

PUBLIC PROTECTION CABINET
Department of Charitable Gaming
(Amendment)

820 KAR 1:001. Definitions.

RELATES TO: KRS 238.500, et. seq.~~[238.505, 238.510, 238.515, 238.520, 238.522, 238.525, 238.530, 238.535, 238.536, 238.540, 238.545, 238.547, 238.550, 238.555, 238.560, 238.565, 238.567, 238.570, 238.995]~~

STATUTORY AUTHORITY: KRS 238.515(9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 238.515 authorizes the Department of Charitable Gaming to promulgate administrative regulations to carry out the purposes and intent of the chapter. This administrative regulation establishes definitions of terms used throughout 820 KAR Chapter 1.

Section 1. Definitions.

- (1) "Account number" means the unique identification number, if any, assigned by a card-minding device system or electronic pulltab system to a customer that uses a card-minding device to play bingo or an electronic pulltab device to purchase and play a pulltab.
- (2) "Bet block" means an area that indicates the dollar amount of the wager.
- (3) "Cash over" means the total amount of money actually received from the sale of gaming supplies at a charitable gaming session is more than the amount of money due from the sale of that quantity of gaming supplies.
- (4) "Cash short" means the total amount of money actually received from the sale of gaming supplies at a charitable gaming session is less than the amount of money due from the sale of that quantity of gaming supplies.
- (5) "Charitable gaming session" means a single gathering, event, or occurrence, at a specific location, during a specific time period, at which games of chance as defined by KRS Chapter 238 are conducted by a charitable organization.
- (6) "Charitable gaming session program" means a written list of all games to be played and prize amounts to be paid for each game during a charitable gaming session, including, if the prizes are based on attendance, the amount of the prize and the attendance required.
- (7) "Chief executive officer" means the director of the organization or the person who has legal authority to direct the management of the organization, distributor, manufacturer, or charitable gaming facility with respect to the conduct of charitable gaming.
- (8) "Chief financial officer" means the person who is:
 - (a) Responsible for overseeing the financial activities of the organization, distributor, manufacturer, or charitable gaming facility;
 - (b) The custodian of the charitable gaming session records; and
 - (c) Responsible for ensuring that all records are accurate, complete, and maintained;
- (9) "Digital signature" means a method by which data, as in a software application, is expressed in a calculated number that is used to verify the accuracy of the data or a copy of the data.
- (10) "Draw ticket" means a blank ticket upon which the numbers are marked as they are randomly selected.
- (11) "EPROM" means Erasable Programmable read-only memory.
- (12) "Gambling" is defined by KRS 528.010(4).
- (13) "Merchandise prize" means a noncash prize given away at a charitable gaming session either as a game prize or a door prize.

(14) "Player tracking software" means computer software installed on a card-minding device system, electronic pulltab system, or other point of sale system that is used to identify or track certain characteristics of bingo or pulltab players, including personal data and purchasing habits.

(15) "Primary office location" means the land and building in and upon which a charitable organization conducts the majority of its charitable business. An organization's primary office location shall not include any physical space shared with a bar, restaurant, convenience store, or other commercial retail business.

(16) "PROM" means programmable read-only memory.

(17) ~~((16))~~ "Promotional" means any item available at no charge to all participants at ~~a~~^{an} charitable gaming session.

(18) ~~((17))~~ "Proprietary software" means custom computer software developed by the manufacturer that is a primary component of a card-minding device system or electronic pulltab system and is required for a card-minding device to be used in a game of bingo or for an electronic pulltab device to be used to play an electronic pulltab.

(19) ~~((18))~~ "Purchased prize" means any merchandise prize that was purchased and not donated.

(20) ~~((19))~~ "RAM" or "random access memory" means the electronic memory that a computer uses to store information.

(21) ~~((20))~~ "Random number generator" means a device:

- (a) For generating number values that exhibit characteristics of randomness; and
- (b) Composed of:
 - 1. Computer hardware;
 - 2. Computer software; or
 - 3. A combination of computer hardware and software.

(22) ~~((21))~~ "Secondary component" means an additional software or hardware component that:

- (a) Is part of or is connected to a card-minding device system or electronic pulltab system;
- (b) Does not affect the conduct of the game of bingo or an electronic pulltab;
- (c) Is provided by the manufacturer; and
- (d) May include computer screen backgrounds, battery charge-up software routines, monitors, keyboards, pointer devices, mice, printers, printer software drivers, or charging racks.

(23) ~~((22))~~ "Serial number" means a number assigned by the manufacturer to track the individual product.

(24) ~~((23))~~ "Site system" means computer hardware, software, and peripheral equipment leased or purchased from a licensed distributor and used by a licensed organization to conduct, manage, and record bingo games played on card-minding devices and electronic pulltab games played on electronic pulltab devices.

(25) ~~((24))~~ "Terminal number" means the unique identification number, if any, assigned by a manufacturer to a specific standard card-minding device or a specific electronic pulltab device.

(26) ~~((25))~~ "Transaction log" means a record of the same information printed on each outside ticket that is:

- (a) Retained in the computer's memory; or
- (b) Printed out by the computer.

(27) ~~((26))~~ "Version number" means a unique number designated by the manufacturer to identify a specific version of software used on or by the card-minding device system or the electronic pulltab system.

This is to certify that this administrative regulation was distributed for review and comment to the Charitable Gaming Advisory Commission prior to its adoption, as required by KRS 238.522(1).

AMBROSE WILSON IV, Commissioner

RAY A. PERRY, Secretary

APPROVED BY AGENCY: June 13, 2022

FILED WITH LRC: June 14, 2022 at 11:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 25, 2022, at 10:00 a.m. Eastern Time at the Mayo-Underwood Building, Room 133CE, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Doug Hardin, Staff Attorney, Department of Charitable, 500 Mero Street 2NW24, Frankfort, Kentucky 40601, phone (502) 782-8204, fax (502) 573-6625, email doug.hardin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Doug Hardin

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation provides definitions for terms used throughout the charitable gaming regulations.

(b) The necessity of this administrative regulation:

This regulation is necessary to clearly articulate the regulatory requirements established in the charitable gaming regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

Pursuant to KRS 238.522, a draft of this regulatory amendment was submitted to members of the Charitable Gaming Advisory Commission on April 22, 2022. No written comments were received from the members of the commission. KRS 238.515 authorizes the department to promulgate administrative regulations to carry out and implement KRS Chapter 238. KRS 238.515(9) authorizes the Department to promulgate administrative regulations to carry out and implement KRS Chapter 238.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation is necessary to clearly articulate the definitions for terms used in the charitable gaming regulations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

The amendments to 820 KAR 1:001 adds a definition of “primary office location.”

(b) The necessity of the amendment to this administrative regulation:

“Primary office location” was not previously defined, though it is mentioned in various locations in KRS Chapter 238 and 820 KAR Chapter 1.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 238.515(9) authorizes the department to promulgate administrative regulations in accordance with KRS Chapter 13A which are necessary to carry out the purposes and intent of Chapter 238.

(d) How the amendment will assist in the effective administration of the statutes:

This definition provides an objective standard for what establishes an organization’s primary office location, which will ensure fairness and objectivity to the Department when conducting office inspections during the licensing process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The Department of Charitable Gaming and its employees are affected by this administrative regulation. Manufacturers and distributors of paper and electronic pulltabs are also impacted by this administrative regulation. In addition, the licensees and exempt organizations will be affected by this administrative regulation. As of May 2022, the Department of Charitable Gaming regulated over 1,400 charitable gaming entities that will be affected by this administrative regulation, including 647 charitable gaming organizations, over 767 exempt charitable gaming organizations, twenty (20)

manufacturers of charitable gaming supplies; fifteen (15) distributors of charitable gaming supplies; and twenty-nine (29) charitable gaming facilities.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Licensed and exempt charitable organizations must establish the existence of a primary office location. This definition sets out objective standards for determining whether an organization has complied with this licensing requirement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

The amendment to 820 KAR 1:001 will impose no new costs on regulated persons or entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

This regulatory amendment provides an objective standard so that licensees will know what is required to establish an office location.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no additional cost to implement this administrative regulation initially.

(b) On a continuing basis:

There will be no additional cost to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

There is no additional funding necessary to implement this amendment to the administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

The implementation of this administrative regulation requires no increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation neither directly nor indirectly increases any fees.

(9) TIERING: Is tiering applied?

No, tiering is not applied because the definitions set forth in this administrative regulation apply equally to all licensees.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Department of Charitable Gaming is the agency responsible for implementing this regulation. Local fire departments and school districts that use charitable gaming for fundraising will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 238.515(1) and (9).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation is not intended to generate revenue for any state or local government agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation is not intended to generate revenue for any state or local government agency.

(c) How much will it cost to administer this program for the first year?

There is no cost to administer this administrative regulation for the first year.

(d) How much will it cost to administer this program for subsequent years?

There is no cost to administer this administrative regulation for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):None

Expenditures (+/-):None

Other Explanation:

None

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation is not intended to generate cost savings for regulated entities in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation is not intended to generate cost savings for regulated entities in subsequent years.

(c) How much will it cost the regulated entities for the first year?

This administrative regulation is not intended to generate costs for regulated entities in the first year.

(d) How much will it cost the regulated entities for subsequent years?

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):None

Expenditures (+/-):None

Other Explanation:

None

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation is not intended to have a major economic impact as defined by KRS 13A.010(13).

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

None.

(2) State compliance standards.

None.

(3) Minimum or uniform standards contained in the federal mandate.

None.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

No.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

N/A.