

STATE OF MINNESOTA

MINNESOTA GAMBLING CONTROL BOARD

**In the Matter of the
Proposed Adoption of the Rule
of the Minnesota Gambling
Control Board, Relating to
Break-Open Bingo, Minnesota
Rules, part 7861.0070.**

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION AND BACKGROUND

The nature of the proposed rule of the Gambling Control Board (Board) contained in Minnesota Rules, part 7861.0070, is to set standards for the game of break-open bingo to be conducted by organizations authorized to conduct lawful gambling.

The Board received a petition from Allied Charities of Minnesota on May 24, 1993. The petition requested rule language that would permit the game of break-open bingo to be conducted by organizations. In response to the petition, the Board expressed the intent to adopt this rule as quickly as possible.

The proposed amendments are necessary to authorize the game of break-open bingo. This was a popular form of bingo in Minnesota until it was prohibited by the Board in an interpretation of Minnesota Rules, part 7861.0060, subpart 5 (E). This interpretation precluded the playing of break-open bingo by conducting organizations and resulted in a loss of business for some non-profit organizations that sponsor bingo games.

II. STATEMENT OF THE BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt this rule is set out in Minnesota Statutes, section 349.151, subdivision 4(a), (1992), which lists the powers and duties of the Board. Section 349.151, subdivision 4(a), clause (1) authorizes the Board to regulate lawful gambling to ensure that it is conducted in the public interest; clause (5) authorizes the Board to make rules authorized by this chapter; and clause (15) authorizes the Board to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

III. PUBLIC ADVISORY COMMITTEE

The Board formed a Public Advisory Committee to assist in researching the break-open bingo issues, and make recommendations to the Board's Rules Committee relative to these rules. The Public Advisory Committee met on three different occasions for the purpose of reviewing and suggesting revisions to the proposed rules drafts. Members of this Public Advisory Committee were as follows:

King Wilson, Executive Director
Allied Charities
PO Box 21264
Minneapolis MN 55421-0264
612-571-7495

George Hoyum, Director
Department of Revenue
10 River Park Plaza
St Paul MN 55146-3331
612-297-2151

Roger Franke
Arrow International, Inc.
11975 Portland Ave #126
Burnsville MN 55337
612-890-7180

Tom Brownell, Director
Gambling Enforcement Div.
1600 University Ave #306
St Paul MN 55104
612-643-3006

Mary Magnuson
Jacobson, Buffalo, Schoessler
& Magnuson
700 Lumber Exchange Building
10 S 5th St
Minneapolis MN 55402
612-339-2071

Harry Burns
PO Box 486
St Cloud MN 56302
612-251-4591

Paul Bugbee
St Benedicts Center
1810 Minnesota Blvd SE
St Cloud MN 56304
612-252-0010

Adler Strandquist
Gambling Manager
7450 Edinborough Way
#1211
Edina MN 55435
612-869-5555

Ken Lien/Pat Boyle
Lien Games
PO Box 832
Moorhead MN 56560
218-233-3070

Harry W. Baltzer
Executive Director
Gambling Control Board

Sylvester Janochoski
Carousel Bingo
1335 Cooper Ave So
St Cloud MN 56301

Lee Graczyk
Compliance Supervisor
Gambling Control Board

Bill Stewart
Chair, Bass Gambling Supplies
8455 Center Drive
Spring Lake Park MN 55432

Steve Pedersen
Specialist
Gambling Control Board

John Boland
Boland & Associates
26 E Exchange St #100
St Paul MN 55101

Mary McLeod
Chair, Board Rules
Committee
Gambling Control Board

Allan Fonfara
Member, Board Rules
Committee
Gambling Control Board

IV. SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115, requires an agency, when proposing a new rule or amending an existing rule that may affect small businesses, to consider certain methods of reducing the impact of the rule on small businesses.

The proposed rule permits the game of break-open bingo to be conducted by an organization that is considered to be a small business under section 14.115, thus granting that organization the opportunity to increase its revenue during a bingo occasion.

The Dual Notice of Intent to Adopt a Rule does not contain a statement of estimated costs to local public bodies pursuant to Minnesota Statutes, section 14.11, subdivision 1, because there is no cost to local public bodies and, therefore, the reasonable estimate of the total cost to public bodies to implement the rule for the two years following the adoption of the rule is less than \$100,000, and section 14.11, subdivision 1 is not applicable.

Minnesota Statutes, section 14.11, subdivision 2, is inapplicable because the proposed rule does not have a direct and substantial adverse impact on agricultural land. Section 16A.128, subd. 1 does not apply because the proposed amendments or new rules do not set any fee. Likewise, a fiscal note is not required pursuant to section 3.892 as the rule will not force any local agency or school district to incur costs.

IV. DETAIL OF THE PROPOSED RULE AND STATEMENT OF NEED AND REASONABLENESS

7861.0070 BINGO.

This rule is reasonable and necessary because it would permit authorized organizations to conduct the game of break-open bingo, which has historically been a profitable game for these organizations, and thereby increase their revenues by conducting a bingo game that is popular with the public.

Subpart 5(E) contains new language that allows break-open bingo sheets to be sold after the first ball in the break-open bingo game has been drawn. The rule is reasonable because other bingo rules prohibit the sale of additional bingo faces after the first ball has been drawn in a bingo game. The new language is necessary to clearly delineate the major difference between break-open bingo and other bingo games.

Subpart 5(F) incorporates new language which clarifies that identical faces may occur during a break-open bingo game, even though it is prohibited in other forms of bingo. Again, this rule language clarifies one of the differences between break-open bingo and other bingo games. The rule change is reasonable in that it will allow game sponsors to clearly define one of the differences between break-open bingo and other bingo games. The rule change is necessary in that it will allow patrons to be better informed regarding the differences between break-open bingo and other games of bingo.

Subpart 8(A) provides that break-open bingo sheets must be constructed so that all the numbers on the face of each card cannot be determined prior to opening. The construction of the break-open bingo sheet must be such that the numbers on the face cannot be viewed by using a high-intensity lamp of 500 watts. The rule is reasonable because it is important that the bingo face not be visible prior to opening. Since a significant number of game balls may have already been called, if the numbers on the sheet can be seen, the possibility exists that an individual could search through the remaining bingo paper sheets to find the face that has the greatest amount of letters and numbers already called, thereby increasing his/her chances of winning that particular bingo game. The rule is necessary to protect the integrity of the game, and instill a greater sense of security among the players participating in that particular game.

Subpart 8(B) provides that all bingo paper sheets for break-open bingo must be individually sealed. The rule is reasonable because it serves to provide a safeguard against product tampering. The rule is necessary in order to provide the patrons with bingo paper sheets that are factory sealed, and to further insure the integrity of this form of lawful gambling in Minnesota.

Subpart 8(C) defines when and how a break-open bingo game is begun. The proposed rule is necessary in order to differentiate this rule from other rules governing other types of bingo games. For instance, this rule requires that the organization call and post a predetermined quantity of randomly selected bingo balls and, further, that the organization must use a separate set of bingo balls and a separate bingo ball selection device for break-open bingo. The reason for requiring break-open bingo to be conducted using a separate set of bingo balls and a separate bingo ball selection device is that since the break-open bingo game is resumed later in the occasion, and the organization may be conducting other bingo games in the meantime, another set must be used for those games to ensure the integrity of the bingo balls called for the break-open game. The rule is necessary in order to provide patrons with a clear understanding of how the game is played, and to mandate the use of a separate set of bingo balls and bingo ball selection device for the game of break-open bingo from other games of lawful bingo.

Subpart 8(D) provides that sealed bingo paper sheets may be sold throughout the bingo occasion, but that no additional sheets may be sold or traded in after the conducting organization has resumed calling the letters and numbers after the predetermined quantity has been called and posted. The rule is reasonable in that it will allow patrons to purchase the sealed bingo paper sheets at any time during the bingo occasion, but not after the organization resumes calling letters and numbers. The rule is necessary in order to allow patrons to purchase the sealed bingo paper sheets at any time during the bingo occasion up to the resumption of the calling of bingo balls, while still protecting the integrity of the particular set of bingo balls being called at the time. Further, it does not differ from the way the game has traditionally been played.

Subpart 8(E) states that after the predetermined quantity of bingo balls have been called and posted, any and all players who have completed the game pattern will be considered winners. When such player/players are identified, that particular game will end at this point. The rule also provides that if no player has declared bingo and been verified a winner at this point, the organization must resume calling letters and numbers until one or more players declares bingo and is verified as a winner/winners. The rule is reasonable in that it requires at least one winner for every break-open bingo game. The rule is also reasonable because it ensures the players that someone will win the game during the bingo occasion, and because it assures the players that if they complete the pattern within the number of predetermined balls they will win. The rule is necessary to ensure that a winner is declared at some point during the bingo occasion, and to ensure that the organization will continue that particular break-open bingo game until a winner (or winners) have been determined, while still ensuring the player's ability to win prior to the resumption of calling letters and numbers.

Subpart 8(F) states that a break-open bingo game must be played in its entirety during the time of the announced bingo occasion. This rule is reasonable because the players have a right to expect a winner or winners to be declared during the occasion. The rule is necessary to ensure that the organizations do, in fact, conduct the break-open bingo game in its entirety, leading to a winner or winners, during the course of that particular bingo occasion.

Subpart 8(G) provides that the organization sponsoring break-open bingo must mark each break-open bingo sheet to be used during the bingo occasion with a symbol unique to that occasion. It further requires that this unique symbol appear on the part of the break-open bingo sheet that is in play, and that the organization maintain a record that ties the unique symbol to that particular date and bingo occasion. The rule is reasonable in that it helps to ensure that the break-open bingo sheets have not been tampered with or used prior to that particular bingo occasion. The rule is also reasonable because it does not require the organization to devise an elaborate method for recording dates, bingo occasions and unique symbols, but at the same time does require a minimal amount of record-keeping to ensure the integrity of the bingo occasion and the break-open bingo sheets used for that occasion. The rule is necessary in order to ensure that the patrons play with only the break-open bingo sheets designated for that occasion, and to provide the State with a method of verification.

Subpart 8(H) allows players to trade in break-open bingo sheets under certain circumstances. The rule mandates that the original set of break-open bingo sheets must be blue and that the other set (also known as the trade in set) may be of any other color except blue. The rule also stipulates that all break-open bingo sheets in the original set and the trade-in set are of equal value, and must be sold to players for the same price. The rule further allows players to continue to purchase sheets from the original set; to trade-in break-open bingo sheets from the original set for sheets from the trade-in set; or, to trade-in sheets from the trade-in set for other sheets from the trade-in set.


The rule further requires the organization to post a notice in its house rules stating that identical break-open bingo sheet faces may be in play during that break-open bingo game. It requires the organization to announce at the start of the game and post in its house rules the fact that all original break-open bingo sheets are blue; and the price at which the original and trade-in sheets must be sold. The rule is reasonable in that it further defines for the players and organizations the circumstances under which break-open bingo must be played. The rule is necessary in order to provide standardization within the industry regarding the original set of break-open bingo sheets, and the terms and conditions under which trade-ins may be made. The rule is also necessary to ensure that the organization will properly post and notify all players of the rules governing the color of break-open bingo sheets, the terms under which a trade-in may be made, and the price of the break-open bingo sheets.

Subpart 8(I) requires licensed distributors of break-open bingo sheets to identify on its invoice to the organization the serial number of each set of break-open bingo paper sold, to state whether the set is an original or trade-in set, and the price for which each break-open bingo sheet must be sold by any organization. The rule is reasonable in that it requires the organization to notify distributors of the price they intend to charge for the break-open bingo sheets. The rule is reasonable because it does not place an undue burden on the organization, and provides the state a means of verifying how the break-open bingo sheets are being used by an organization.

V. CONCLUSION

Based on the foregoing, the proposed Minnesota Rules, part 7861.0070, are both necessary and reasonable.

Dated: 10/21/93


Harry W. Baltzer
Executive Director
Minn. Gambling Control Board



State of Minnesota • Gambling Control Board

11/15/93
1711 W. County Road B
Suite 300 South
Roseville, MN 55113
612/639-4000

November 10, 1993

Ms. Maryanne V. Hruby, Executive Director
LEGISLATIVE COMMISSION TO REVIEW
ADMINISTRATIVE RULES
55 State Office Building
100 Constitution Avenue
St Paul MN 55155

**Re: In the Matter of Proposed Rules of the Minnesota Gambling Board
Relating to Break-Open Bingo, Minnesota Rule 7861.0070.**

Dear Ms. Hruby:

The Minnesota Gambling Board intends to adopt rules relating to Break-Open Bingo. We plan to publish a Notice of Intent to Adopt Rules With or Without a Public Hearing in the November 15, 1993 State Register.

As required by Minnesota Statutes, sections 14.131 and 14.23, the Board has prepared a Statement of Need and Reasonableness which is now available to the public. Also as required, a copy of this Statement is enclosed with this letter.

For your information, we are also enclosing a copy of the Notice of Intent to Adopt Rules, and a copy of the proposed Rules in this matter.

If you have any questions about these rules, please contact me at 639-4000.

Sincerely,

A handwritten signature in cursive script that reads "Sharon A. Beighley".

SHARON A. BEIGHLEY
Rules Coordinator

enclosures: Statement of Need and Reasonableness
Notice of Intent to Adopt Rules
Rules