4) . . . 11
Returning to distributor	7-2(b)(5) . . . 11
Same manufacturer's form and serial numbers	7-2(b)(4) . . . 11
Serial numbers	9-3(c)(2) . . . 15-16
Single or commingled	7-2(c)(4) . . . 12
Defacing tickets	7-2(b)(4)(A), 7-2(c)(9) . . . 11, 12
Distributor's invoice, available for inspection	7-2(c)(11) . . . 12
Employee or members, restrictions	7-2(b)(1), 7-2(b)(3) . . . 11
Flare (See "Flare")	
Free play	7-2(c)(2) . . . 12
House rules, posting	7-2(c)(5) . . . 12
Invoices, available for inspection	7-2(c)(11) . . . 12
NAGRA standards	7-2(f) . . . 13
Percentage of payout	7-2(f) . . . 13
Posting, house rules	7-2(c)(5) . . . 12
Price	7-2(c)(2) . . . 12
Prizes, restrictions	7-2(c)(6), 7-2(c)(7), 7-2(c)(8) . . . 12
Records,	
Tickets retained	7-2(b)(4)(B) . . . 11
	7-2(b)(4)(C), 7-2(c)(11), 7-2(e) . . . 11-13
Seal, on packaging	9-3(c) . . . 15-16
Serial numbers	9-3(a)(7), 9-3(b), 9-3(c)(2) . . . 15-16
Burning,	
Altered or damaged broken tickets	1-5 . . . 3
« C »	
Calling and selecting numbers	7-1(a)(7), 7-1(a)(8) . . . 9
Card (See "Bingo Faces" also),	
Broken tickets (See "Broken tickets")	
Center number, defined	1-2 . . . 1
Sale of same prohibited	7-1(a)(5) . . . 9
Number, defined	1-2 . . . 1
Winning card, determination	7-1(b) . . . 10-11
Cease and desist order	11-1(b)(5) . . . 16
Certificate of exemption,	
Health care and retirement	5-2 . . . 8
Organization	5-1 . . . 7-8
Change of location,	
Organization	1-11(b) . . . 4

Change of officers, directors, officials,		
Distributor	3-2(c)	6
Manufacturer	3-3(c)	7
Organization	3-1(f)	5
Charity games (See "Bingo games", "Breakopen ticket games", and "U-PIK-EM bingo games" also),		
Conduct of	7-1	8-11
City Attorney,		
Petition for revocation of license	11-1(b)(2)	16
Closing arguments, administrative hearings	11-1(f)(5)	17
Coin-operated machine, breakopen tickets	1-8	3
Commingled deal	7-2(c)(4), 7-2(d)	12-13
Commission, ABLE,		
Administrative hearings, procedures	11-1	16-18
Approval of games	7-2(a)	11
Director,		
Authority to conduct hearings	11-1(a)	16
Inspection,		
Equipment	1-9(d)	4
Records,		
Distributor	9-2(d)	15
Manufacturer	9-3(d)	16
Organization	9-1(h)	14
Notice of hearings	11-1(c)	16
Petition for rule change or declaratory ruling	11-3	18-19
Transfer of equipment, notice to	1-10	4
Concealed bingo face sheet,		
Defined	1-2	1
Sale of	7-1(a)(3)	9
Conclusions of law, administrative hearings	11-1(g)	17
Conduct of breakopen ticket games (See "Breakopen ticket games" also)		
	7-2	11-13
Conduct of charity game,		
Bingo games	7-1	8-11
Defined	1-2	1
Operations	7-1	8-11
U-PIK-EM games	7-1	8-11
Conforming face,		
Defined	1-2	1
Consideration for bingo games,		
None, not subject to Act	5-3	8
Conspicuous place, license posting,		
Exempt organization	5-1(e)	7
Organization	1-11(d)(1)	4
Continuous or simultaneous game,		
Defined	1-2	1
Prohibited	7-1(a)(15)	10

Convalescent facility exemption	5-2	8
Co-ownership,		
Charity game equipment	1-6	3
Cost to play,		
Employees and members	7-1(a)(12)	9

« D »

Days and hours of operation,		
Exempt organization	5-1(c), 5-1(d), 5-1(f)(2)	7-8
Organization,		
Shared location	1-11(d), 1-11(d)(3)	4
Daubing squares	7-1(a)(9)	9
Deals (See "Breakopen ticket games, deals")		
Declaratory ruling	11-3	18-19
Declaring winning face	7-1(b)(2)	10
Defacing, breakopen tickets	7-2(b)(4)(A), 7-2(c)(9)	11-12
Definitions	1-2	1-3
Denial of license,		
Exempt organization	5-1(g)	8
Hearing	11-1(b)(3)	16
Deposits, organization requirements	9-1(e)	13
Designator or ball,		
Defined	1-2	1
Display	7-1(a)(8)(B)	9
Requirements	1-9(c)	4
Receptacle	7-1(a)(8)(C)	9
Determination of winner	7-1(b)	10-11
Director, Commission,		
Authority to,		
Conduct hearings	11-1(a)	16
Issue subpoenas	11-1(d)	17
Recommendation to Commission, administrative hearings	11-1(h)	17
Directors, officers, etc. (See "Officers, directors or officials" also),		
Organization,		
Change of	3-1(f)	5
Display,		
Ball or designator	7-1(a)(8)(B)	9
Designator	7-1(a)(8)(B)	9
Name of organization	1-3	3
Distributor,		
Accounting, recordkeeping, reporting	9-2	14
Application	3-2	6
Change of officers, directors or officials	3-2(c)	6
Equipment,		
Co-ownership by organizations	1-6	3
Printer exclusion	1-12	5

Rentals and leases	1-7	3
Expiration, license	3-2(d), 3-2(e), 3-2(g)	6
Fine, revocation or suspension	3-2(f), 3-2(g)	6
Invoices for breakopen ticket games	7-2(c)(11), 9-1(d)	12, 13
License,		
Application	3-2	6
Expiration	3-2(d), 3-2(e), 3-2(g)	6
Renewal	3-2(g)	6
Officers, directors or officials,		
Change of	3-2(c)	6
Printer exclusion	1-12	5
Quarterly reports	9-2(c)	14-15
Reconciliation of inventory	9-2(c)(3)	15
Records, reporting (See "Records, recordkeeping" also)	9-2	14-15
Renewal	3-2(g)	6
Rentals and leases of equipment	1-7	3
Reports	9-2(c)	14-15
Revocation, suspension or fine	3-2(f), 3-2(g)	6
Tax clearance	3-2(b)	6
District Attorney,		
Petition for revocation of license	11-1(b)(2)	16
Drug or alcohol consumption by employees or members, prohibited		
	7-1(a)(13)	9
Duplicate license, lost or destroyed,		
Organization	3-1(k)	6

« E »

Electronic facsimile, bingo faces, prohibited,		
Exempt organizations	5-1(f)(4)	8
Health care or retirement facility exemption	5-2(d)(3)	8
Organizations	7-1(a)(6)	9
Eligibility for license after revocation or denial,		
Health care and retirement facility	5-2(e)	8
Organization	5-1(g)	8
Employees and members,		
Alcohol or drug consumption prohibited	7-1(a)(13)	9
Cost to play	7-1(a)(12)	9
Restriction on playing while conducting games,		
Bingo or U-PIK-EM	7-1(a)(11)	9
Breakopen ticket games	7-2(b)(1), 7-2(b)(3)	11
Equipment, bingo (charity games)		
Coin-operated, breakopen tickets	1-8	3
Co-ownership	1-6	3
Defects, free of	1-9(a)	3
Defined	1-2	1
Designators	1-2, 1-9(c)	1, 4
Equal opportunity to win	1-9(b)	4

Inspection by Commission	1-9(d)	4
Printer exclusion	1-12	5
Proper working condition	1-9	3
Reports, quarterly,		
Distributor	9-2(c)	14
Manufacturer	9-3(b)	15
Selection,		
Defined	1-2	2
Serial numbers, invoices,		
Distributor	9-2(b)(7)	13
Manufacturer	9-3(a)(7), 9-3(b), 9-3(c)(2)	15-16
Transfer of, notice	1-10	4
Vending machines, breakopen tickets	1-8	3
Verification device,		
Defined	1-2	2-3
Evidence, administrative hearings	11-1(f)(4)	17
Exempt, tax,		
I.R.S. verification	3-1(b)(2)	5
Exemption, Organization,		
Application	5-1	7-8
Certification (See "License" below)		
Days and hours of operation	5-1(c), 5-1(d), 5-1(f)(2)	7-8
Denial, revocation of license	5-1(g)	8
Electronic facsimile	5-1(f)(4)	8
Health care and retirement facility exemption	5-2	8
License,		
Posting requirement	5-1(e)	7
Location	5-1(c), 5-1(d), 5-1(f)(1)	7
Nursing home, retirement center	5-2	8
Prizes	5-1(f)(3)	8
Expenses,		
Organizations, records	9-1(c)	13
Expiration, license,		
Distributor	3-2(d), 3-2(e)	6
Manufacturer	3-3(d), 3-3(e), 3-3(g)	7
Organization	3-1(g), 3-1(h), 3-1(j)	5-6

« F »

Face (See "Conforming Face" and "Bingo face" also)		
Conforming, defined	1-2	1
Electronic facsimile, prohibited,		
Exempt organizations	5-1(f)(4)	8
Health care or retirement facility exemption	5-2(d)(3)	8
Winning faces given to winning players	7-1(a)(14)	9
Facsimile, electronic, prohibited,		
Exempt organizations	5-1(f)(4)	8
Health care or retirement facility exemption	5-2(d)(3)	8

Organizations	7-1(a)(6)	9
Failure to appear, hearings	11-1(e)	17
Failure to exhaust administrative remedies	11-1(e), 11-1(i)	17
Fees,		
To play bingo, subject to Act	5-3	8
Findings of fact, administrative hearings	11-1(g)	17
Fines, suspension or revocation of license,		
Distributor	3-2(f), 3-2(g)	6
Hearings for	11-1(b)	16
Manufacturer	3-3(f), 3-3(g)	7
Organization	3-1(i), 3-1(j)	6
Penalty schedule	11-2(b)	18
Flare,		
Altered or defaced	7-2(b)(2)	11
Changing, prohibited	7-2(b)(2)	11
Defined	1-2	2
Difference in prize or cost	7-2(b)(2)	11
Posting	7-2(c)(3)	12
Foreign person, manufacturer,		
Service agent	3-3(h)	7
Forms,		
Petition for rule change or declaratory ruling	11-3(a)(4)	19
Tax exempt, organizations	9-1(g)	14
Free play, breakopen ticket games	7-2(c)(2)	12

« G »

Gross receipts,		
Organization	9-1(a), 9-1(b)	13

« H »

Health care and retirement facility exemption	5-2	8
Application	5-2(a), 5-2(b)	8
Denial of exemption	5-2(e)	8
Electronic facsimiles prohibited	5-2(d)(3)	8
Eligibility for exemption	5-2(e)	8
Eligibility for license after revocation or denial	5-2(e)	8
Location	5-2(d)(1)	8
Posting requirement for certificate of exemption	5-2(c)	8
Prizes, limits	5-2(a), 5-2(d)(2)	8
Revocation or denial of exemption	5-2(e)	8
Hearings (See "Administrative hearings")		
Hospital, nursing home, or retirement facility exemption	5-2	8
Hours and days of operation,		
Exempt organization	5-1(c), 5-1(d), 5-1(f)(2)	7-8
Organization,		
Shared location	1-11(d), 1-11(d)(3)	4

House rules,		
Determining winner	7-1(b)(2)	10
Posting	7-1(a)(2)	9

« I »

Indelible ink, daubing	7-1(a)(9)	9
Ink, daubing	7-1(a)(9)	9
Inspection by Commission,		
Location, organization	1-11(c)	4
Records,		
Distributor	9-2(d)	15
Manufacturer	9-3(d)	16
Organization	9-1(h)	14
I.R.S.,		
Verification of 501(c)	3-1(b)(2)	5
Inventory,		
Distributor, reconciliation	9-2(c)(3)	15
Invoices,		
Distributors,		
Available for inspection	9-2(d)	15
Retained for inspection by organizations	9-1(d)	13
Sales invoices	9-2	14-15
Manufacturers	9-3(a), 9-3(b)(5)	15
Available for inspection	9-3(d)	16
Time requirement	9-3(a)	15
Organizations,		
Retention of distributors' invoices	9-1(d)	13

« J »

Joint ownership,		
Charity game equipment	1-6	3

« K »

« L »

Leases and rentals,		
Charity game equipment	1-7	3
License,		
Application,		
Distributor	3-2	6
Exempt organizations	5-1, 5-2	7-8
Manufacturer	3-3	6-7
Organization	1-11(d), 3-1	4, 5-6
Cease and desist order hearing	11-1(b)(5)	16
Denial, hearing	11-1(b)(3)	16
Duplicate	3-1(k)	6

Eligibility for license after revocation or denial,		
Health care or retirement facility	5-2(e)	8
Organization	5-1(g)	8
Expiration,		
Distributor	3-2(d), 3-2(e), 3-2(g)	6
Manufacturer	3-3(d), 3-3(e), 3-3(g)	7
Organization	3-1(g), 3-1(h), 3-1(j)	5-6
Fines, revocation or suspension,		
Distributor	3-2(f), 3-2(g)	6
Manufacturer	3-3(f), 3-3(g)	7
Organization	3-1(i), 3-1(j)	6
Hearings	11-1	16-18
Lost, destroyed or damaged,	3-1(k)	6
Posting requirements	1-11(d)(1), 5-1(e), 5-2(c), 7-1(a)(1)	4, 7, 8, 9
Protest, hearing	11-1(b)(1)	16
Publication	3-1(c)	5
Renewal	3-1(j)	6
Distributor	3-2(g)	6
Manufacturer	3-3(g)	7
Organization	3-1(g), 3-1(j)	6
Revocation, suspension or fine,		
Exempt organization	5-1(g)	8
Health care or retirement facility	5-2(e)	8
Hearing	11-1(b)(4)	16
Service agent, foreign manufacturer	3-3(h)	7
Limits, prizes,		
Exempt organization	5-1(f)(3), 5-2(a), 5-2(d)(2)	8
Location (See "Premises" also),		
Days and hours of operation,		
Shared location	1-11(d)	4
Exempt organization	5-1(c), 5-1(d), 5-1(f)(1)	7
Health care or retirement facility	5-2(d)(1)	8
Inspection by Commission	1-11(c)	4
Nursing home or retirement facility	5-2(d)(1)	8
Organization,		
Change of	1-11(b)	4
Exempt	5-1(c), 5-1(d), 5-1(f)(1)	7
Inspection of	1-11(c)	4
Only one	1-11(a)	4
Shared	1-11(d)	4
Players,		
Must be present to play or claim prizes	7-1(a)(10)	9
Lost, destroyed or damaged license	3-1(k)	6

« M »

Manufacturer,		
Accounting, recordkeeping, reporting	9-3	15-16

Application	3-3	6-7
Breakopen ticket games (See "Breakopen ticket games" also),		
Approval	7-2(f)	13
Packaging	9-3(c)	15-16
Catalog	7-2(f)	13
Change of officers, directors or officials	3-3(c)	7
Fine, revocation or suspension	3-3(f), 3-3(g)	7
Foreign person, service agent	3-3(h)	7
Form and serial numbers	7-2(b)(4)	11
Invoices	9-3(a), 9-3(b)(5)	15
License,		
Application	3-3	6-7
Expiration	3-3(d), 3-3(e), 3-3(g)	7
Fines, revocation or suspension	3-3(f), 3-3(g)	7
Renewal	3-3(g)	7
NAGRA standards	7-2(f)	13
Printer exclusion	1-12	5
Records, recordkeeping	9-3	15-16
Reports, quarterly	9-3(b)	15
Serial numbers	9-3(a)(7), 9-3(b), 9-3(c)(2)	15-16
Service of process	3-3(h)	7
Tax clearance	3-3(b)	6
Marking squares (See "Daubing")		
Member,		
Alcohol or drug consumption prohibited	7-1(a)(13)	9
Cost to play	7-1(a)(12)	9
Defined	1-2	2
Restrictions on playing while conducting games,		
Bingo and U-PIK-EM	7-1(a)(11)	9
Breakopen ticket games	7-2(b)(1), 7-2(b)(3)	10
Multiple winners	7-1(b)(4)	10-11

« N »

NAGRA standards, breakopen ticket games	7-2(f)	13
Name,		
Organization,		
Display of	1-3	3
Neutral player,		
Compensation prohibited	7-1(b)(3)(D)	10
Verifying winning face	7-1(b)(3)(B), 7-1(b)(3)(D)	10
No consideration to play games, not subject to Act	5-3	8
Nonconforming bingo faces,		
Sale or use	1-4	3
Notice of administrative hearings	11-1(c)	16
Notification to Commission,		
Change of location	1-11(b)	16

Transfer of equipment	1-10	4
Number,		
Announcing	7-1(a)(8)(A)	9
Calling, selecting	7-1(a)(7), 7-1(a)(8)	9
Card, defined	1-2	1
Center, defined	1-2	1
Machine	7-1(b)(3)(B)(iii)	10
Selecting and calling	7-1(a)(7), 7-1(a)(8)	9
Serial, defined	1-2	2
Nursing home, retirement facility exemption	5-2	8

« O »

Officer, directors, or officials,		
Change of,		
Distributor	3-2(c)	6
Manufacturer	3-3(c)	7
Organization	3-1(f)	5
Oklahoma Charity Games Act,		
Administration and enforcement	1-1	1
Defined	1-2	1
Definitions	1-2	1-3
Games with no charge to play or no admission fee, not subject to	5-3	8
Rules, purpose	1-1	1
Opening statements, administrative hearings	11-1(f)(1), 11-1(f)(2)	17
Operations of charity games,		
Breakopen ticket games	7-2	11-13
Bingo games	7-1	8-11
U-PIK-EM	7-1	8-11
Organization,		
Banking requirements,		
Deposits	9-1(e)	13
Reconciliation	9-1(f)	13
Change of officers, directors, etc...	3-1(f)	5
Co-ownership of equipment	1-6, 1-11(d)(2)	3, 4
Conduct of games,		
Bingo and U-PIK-EM	7-1	8-11
Breakopen ticket games	7-2	11-13
Days and hours of operation,		
Exempt organization	5-1(a), 5-1(c), 5-1(d), 5-1(f)(2)	7-8
Shared location	1-11(d)	4
Display of name	1-3	3
Eligibility for license after revocation or denial	5-1(g)	8
Employees or members, restrictions	7-1(a)(11), 7-1(a)(12), 7-1(a)(13)	9
Equipment (See "Equipment" and "Bingo equipment")		
Exemption	5-1	6
Fines, revocation or suspension	3-1(i), 3-1(j)	5-6

Invoices from distributors	9-1(d)	13
License,		
Application	1-11(d), 3-1	4, 5-6
Duplicate	3-1(k)	6
Expiration	3-1(g), 3-1(h)	5
Lost, destroyed	3-1(k)	6
Posting requirement,	1-11(d)(1), 5-1(e)	4, 5
Publication	3-1(c)	5
Renewal	3-1(j)	6
Location,		
Change of	1-11(b)	4
Exempt	5-1(c), 5-1(d), 5-1(f)(1)	7
Inspection of	1-11(c)	4
One only	1-11(a)	4
Shared	1-11(d), 1-11(d)(3)	4
Members or employees, restrictions	7-1(a)(11), 7-1(a)(12), 7-1(a)(13)	9
NAGRA standards	7-2(f)	13
Name, display of	1-3	3
Posting (See "Posting")		
Records (See "Records, recordkeeping" also)	9-1	13-14
Renewal of license	3-1(j)	6
Rentals and leases of equipment	1-7	3
Reports, records	9-1	13-14
Revocation, suspension or fine	3-1(i), 3-1(j)	5-6
Tax exempt forms	9-1(g)	14
Transfer of equipment, notice	1-10	4

« P »

Packaging requirements, breakopen ticket games (deals)	9-3(c)	15-16
Packet,		
Defined	1-2	2
Partial deal, prohibited	7-2(c)(10)	12
Payment to play,		
Employees and members	7-1(a)(12)	9
Penalty Schedule	11-2	18
Petition, for,		
Revocation of license	11-1(b)(2)	16
Rule change or declaratory ruling	11-3	18-19
Players,		
Declaring winning face	7-1(b)(3)	10
Determining winner	7-1(b)	10-11
Multiple winners	7-1(b)(4)	10-11
Must be present to play or claim prizes	7-1(a)(10)	9
Neutral	7-1(b)(3)(B), 7-1(b)(3)(D)	10
Winner, determination	7-1(b)	10-11
Winning faces given to winners	7-1(a)(14)	9
Pleadings, administrative hearings	11-1(f)(3)	17

Posting,		
Flares	7-2(c)(3)	12
House rules	7-1(a)(2), 7-2(c)(5)	9, 12
License,		
Exempt organizations	5-1(e), 5-2(c)	7-8
Organization	1-11(d)(1), 7-1(a)(1)	4, 9
Premises (See "Location" also),		
Organization,		
Display of name	1-3	3
Inspection	1-11(c)	4
Shared location	1-11(d)	4
Printer exclusion	1-12	5
Prizes,		
Announcing	7-1(b)(5)	11
Breakopen ticket games, restrictions	7-2(c)(6), 7-2(c)(7), 7-2(c)(8)	12
Defined	1-2	2
Dividing	7-1(b)(4)	10-11
Exempt organizations	5-1(f)(3), 5-2(a), 5-2(d)(2)	8
Multiple winners	7-1(b)(4)	10-11
Players must be present to claim	7-1(a)(10)	9
Substitute	7-1(b)(4)	10-11
Production of books, accounts and records,		
Director's authority to subpoena	11-1(d)	17
Promulgation of rules	11-3	18-19
Protest of application, grounds for hearing	11-1(b)(1)	16
Publication,		
Application	3-1(c)	5
Change of location	1-11(b)(2)	4
Renewal	3-1(e)	5
Purpose, rules	1-1	1

« Q »

Quarterly reports,		
Distributor	9-2(c)	14-15
Manufacturer	9-3(b)	15

« R »

Receptacle, designator	7-1(a)(8)(C)	9
Reconciliation,		
Bank statement, organization	9-1(f)	13
Inventory, distributor	9-2(c)(3)	15
Records, recordkeeping (See "Reporting, accounting and recordkeeping" also),		
Available for inspection,		
Distributor	9-2(d)	15
Manufacturer	9-3(d)	16
Organization	9-1(h)	14
Breakopen tickets	7-2(b)(4)(B), 7-2(b)(4)(C), 7-2(e)	11, 13

Distributor	9-2 ..	14-15
Inspection,		
Distributor	9-2(d)	15
Manufacturer	9-3(d)	16
Organization	9-1(h)	14
Manufacturer	9-3 ..	15-16
Organization, generally	9-1 ..	13-14
Accounting	9-1(a)	13
Bank deposits	9-1(e)	13
Bank reconciliation	9-1(f)	13
Expenses	9-1(c)	13
Gross receipts	9-1(b)	13
Inspection	9-1(h)	14
Invoices from distributor	9-1(d)	13
Retention and inspection of	9-1(h)	14
Tax exempt records	9-1(g)	14
U.S. Department of the Treasury forms	9-1(g)	14
Reports, quarterly,		
Distributor	9-2(c) ..	14-15
Manufacturer	9-3(b)	15
Retention of,		
Distributor	9-2(a)	14
Manufacturer	9-3(a)	115
Organization	9-1(a)	13
Subpoenas for production of	11-1(d)	17
Renewal, license,		
Late, penalty,		
Distributor	3-2(g)	6
Manufacturer	3-3(g)	7
Organization	3-1(j)	6
Publication	3-1(e)	5
Rentals and leases,		
Charity game equipment	1-7	3
Repeal of rules, petition	11-3 ..	18-19
Reporting, accounting and recordkeeping (See "Records, recordkeeping" also),		
Distributor	9-2 ..	14-15
Quarterly	9-2(c) ..	14-15
Manufacturer	9-3 ..	15-16
Quarterly	9-3(b)	15
Organization	9-1 ..	13-14
Reserved bingo faces, sale of prohibited	7-1(a)(4)	9
Exception, braille cards	7-1(a)(4)	9
Resident agent for service of process, manufacturer	3-3(h)	7
Residential care facility exemption	5-2	8
Retirement center exemption	5-2	8
Revocation, suspension or fine,		
Distributor	3-2(f), 3-2(g)	6

Exempt organization	5-1(g)	8
Hearing, grounds for	11-1(b)(2)	16
Mandatory revocation	11-2(a), 11-2(b)	18
Manufacturer	3-3(f), 3-3(g)	7
Organization	3-1(i), 3-1(j)	5-6
Exempt	5-1(g)	5
Penalty schedule	11-2	18
Rules, (Charity games)		
Change, petition for	11-3	18-19
Petition for change or declaratory ruling	11-3	18-19
Purpose	1-1	1
Violation of,		
Distributor	3-2(f)	6
Organization	3-1(i)	5-6
Rules, house,		
Posting	7-1(a)(2)	9
Ruling, declaratory	11-3	18-19

« S »

Sale,		
Bingo faces	7-1(a)(3)	9
Nonconforming	1-4	3
Reserved, prohibited	7-1(a)(4)	9
Sales invoice,		
Distributor	9-2(b)	14
Manufacturer	9-3(a), 9-3(b)(5)	15
Three year retention requirement	9-3(a)	15
Seal,		
Breakopen ticket game package	9-3(c)	15-16
Second verification	7-1(b)(3)(C)	10
Selecting and calling numbers	7-1(a)(7), 7-1(a)(8)	9
Selection equipment,		
Defined	1-2	2
Senior citizens center exemption	5-2	8
Serial number,		
Defined	1-2	2
Invoices,		
Distributor	9-2(b)(7)	14
Manufacturer	9-3(a)(7), 9-3(b), 9-3(c)(2)	15-16
Series,		
Defined	1-2	2
Service of process,		
Manufacturer	3-3(h)	7
Sessions,		
Exempt organizations	5-1(a), 5-1(c), 5-1(d), 5-1(f)(2)	7-8
Set,		
Defined	1-2	2

Sheet,		
Defined	1-2	2
Single deal	7-2(c)(4)	11
Shredding,		
Altered or damaged breakopen tickets	1-5	3
Simultaneous or continuous game,		
Defined	1-2	2
Prohibited	7-1(a)(15)	10
Subpoenas,		
Director's authority to issue	11-1(d)	17
Failure to appear	11-1(e)	17
Substitute prizes	7-1(b)(4)(B)	11
Suspension, revocation or fine,		
Distributor	3-2(f), 3-2(g)	6
Exempt organization	5-1(g)	8
Hearing for	11-1(b)(4)	16
Manufacturer	3-3(f), 3-3(g)	7
Organization	3-1(i), 3-1(j)	5-6
Penalty schedule	11-2(b)	18

« T »

Tax,		
Exempt status (501(c))	3-1(b)(2)	5
Forms, organization records	9-1(g)	14
I.R.S. verification	3-1(b)(2)	5
Letter of clearance,		
Distributor	3-2(b)	6
Manufacturer	3-3(b)	6
Organization	3-1(b)(1)	5
Tax Commission,		
Letter of tax clearance,		
Distributor	3-2(b)	6
Organization	3-1(b)(1)	5
Tickets (See "Breakopen tickets")		
Timely notice of hearings	11-1(c)	16
Times of operation (See "Days and hours")		
Transfer,		
Equipment, notice	1-10	4
Location	1-11(b)	4
Treasury Department, United States,		
Tax exempt forms, organization records	9-1(g)	14

« U »

U-PIK-EM bingo games,		
Conduct of	7-1	8-11
Co-ownership	1-6, 1-11(d)(2)	3, 4
Employees and members, restriction	7-1(a)(11)	9

Invoices from distributors	9-1(d)	13
Players,		
Employees and members, restriction	7-1(a)(11)	9
Must be present to win	7-1(a)(10)	9
Posting,		
House rules	7-1(a)(2)	9
License	7-1(a)(1)	9
Rentals and leases	1-7	3

« V »

Vending machines,		
Breakopen tickets, prohibited	1-8	3
Verification,		
Book	7-1(b)(3)(B)(ii)	10
Defined	1-2	2
Dispute	7-1(b)(3)(C)	10
Neutral player	7-1(b)(3)(B)(i), 7-1(b)(3)(D)	10
Second	7-1(b)(3)(C)	10
Winning face	7-1(b)(3)	10
Verification device,		
Defined	1-2	2
Determining winner	7-1(b)(3)(C)	10
Violation of Act or rule,		
Distributor	3-2(f), 3-2(g)	6
Manufacturer	3-3(f), 3-3(g)	7
Organization	3-1(i), 3-1(j)	5-6
Penalty schedule	11-2	18

« W »

Warning,		
Seal on breakopen ticket game	9-3(c)(1)	15-16
Winner,		
Determination	7-1(b)	10-11
Multiple	7-1(b)(4)	10-11
Verification,		
Defined	1-2	2
Determination	7-1(b)(3)	10
Winning faces, given to	7-1(a)(14)	9
Winning face,		
Declaring	7-1(b)(2)	10
Determination	7-1(b)	10-11
Verification	7-1(b)(3)	10
Witnesses,		
Director's authority to issue subpoenas	11-1(d)	17

« X »

« Y »

« Z »

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