

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

100 Delaware Gaming Control Board

Statutory Authority: 28 Delaware Code, Section 1122 (28 **Del.C.** §1122)
10 **DE Admin. Code** 103 and 104

FINAL

FINAL ORDER

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on May 6, 2010, at a scheduled meeting of the Delaware Gaming Control Board, to receive comments and to review written comments, if any, regarding proposed amendments to the Board's Rules.

The proposed amendments would prohibit the employment by a third party vendor of an organization's member in charge, or his or her designee, or the member responsible for gross receipts. They would also require that only members of the charitable organization may receive funds at a Texas Hold 'Em Tournament.

The proposed amendments were published in the *Register of Regulations*, Vol. 13, Issue 10, on April 1, 2010.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

No written comments were received. Members of the public appeared at the hearing and any comments were considered.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The public was given notice and an opportunity to provide written comments and testimony on the proposed amendments.
2. The Board finds that the proposed amendments to the rules are necessary and in the public interest.
3. Pursuant to 28 **Del.C.**, Section 1122, the Board has statutory authority to promulgate regulations governing charitable gaming, including bingo and Texas Hold 'Em Tournaments.

DECISION AND EFFECTIVE DATE

The Board hereby adopts the proposed amendments to its rules in the manner to be published in the *Register of Regulations* on June 1, 2010, to be effective ten days after publication of the Order in the *Register of Regulations*.

TEXT AND CITATION

The text of the revised rules and regulations remains as published in the *Delaware Register of Regulations*, Volume 13, Issue 10 on April 1, 2010.

SO ORDERED this 6th day of May, 2010.

DELAWARE GAMING CONTROL BOARD

Deborah Messina, Chair
Scott Angelucci, Member
Brad Barrie, Member

James Greene, Member
Sharon McDowell, Member

1.0 Definitions

“Board” The Delaware Gaming Control Board.

“Charitable Gambling” Any game or scheme operated by an organization which has been in existence for two (2) years or longer in which chance is the dominant factor in determining the allocation of a prize, excluding slot machines, roulette, craps, baccarat games, or raffles as defined in the Board's Regulations for Raffles.

“Function” is a licensed event of Charitable Gambling maintained and conducted by a Sponsoring Organization for the disposal of awards of merchandise, cash, or its equivalent by means of **“Game”** as defined in this section. This includes without limitation thereto, so-called Las Vegas, Casino, or Monte Carlo Nights.

“Game” shall include without limitation card games such as draw poker, stud poker, or blackjack, devices such as big six wheels or similar devices, dice games other than craps, horse racing games, Nevada cards or pull tabs or any other activity similar to these mentioned games approved by the Board.

“Gross Receipts” means the total amount of money or other consideration received as admission fees, income from gambling and except for a bazaar, carnival, festival, or similar affair, from the sale of food and beverages from any one event.

“Instant Bingo” shall mean any game of chance played with sealed or covered cards which must be opened in some fashion by the holder, such that the cards reveal instantly whether the holder has won a prize. This game includes, but is not limited to games commonly known as “rip-offs” and “Nevada pull-tabs.”

“Net Proceeds” is Gross Receipts less license fee, prizes and reasonable and necessary expenses ordinarily incidental to the conduct of a function.

“Sponsoring Organization” Any veterans, religious, or charitable organization, volunteer fire company or fraternal society as defined in Article II, §17A or §17B of the State Constitution.

2 DE Reg. 1224 (01/01/99)

2.0 Licensing List Required To Be Kept: Membership List

- 2.1 Each licensed organization must maintain a list of its current membership by name, address, and a description of the type of membership in the organization which shall be kept available for inspection at all reasonable times.

3.0 Conduct of Games

3.1 Workers.

- 3.1.1 **Member in Charge.** Every Licensed Organization shall designate a bona fide, active member of the licensee to be in charge of and primarily responsible for each Function. The member-in-charge shall have been a member in good standing of the Sponsoring Organization for at least two (2) years. The member-in-charge shall supervise all activities and be responsible for the conduct of all games during the Function of which he or she is in charge, including the preparation of any financial reports required by law or these regulations. The member-in-charge or his qualified designee shall be present on the premises continually during the Function and shall be familiar with the provisions of these Regulations, and the terms of the license. Neither the member-in-charge nor his or her designee may be employed by or in any way assist a third party vendor in performing its duties during the Function.
- 3.1.2 **List of Workers.** A Sponsoring Organization conducting a Function shall prepare and have available on the premises a list of all persons taking part in the management or operation of the Function. Such list shall be maintained as part of the licensee's records of the Function and shall be made available to any member or agent of the Board or law enforcement officer.
- 3.1.3 **Bona Fide Member.** For the purposes of eligibility to participate in managing or otherwise assisting in the operation of a Function, a person is a bona fide member of the Sponsoring Organization only when he or she:

- 3.1.3.1 Has become a member prior to the commencement of the Function and such membership was not dependent upon, or in any way related to the payment of consideration to participate in, any gambling activity; and,
- 3.1.3.2 Has held full and regular membership status in the Sponsoring Organization for a period of not less than three (3) consecutive months prior to the subject Function; and,
- 3.1.3.3 Has paid any reasonable initiation or admission fees for membership, and/or any dues, consistent with the nature and purpose of the Sponsoring Organization and with the type of membership obtained and is not in arrears in payment of any such fees or dues; and,
- 3.1.3.4 Has met all other conditions required by the Sponsoring Organization for membership and in all respects is a member in good standing at the time of the subject Function; and,
- 3.1.3.5 Has met all of the standards set out above respecting his or her own organization, and he or she is a bona fide member of a bona fide charitable or bona fide nonprofit organization affiliated with or auxiliary to his or her Sponsoring Organization, or to which his or her own Sponsoring Organization is auxiliary; and,
- 3.1.3.6 Has met all of the standards set out above respecting his or her own organization, and this organization has prior to July 6, 1984, assisted the Sponsoring Organization to conduct charitable gambling; and,
- 3.1.3.7 Has met all of the standards set out above respecting his or her own Sponsoring Organization, and this organization is assisting another similar Sponsoring Organization (i.e. fire company assisting another fire company; fraternal society assisting another fraternal society; charitable, religious or veterans organization assisting another charitable, religious, or veterans organization) to conduct charitable gambling.
- 3.1.4 Identification Required. The member-in-charge and those assisting him in any capacity shall possess and display identification.
- 3.1.5 ~~Officer Member Responsible for Gross Receipts. The Sponsoring Organization shall duly designate an officer of said organization to be in full charge and primarily responsible for the proper accounting, use and disposition of all Gross Receipts. Such officer's name shall appear on the list required under §3.03(1)(b) and such officer shall be a person other than the person designated member-in-charge pursuant to §3.03(1)(a). The member responsible for gross receipts shall not be employed by or perform any duties for a third party vendor during the function.~~
- 3.1.6 Payment of Workers Prohibited. No unreasonable commission, salary, compensation, reward, recompense, reimbursement of expenses or gift or other consideration shall be paid directly or indirectly, to any person for conducting or assisting in the conduct of any Function. No tip, gratuity or gift or other consideration shall be given or accepted by any person conducting or assisting in the conduct of a Function either directly or indirectly, and one or more signs prohibiting tipping shall be or more signs prohibiting tipping shall be prominently displayed in each playing area. No person shall solicit or receive any gift or donation or other consideration directly or indirectly on the premises during the conduct of a Function. Nothing in this subsection prohibits any person from sharing food and beverages made available at the functions, or the collection of bar tips for the benefit of the Sponsoring Organization.

13 DE Reg. 107 (07/01/09)

4.0 Limitation of Participation of Certain Persons

No person directly or indirectly connected with the manufacture, sale, lease or distribution of gaming equipment or supplies, or the premises where the function is held if the premises are not owned by a Sponsoring Organization, or the agents, servants or employees of such person, shall conduct, participate, advise or assist in the conduct of a Function or render any service to anyone conducting, participating or assisting in the conduct of a Function including preparation of any form relating thereto.

5.0 Equipment and Premises

- 5.1 Ownership of Equipment. The licensed organization shall conduct games only with equipment owned by it, borrowed from another qualified Sponsoring Organization or which a lessor undertakes to provide by the terms of a written lease. The rental fee contained in such a lease shall be a sum certain and shall be commercially reasonable.
- 5.2 Equipment. Equipment used in the conduct of a bazaar must be maintained in good repair and sound working condition. Equipment shall be used and operated so that each player is given an equal opportunity to win.
- 5.3 The function shall be held on premises owned or regularly leased by the applicant. If the applicant desires to hold the function at other premises, a separate written request therefor (together with supporting reasons), shall accompany the application. The Board reserves the right to accept or reject any application for the conduct of a Function on specially leased or donated premises.

6.0 Operation of Games

- 6.1 House Rules. Prior to conducting a Function, each Licensed Organization shall develop a set of house rules which will govern the type, scope and manner of all games to be conducted. Among other information, these rules shall establish the maximum amount of wagers consistent with these regulations which may be placed by persons participating in games. In addition, the rules shall prohibit the giving of anything of value to any person involved in the management or operation of the Function and prohibit anyone involved in the management or operation of the Function from accepting anything of value. A copy of the rules shall be posted conspicuously on the premises where the Function is being conducted at all times during the occasion, and a copy thereof shall be made available upon request, to any law enforcement officer or agent of the Board. The maximum wager and a no tipping sign shall be displayed at the location of each game, so as to be conspicuous to those persons participating in said games. The rules for the individual games should be available on the premises for review upon request.
- 6.2 Monitoring of Poker Tables. An association which has obtained the proper license or permit to conduct poker shall assign one monitor during the playing of poker.

11 DE Reg. 516 (10/01/07)

12 DE Reg. 357 (09/01/08)

13 DE Reg. 107 (07/01/09)

7.0 Prohibited Acts

- 7.1 Wagering Among Participants Not Permitted. No Sponsoring organization shall permit, as part of a Function, a gambling activity which involves a wagering or other items of value by one participant directly against another participant, if the activity does not provide for some portion of the proceeds to go to the Sponsoring Organization. This rule shall not be construed to prohibit games wholly administered by the Sponsoring organization wherein the licensee collects wagers from among the participants and determines the winners and amount of prizes on a parimutuel basis.
- 7.2 Credit and Checks. No Sponsoring Organization may extend credit to any patron at a Function. No checks may be cashed for more than \$20 or received by the Sponsoring organization except for the receipt of checks in the exact amount for any admission charge.
- 7.3 Persons Under Age Eighteen. No person under eighteen years of age shall be permitted on that portion of the premises used for a Function.
- 7.4 Transaction of Certain Business Prohibited. No person who is directly or indirectly connected with the manufacture, sale or distribution of gaming equipment or supplies or his agents, servants or employees may be present during a Function for the transaction of business.
- 7.5 Workers Prohibited From Participating. Workers are prohibited from participating in games at any Function during which they participate as workers except that they may participate during their breaks if they continue to display their identification, except that if a Function is scheduled for more than one day, a worker may participate in games on any day on which he does not participate as a worker.

8.0 Limitation of Functions

- 8.1 No Sponsoring Organization shall conduct more than one Function in any single calendar month. Charitable games shall not commence prior to 1:30 p.m. The operation of a Function shall be limited to six (6) consecutive hours except as permitted by **§3.08(2)**. Instant bingo is permitted during any event sponsored by the organization that is licensed to conduct it, regardless of the time or time.
- 8.2 When a Function is conducted in conjunction with a bazaar, carnival, festival or similar affair scheduled for more than one day but less than ten consecutive days, the Function shall be considered one licensed event. The games may be operated during the hours when other activities of the bazaar, carnival, festival or similar affair are available to the public.

2 DE Reg. 1224 (1/1/99)

9.0 Record Keeping

- 9.1 Record Keeping. Accurate records and books shall be kept by each Sponsoring Organization including but not limited to detailed financial reports of the amount and source of proceeds, the members participating in the promotion and/or operation of the Function, all expenses and disbursements.
- 9.2 Access to Records. Board personnel shall at all times have access to all books and records of any Sponsoring organization required by subsection (a).
- 9.3 Period for Retention of Records. All records, books of account, bank statements and all other papers incidental to the operation of events by the Sponsoring Organization shall be retained and available for inspection by Board personnel for a period of two years from the close of the calendar year to which the records apply.
- 9.4 Expenses. Each Sponsoring Organization should incur only those expenses which are reasonable and necessary for the promotion and/or operation of a Function.

10.0 Violations of Regulations

- 10.1 Failure to comply with any of the Regulations shall be deemed a violation of 28 **Del.C.** Ch. 11.

11.0 Application

- 11.1 All applications for a license to conduct a Function shall be submitted on Form BCC-3. The information supplied must include the name, address, and phone number of the Sponsoring organization, a list of the games to be conducted, the wagering limit on each game, the date and time that the function will be held, the premises where the Function will be held, the owner of the premises, the name, address, and phone number of the designated member in charge and the person responsible for the proper accounting and the exact nature of the charitable purpose for which the proceeds will be used.
 - 11.1.1 An application must be submitted sufficiently in advance of the proposed date of the function as to allow the Board to consider the application at two consecutive board meetings before deciding whether to approve or deny the application.
- 11.2 There shall be a license fee of \$15 for each occasion upon which the organization wishes to conduct charitable gambling under a license.
- 11.3 The Board shall make an investigation of the qualifications of each applicant and the merits of each application. The Board shall consider the impact, if any, of the approval of a new charitable gambling license on existing licensees within the applicant's geographical location prior to granting the approval, and may deny the application if it concludes that approval of the application would be detrimental to existing licensees.
- 11.4 The Board may issue a license only after it determines that:
 - 11.4.1 The applicant is duly qualified to conduct the charitable games under the State Constitution, statutes, and rules and regulations governing charitable gaming; and
 - 11.4.2 The person or persons who intend to conduct the games are persons of good moral character and have never been convicted of crimes involving moral turpitude; and
 - 11.4.3 The proceeds are to be disposed of as provided in the State Constitution and statutes; and

11.4.4 No unreasonable salary, compensation or reward whatever will be paid or given to any person under whom the game is conducted.

11.5 No charitable gambling license shall be effective for a period of more than one year from the date it was issued.

11.6 No charitable gambling license shall be effective after the organization to which it was granted has become ineligible to conduct the game under any provision of Article II, §17A or §17B of the State Constitution.

2 DE Reg. 1224 (1/1/99)

12 DE Reg. 357 (09/01/08)

13 DE Reg. 107 (07/01/09)

12.0 Reports After the Function

12.1 Within 30 days of the last day of the function, the member-in-charge shall submit a report to the Board that includes all information required by 28 **Del.C.** §1140(a).

12.2 When no function is held on a date a licensee is authorized to hold such a function, a report to that effect shall be filed with the Board.

12.3 If a licensee fails to timely file a report or if a report is not properly verified, no further license shall be issued to the licensee and any existing licensee shall be suspended until such time as the deficiency has been corrected.

2 DE Reg. 1224 (1/1/99)

11 DE Reg. 516 (10/01/07)

13 DE Reg. 107 (07/01/09)

13.0 Suspension and Revocation of Licenses

13.1 Proceedings to suspend or to revoke a license shall be brought by notifying the licensee of the ground thereof and the date set forth for hearing thereon. The Board may stop the operation of a charitable gaming function pending a hearing, in which case the hearing must be held within five (5) days after such action.

13.2 The Board shall cause the notice of hearing to be served personally on an officer of the licensee or the member in charge of the conduct of the function or to be sent by registered or certified mail to the licensee at the address shown in the license. All hearing procedures shall be subject to the requirements of the Administrative Procedures Act, 29 **Del.C.** §10131.

13.3 When suspension or revocation proceedings are begun before the Board, it shall hear the matter and make written findings in support of its decision. The licensee shall be informed of the decision, and of the effective date of the suspension or revocation.

13.4 When a license is suspended or revoked, the licensee shall surrender up the license to the Board on or before that effective date set forth in the notice of the decision. In no case shall any license be valid beyond the effective date of suspension or revocation, whether surrendered or not.

13.5 Upon a finding of a violation of these rules or of the appropriate statute, a license or permit may be suspended or revoked by the Board. In addition to any other penalty imposed, the Board may declare the violator to be ineligible to apply for a license or permit for a period not to exceed thirty (30) months. Such decision may be extended to include the violator's parent organization, subsidiary organization or any organization having a common parent or otherwise affiliated with the violator, when in the opinion of the Board, the circumstances of the violation warrant such action.

2 DE Reg. 1224 (1/1/99)

12 DE Reg. 357 (09/01/08)

14.0 Severability

If any provision of these Regulations or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of these Regulations and the applicability of such provision to other persons or circumstances shall not be affected thereby.

104 Regulations Governing Texas Hold'em Poker

1.0 Reports After the Function

- 1.1 Within 30 days of the last day of the function, the member-in-charge shall submit a report to the Board that includes all information required by 28 **Del.C.** §1140(a).
- 1.2 When no function is held on a date a licensee is authorized to hold such a function, a report to that effect shall be filed with the Board.
- 1.3 If a licensee fails to timely file a report or if a report is not properly verified, no further license shall be issued to the licensee and any existing license shall be suspended until such time as the deficiency has been corrected.

2.0 Limitation of Texas Hold'em Tournaments

- 2.1 The Board interprets the phrase "with each tournament by the sponsoring organization to be held at least 70 days apart" in 28 **Del.C.** §1827 to mean that no sponsoring organization may conduct a subsequent tournament less than 70 days from the date of their immediately prior tournament.
- 2.2 Only a member of the sponsoring organization may receive the funds during the tournament.

12 DE Reg. 357 (9/01/08)

13 DE Reg. 107 (07/01/09)

3.0 Re-buys

- 3.1 The statutory provisions of 28 **Del.C.** §1825 and 28 **Del.C.** §1826(2) do not harmonize. Consequently, the Board has determined that re-buys are optional.

11 DE Reg. 516 (10/01/07)

4.0 Application

- 4.1 An application must be submitted sufficiently in advance of the proposed date of the function as to allow the Board to consider the application at two consecutive board meetings before deciding whether to approve or deny the application.

12 DE Reg. 357 (9/01/08)

5.0 Prize Amount

No prize greater in amount or value than \$5,000 shall be offered or given in any single tournament and the aggregate amount or value of all prizes offered or given in any single tournament shall not exceed \$13,000.

13 DE Reg. 412 (09/01/09)

13 DE Reg. 1580 (06-01-10) (Final)