



Notice of Adoption

Office of the Secretary of State Bingo and Raffles Games Rules 8 CCR 1505-2

August 9, 2011

I. Adopted Rule Amendments

As authorized by the State Administrative Procedure Act¹, the Colorado Secretary of State gives notice that the following amendments to the Colorado Bingo and Raffles Games Rules² are adopted.

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. Annotations may be included):

Rules 2.0(S) and (V) are repealed as follows:

2.0 DEFINITION OF BINGO AND RAFFLE TERMS

S. ~~Stretch raffle. A method of determining the amount of raffle tickets that may be purchased for a set price. For example, a stretch raffle may use the length of the arm span of one of the participants of the raffle to determine the number of tickets that a specific dollar amount will purchase. The stretch raffle must use the same method to determine the amount of tickets for all purchasers of raffle tickets in the specific raffle declared to be a stretch raffle. REPEALED.~~

[Note: repealed Rule 2.0(S) is re-codified in New Rule 9.0(E)(6)]

V. ~~Wheel Raffle: A raffle where the winning ticket is determined by spinning a wheel until a pointer lands in one of the discrete segments marked on the wheel. The wheel consists of a board mounted on a spindle with a specific number of discrete numbers or symbols marking each segment on the outer circumference. REPEALED.~~

[Note: repealed Rule 2.0(V) is re-codified in New Rule 9.0(E)(5)]

Rule 5.0(A)(1) is amended as follows:

5.0 SALE AND USE OF BINGO CARDS, PACKS AND SHEETS AND RAFFLE TICKETS

¹ Section 24-4-103(3)(a), C.R.S. (2010).

² 8 CCR 1505-2.

A. **Sales**

1. **Method of Payment by Player – No EXTENSION OF Credit.** The consideration charged for the privilege of playing any game of chance shall be collected in full, in advance, by check, cash, or debit or credit card. ALL PAYMENTS RECEIVED MUST BE DIRECTLY DEPOSITED INTO THE LICENSEE’S SEGREGATED CHECKING OR SAVINGS ACCOUNT AND MUST NOT BE ROUTED THROUGH A GENERAL ACCOUNT OR OTHER ACCOUNT OF THE LICENSEE. [SECTION 12-9-108(3), C.R.S.] A ~~bingo-raffle~~ licensee may accept debit or credit cards, but the ~~bingo-raffle~~ licensee accepts all risks of cancellation of the charges by the player and for checks returned for insufficient funds. None of the losses may be charged to bingo, raffle, or pull-tab activities. Fees paid to a check guarantee service or debt collection firm for recovery of bad checks or cancelled credit charges may be paid from the ~~bingo-account~~ LICENSEE’S SEGREGATED CHECKING OR SAVINGS ACCOUNT.

Rule 9.0(E)(5) is amended, and Rule 9.0 is further amended by the addition of new Rules 9.0(E)(6) and 9.0(F), as follows:

9.0 RAFFLES.

E. **Specific types of raffles**

5. **Wheel raffles.** A bingo-raffle licensee may conduct a ~~wheel-raffle~~ “WHEEL” RAFFLE, WHERE THE WINNING TICKET IS DETERMINED BY SPINNING A WHEEL UNTIL A POINTER LANDS IN ONE OF DISCRETE SEGMENTS MARKED ON THE WHEEL, if the number of tickets sold for a particular raffle is no greater than the number of discrete numbers or symbols on the wheel, and each ticket sold matches one and only one of the numbers or symbols on the wheel. If fewer tickets than the number of segments are sold, the licensee must continue to spin the wheel until there is a winner. A licensee shall not use any wheel containing SYMBOL(S), 0, or 00 unless it offers to sell tickets for those segments, ~~and a purchaser must win if he or she possesses a ticket bearing the numbers 0 or 00.~~
6. **STRETCH RAFFLES.** A “STRETCH” RAFFLE IS A TYPE OF RAFFLE WHERE THE NUMBER OF RAFFLE TICKETS PURCHASED FOR A SET PRICE IS DETERMINED BY A SPECIFIC MEASUREMENT METHOD. FOR EXAMPLE, A “STRETCH” RAFFLE MAY USE A RAFFLE PARTICIPANT’S ARM SPAN TO DETERMINE HOW MANY RAFFLE TICKETS ARE PURCHASED FOR A SET PRICE. A LICENSEE MAY CONDUCT A “STRETCH” RAFFLE ONLY IF THE SAME MEASUREMENT METHOD IS USED TO DETERMINE THE NUMBER OF TICKETS FOR ALL PURCHASERS IN THE SPECIFIC RAFFLE DECLARED TO BE A “STRETCH” RAFFLE.

- F. **GAMES NOT CLASSIFIED AS RAFFLES.** THE GAMES OF CHANCE COMMONLY KNOWN AS “ANIMAL PLOP BINGO,” “GOLF BALL DROPS,” PLASTIC OR RUBBER “DUCK RACES,” AND VARIATIONS OF THESE GAMES ARE NOT RAFFLES AS DEFINED BY SECTION 12-9-102(19.3), C.R.S., AND ARE NOT RAFFLES AS AUTHORIZED BY SUBSECTIONS (2) TO (4) OF SECTION 2 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION. THEREFORE, THESE GAMES OF CHANCE ARE NOT LICENSED OR REGULATED BY THE SECRETARY OF STATE. IN CERTAIN CIRCUMSTANCES THESE GAMES OF CHANCE MAY BE CONSIDERED UNLAWFUL GAMBLING.

LICENSEES OR OTHER ORGANIZATIONS WHO WISH TO CONDUCT THESE GAMES SHOULD CONTACT LAW ENFORCEMENT AUTHORITIES OR LEGAL COUNSEL TO DETERMINE HOW TO COMPLY WITH COLORADO LAW.


II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Effective Date of Adopted Rules

These new and amended rules will become permanently effective twenty days after publication in the Colorado Register.³

Dated this 9th day of August, 2011,



William A. Hobbs
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

³ Section 24-4-103(5), C.R.S. (2010).



Statement of Basis, Purpose, and Specific Statutory Authority

Office of the Secretary of State Bingo and Raffles Games Rules 8 CCR 1505-2

August 9, 2011

I. Basis and Purpose

This statement is about amendments to the Colorado Secretary of State's Bingo and Raffles Games Rules adopted by the Secretary of State. This statement also addresses some proposed amendments that were not adopted by the Secretary of State.

1. Adopted amendments

The Secretary finds that the adopted amendments aid in the uniform and proper administration and enforcement of the bingo and raffles laws of the State of Colorado.⁴ They are also necessary and appropriate to implement bingo and raffle games and help answer question arising under relevant Colorado laws.

- Rules 2.0(S) and (V) are repealed and re-codified in Rule 9.0(E) regarding specific types of raffles, for clarity and uniformity.
- Rule 5.0(A)(1) is amended to clarify that payments received by the licensee must be deposited directly into a segregated checking or savings account. In addition, the rule title was changed to clarify the purpose of the rule to prohibit the extension of credit by a bingo-raffle licensee.
- Rule 9.0(E)(5) is amended to incorporate the definition of a "wheel" raffle, which was repealed in Rule 2.0, within the rules for conducting a "wheel" raffle for clarity and uniformity.
- New Rule 9.0(E)(6) concerning "stretch" raffles, is adopted into the section for specific types of raffles from the definition section for clarity and uniformity.
- New Rule 9.0(F) is adopted to clarify that certain commonly known games of chance, which are regularly confused with raffles, are not classified as raffles.
- All other revisions are non-substantive format and style changes.

2. Proposed amendments that were not adopted

The Secretary lacks the statutory authority to adopt the following rules proposed by the Colorado Bingo Advisory Board and the Longmont Moose Lodge 1548:

⁴ Including Article XVIII of the Colorado Constitution and Article 9, Title 12 of the Colorado Revised Statutes, (2010).

a. 24 Number Bingo and All-electronic Bingo Games

The Colorado Bingo Advisory Board proposed a set of rule changes to allow and facilitate the play of 24 Number Bingo, a game that allows players to play multiple faces at a time using an all-electronic game console. Unlike traditional bingo, players do not play against each other but play on an individual level. The game is fast-paced, and players receive instantaneous game results.

The Secretary finds that it would be impermissible to adopt rules to allow all-electronic bingo games, including 24 Number Bingo, because Colorado Bingo and Raffles Law⁵ specifically states that bingo may not be played solely by means of an electronic device. Bingo is defined as a game played using paper cards or sheets.⁶ Furthermore, the definition of card specifically excludes the electronic representation or image of a bingo card.⁷ While electronic bingo aids are permitted, a player is required to use a non-electronic card or sheet.⁸

The Colorado Bingo Advisory Board's alternative proposed new rule, submitted and considered during the June 30 hearing, would require a 24 Number Bingo player to purchase at least one paper concealed face card. However, the 24 Number Bingo game itself would nevertheless be played exclusively by means of an all-electronic device, even though the player would also have to purchase at least one paper concealed face card. Specifically, the proposed New Rule describes 24 Number Bingo as a game played exclusively on an electronic device. The proposed requirement to purchase one concealed face card does not satisfy the statute's requirement that all bingo games be played on paper with optional *assistance* from an electronic bingo aid device.

In addition, the Secretary notes that it is not entirely clear that 24 Number Bingo may be authorized even by statute, without a constitutional amendment. The Colorado Constitution authorizes only "the *specific kind of game of chance commonly known as bingo* or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random".⁹ As previously noted, 24 Number Bingo differs in significant ways from "the specific game of chance commonly known as bingo". For example, it is an all-electronic game, and players do not play the game against other players.

Due to the reasons stated above, the Secretary finds that adoption of the proposed rule, even with alternative language requiring purchase of a paper concealed face card, is impermissible under current State law.

b. Queen of Hearts and Progressive Raffles

The Queen of Hearts game, proposed by the Longmont Moose Lodge, is a progressive raffle game that is played by conducting a traditional raffle. However, unlike a traditional raffle the winner receives a weekly prize and the opportunity to win a progressive jackpot through a secondary game.

⁵ Section 12-9-107(28), C.R.S. (2010).

⁶ Section 12-9-102(1), C.R.S. (2010).

⁷ Section 12-9-102(1.6), C.R.S. (2010).

⁸ Sections 12-9-102(1) and 12-9-107(28)(a), C.R.S. (2010).

⁹ Article XVIII, Section 2(3) of the Colorado Constitution (emphasis added).

The Secretary lacks rulemaking authority to authorize progressive raffle games. The Colorado General Assembly has expressly authorized by statute specific progressive games of chance, including progressive jackpot bingo games and progressive pull tab games.¹⁰ However, it has not specifically authorized progressive raffle games. In addition, given that participants win a prize and a chance to win an additional jackpot, games such as the Queen of Hearts do not appear to meet the current definition of raffle. A raffle is statutorily defined as a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random method of selecting numbers.¹¹

Considering the lack of legislation to expressly authorize progressive games and the current statutory definition of raffles, the Secretary finds that adoption of Queen of Hearts and other progressive raffles is impermissible

c. Number of Bingo Occasions Per Year

The Colorado Bingo Advisory Board proposed an increase in the number of annual bingo occasions a bingo-raffle licensee can conduct. The Secretary thoroughly considered this proposal, however, this office has not received any evidence or testimony to substantiate the need for an increase in the number of occasions. Given this lack of support, the Secretary finds these amendments unnecessary.

d. Maximum Number of Bingo Faces Allowed at Any One Time

The Colorado Bingo Advisory Board proposed increasing the number of bingo faces a player using an electronic aid device can play at any one time from 36 faces to 54 faces. Historically, the 36 face limit was based on an investigation conducted by Secretary of State's Office. During the investigation, it was determined that an experienced bingo player could play a maximum of 36 faces at any one time without the aid of an electronic device. As a result, the number of playable faces was limited to 36 to maintain fairness for players that only use paper bingo cards or sheets.

During the rulemaking hearing, our office expressed concern that increasing the number of faces from 36 to 54 would put traditional paper players at a disadvantage. Players using an electronic aide would have the advantage of playing more faces than paper players and thus an increased chance of winning. Based on the previous investigation and lack of evidence to support the increase, the Secretary finds that an increase in the number of faces per game is unwarranted.

II. Statutory Authority

Amendments to the rules are adopted in accordance with the following statutory and constitutional provisions:

1. Section 12-9-103(1)(b), C.R.S. (2010), which authorizes the Secretary of State “[t]o supervise the administration and enforcement of this article, and in consultation with the board, to adopt, amend, and repeal rules governing the holding, operating, and conducting of games of chance...”.

¹⁰ Section 12-9-107(13), C.R.S. (2010).

¹¹ Section 12-9-102(19.3), C.R.S. (2010).

2. Section 12-9-107(13)(a), C.R.S. (2010), which authorizes the Secretary of State to “establish by rule the method of play and amount of prizes that may be awarded...”.
3. Section 12-9-107(28)(c), C.R.S. (2010), which authorizes the Secretary of State to establish by rule the maximum number of bingo cards that a player can use with an electronic bingo aid device.
4. Section 12-9-202(2)(a)-(c), C.R.S. (2010), which requires the Colorado Bingo-raffle Advisory Board to offer advice for rules regarding the types of charitable games to be conducted, the rules for those games, the number of occasions per year, and the licensing requirements of all types of licenses required for the conduct of charitable gaming to the Secretary of State.