

# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 16. ECONOMIC REGULATION

### PART 9. TEXAS LOTTERY COMMISSION

#### CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

##### SUBCHAPTER D. LOTTERY GAME RULES

###### 16 TAC §401.308

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule), without changes to the proposed text as published in the April 27, 2018, issue of the *Texas Register* (43 TexReg 2507). The amendments change the Cash Five game matrix, offer guaranteed (fixed) prizes and set a liability limit for the Match 5 top prize. The new game matrix will change from the selection of 5 numbers out of a field of 37 numbers to a selection of 5 numbers out of a field of 35 numbers. This matrix change will improve the overall odds to win a prize in the Cash Five game. The Commission anticipates the changes to the Cash Five game to be implemented September 24, 2018.

A public comment hearing was held on Wednesday, May 9, 2018, at 9:30 a.m., at 611 E. 6th Street, Austin, Texas 78701. No individuals were present at the hearing. However, the Commission did receive three written comments on the proposed amendments during the public comment period. Two of the comments only stated opposition to the game changes. A third comment was from a representative of the Lotto Report.

COMMENT SUMMARY: The Lotto Report is opposed to the proposed changes to the Cash Five game because the changes will reduce prize amounts, which, in turn, will not increase sales or entice more people to play Cash Five. The commenter describes the decline in the Cash Five game sales and participation over several years. The commenter asserts that the deletion of the prize allocation and "guaranteed" 50% prize pool from the new rule is so that the Lottery does not have to return 50% of sales to the players, which makes more money for the Lottery. The commenter states that players want to win something worthwhile, not \$1 or \$2 "breakeven" amounts (which should not be considered "wins"), therefore, the pari-mutuel and roll down aspects of the game should remain in place. The commenter also points out that from May 1, 2017, to May 23, 2018, there have been 331 Cash Five drawings, of which a ticket winning the Match 5 of 5 occurred only 80 times (94 including multiple winners in a drawing), therefore, the top prize amount rolled down to the Match 4 of 5 winners, creating more winners than there will be in the new game with fixed prize amounts. The commenter also predicts that the free quick pick tickets awarded for the Match 2 of 5 tier level will most likely be non-winning tickets.

COMMISSION RESPONSE: The Commission's mandate is to generate revenue for Texas education and veterans through the sale of lottery tickets. Changes to lottery draw games are necessary to keep games fresh and interesting for players. When changing a game, the Commission obtains input from the lottery operator, who is contractually required to develop, research and propose draw game concepts, on the best way to make changes to increase sales. The Commission disagrees with the comments made by the representative of the Lotto Report. The prize payout for the proposed Cash Five game will be 50.97% over time. (Similar to Pick 3 and Daily 4, the prize payout percentage will vary from draw to draw due to the fixed prize amounts.) The 50.97% payout percentage was verified by the lottery operator and by the independent statistical consulting firm. The current version of the Cash Five game that is pari-mutuel and offers a roll-down feature has been experiencing sales declines. The Commission believes that guaranteeing prize amounts in the game and improving the odds of winning for players will increase player and retailer interest leading to increased sales, which will, in turn, lead to increased revenue generation for Texas education and veterans and increased commissions for retailers.

The rule amendments are adopted under the Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

The adopted amendments implement Texas Government Code, Chapter 466.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Bob Biard

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Texas Lottery Commission

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For further information, please call: (512) 344-5012

#### CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION

##### SUBCHAPTER A. ADMINISTRATION

###### 16 TAC §402.102

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §402.102 (Bingo Advisory Committee) without changes to the proposed text as published in the April 27, 2018, issue of the *Texas Register* (43 TexReg 2509). The purpose of the rule amendments is to update and streamline the Bingo Advisory Committee (BAC) member eligibility and appointment procedures, and procedural requirements regarding BAC meetings.

A public comment hearing was held on Wednesday, May 9, 2018, at 10:00 a.m., at 611 E. 6th Street, Austin, Texas 78701. The Department of Texas, Veterans of Foreign Wars; Texas Charity Advocates; and the Bingo Interest Group each provided comments in support of the proposed amendments at the hearing. Additionally, River City Bingo Association (RBCA) submitted written comments during the public comment period.

RBCA commented that the reference in subsection (b)(2)(C) to "conductors that are licensed commercial lessors" as a category of BAC member should be interpreted to include not only a single licensed authorized organization (bingo conductor) but also an association of bingo conductors that jointly owns or leases premises where bingo is or will be conducted and that the association leases or offers to lease to one or more conductors for the conduct of bingo. Thus, a representative of a bingo conductor that is part of such a lessor association could be considered for appointment to the BAC as a conductor that is a commercial lessor. The Commission agrees with this interpretation but declines to make changes to the text of the rule.

The rule amendments are adopted under the Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and the Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

The adopted amendments implement the Texas Occupations Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER C. BINGO GAMES AND EQUIPMENT

### 16 TAC §402.300

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §402.300 (Pull-Tab Bingo) with changes to the proposed text as published in the April 27, 2018, issue of the *Texas Register* (43 TexReg 2511). The purpose of the rule amendments is to remove an unnecessary provision (former subsection (d)(3)) requiring detailed information to be provided in a packing slip inside each deal of pull-tab bingo tickets. The

adopted version of the rule corrects several grammatical and punctuation errors and completes the alphabetization of the definitions

A public comment hearing was held on Wednesday, May 9, 2018, at 10:00 a.m., at 611 E. 6th Street, Austin, Texas 78701. The Department of Texas, Veterans of Foreign Wars; Texas Charity Advocates; and the Bingo Interest Group each provided comments in support of the proposed amendments at the hearing.

The rule amendments are adopted under the Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and the Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

The adopted amendments implement the Texas Occupations Code, Chapter 2001.

#### §402.300. *Pull-Tab Bingo.*

(a) Definitions. The following words and terms, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Bingo Ball Draw--A pulling of a bingo ball(s) to determine the winner of an event ticket by either the number or color on the ball(s).

(2) Deal--A separate and specific game of pull-tab bingo tickets of the same serial number and form number.

(3) Face--The side of a pull-tab bingo ticket, which displays the artwork of a specific game.

(4) Flare--A poster or placard that must display:

(A) a form number of a specific pull-tab bingo game;

(B) the name of the pull-tab bingo game;

(C) the total card count of the pull-tab bingo game;

(D) the cost per pull-tab bingo ticket;

(E) the number of prizes to be awarded and the corresponding prize amounts of the pull-tab bingo game; and

(F) the name of the manufacturer or trademark.

(5) Form Number--The unique identification number assigned by the manufacturer to a specific pull-tab bingo game. A form number may be numeric, alpha, or a combination of numeric and alpha characters.

(6) High Tier--The two highest paying prize amounts as designated on the pull-tab bingo ticket and on the game's flare.

(7) Last Sale--The purchaser of the last pull-tab bingo ticket(s) sold in a deal with this feature is awarded a prize or a registration for the opportunity to win a prize.

(8) Merchandise--Any non-cash item(s), including bingo equipment, provided to a licensed authorized organization that is used as a prize.

(9) Pay-Out--The total sum of all possible prize amounts in a pull-tab bingo game.

(10) Payout Schedule--A printed schedule prepared by the manufacturer that displays:

(A) the name of the pull-tab bingo game;

(B) the form number of the pull-tab bingo game;

- (C) the total card count of the pull-tab bingo game;
- (D) the cost per pull-tab bingo ticket;
- (E) the number of prizes to be awarded and the corresponding prize amount or jackpot for each category of the pull-tab bingo game;
- (F) the number of winners for each category of prize;
- (G) the profit of the pull-tab bingo game;
- (H) the percentage of payout or the percentage of profit of the pull-tab bingo game; and
- (I) the payout(s) of the pull-tab bingo game.

(11) Payout Structure--The printed information that appears on a pull-tab bingo ticket that shows the winnable prize amounts, the winning patterns required to win a prize, and the number of winners for each category of prize.

(12) Prize--An award of collectible items, merchandise, cash, bonus pull-tabs, and additional pull-tab bingo tickets, individually or in any combination.

(13) Prize Amount--The value of cash and/or merchandise which is awarded as a prize, as valued under §402.200(f) of this chapter. A collectible item is considered merchandise for determining allowable prize amounts.

(14) Serial Number--The unique identification number assigned by the manufacturer identifying a specific deal of pull-tab bingo tickets. A serial number may be numeric, alpha, or a combination of numeric and alpha characters.

(15) Subset--A part of a deal that is played as a game to itself or combined with more subsets and played as a game. Each subset may be designed to have:

(A) a designated payout; or

(B) a series of designated payouts. Subsets must be of the same form and serial number to have a combined designated payout or a series of designated payouts.

(16) Symbol--A graphic representation of an object other than a numeric or alpha character.

(17) Video Confirmation--A graphic and dynamic representation of the outcome of a bingo event ticket that will have no effect on the result of the winning or losing event ticket.

(18) Wheels--Devices that determine event ticket winner(s) by a spin of a wheel.

(b) Approval of pull-tab bingo tickets.

(1) A pull-tab bingo ticket may not be sold in the state of Texas, nor furnished to any person in this state nor used for play in this state until that pull-tab bingo ticket has received approval for use within the state of Texas by the Commission. The manufacturer at its own expense must present their pull-tab bingo ticket to the Commission for approval.

(2) All pull-tab bingo ticket color artwork with a letter of introduction including style of play must be presented to the Commission's Austin, Texas location for review. The manufacturer must submit one complete color positive or hardcopy set of the color artwork for each pull-tab bingo ticket and its accompanying flare. The color artwork may be submitted in an electronic format prescribed by the Commission in lieu of the hardcopy submission. The submission must include the payout schedule. The submission must show both sides of a pull-tab bingo ticket and must be submitted on an 8 1/2" x 11" size

sheet. The color artwork will show the actual size of the ticket and a 200% size of the ticket. The color artwork will clearly identify all winning and non-winning symbols. The color artwork will clearly identify the winnable patterns and combinations.

(3) The color artwork for each individual pull-tab bingo ticket must:

(A) display in no less than 26-point diameter circle, an impression of the Commission's seal with the words "Texas Lottery Commission" engraved around the margin and a five-pointed star in the center;

(B) contain the name of the game in a conspicuous location on the pull-tab bingo ticket;

(C) contain the form number assigned by the manufacturer in a conspicuous location on the pull-tab bingo ticket;

(D) contain the manufacturer's name or trademark in a conspicuous location on the pull-tab bingo ticket;

(E) disclose the prize amount and number of winners for each prize amount, the number of individual pull-tab bingo tickets contained in the deal, and the cost per pull-tab bingo ticket in a conspicuous location on the pull-tab bingo ticket;

(F) display the serial number where it will be printed in a conspicuous location on the pull-tab bingo ticket. The color artwork may display the word "sample" or number "000000" in lieu of the serial number;

(G) contain graphic symbols that preserve the integrity of the Commission. The Commission will not approve any pull-tab bingo ticket that displays images or text that could be interpreted as depicting violent acts, profane language, or provocative, explicit, or derogatory images or text, as determined by the Commission. All images or text are subject to final approval by the Commission; and

(H) be accompanied with the color artwork of the pull-tab bingo tickets along with a list of all other colors that will be printed with the game.

(4) Upon approval of the color artwork, the manufacturer will be notified by the Commission to submit a specified number of tickets for testing. The tickets must be submitted for testing to the Commission at the manufacturer's own expense. If necessary, the Commission may request that additional tickets or a deal be submitted for testing.

(5) If the color artwork is approved and the pull-tab bingo tickets pass the Commission's testing, the manufacturer will be notified of the approval. This approval only extends to the specific pull-tab bingo game and the specific form number cited in the Commission's approval letter. If the pull-tab bingo ticket is modified in any way, with the exception of the serial number, index color, or trademark(s), it must be resubmitted to the Commission for approval. Changes to symbols require only an artwork approval from the Commission.

(6) The Commission may require resubmission of an approved pull-tab bingo ticket at any time.

(c) Disapproval of pull-tab bingo tickets.

(1) Upon inspection of a pull-tab bingo ticket by the Commission, if it is deemed not to properly preserve the integrity or security of the Commission including compliance with the art work requirements of this rule, the Commission may disapprove a pull-tab bingo ticket. All pull-tab bingo tickets that are disapproved by the Commission will cease to be allowed for sale until such time as the manufacturer complies with the written instructions of the Commission, or un-

til any discrepancies are resolved. Disapproval of and prohibition to use, purchase, sell or otherwise distribute such a pull-tab bingo ticket is effective immediately upon notice to the manufacturer by the Commission. Upon receipt of such notice, the manufacturer must immediately notify the distributor and the distributor must immediately notify affected licensed authorized organizations to cease all use, purchase, sale or other distribution of the disapproved pull-tab ticket. The distributor must provide to the Commission, within 15 days of the Commission's notice to the manufacturer, confirmation that the distributor has notified the licensed authorized organization that the pull-tab ticket has been disapproved and sale and use of the disapproved ticket must cease immediately.

(2) If modified by the manufacturer all disapproved pull-tab bingo tickets may be resubmitted to the Commission. No sale of disapproved tickets will be allowed until the resubmitted tickets have passed security testing by the Commission. At any time the manufacturer may withdraw any disapproved pull-tab bingo tickets from further consideration.

(3) The Commission may disapprove a pull-tab bingo game at any stage of review, which includes artwork review and security testing, or at any time in the duration of a pull-tab bingo game. The disapproval of a pull-tab bingo ticket is administratively final.

(d) Manufacturing requirements.

(1) Manufacturers of pull-tab bingo tickets must manufacture, assemble, and package each deal in such a manner that none of the winning pull-tab bingo tickets, nor the location, or approximate location of any winning pull-tab bingo ticket can be determined in advance of opening the deal by any means or device. Nor should the winning pull-tab bingo tickets, or the location or approximate location of any winning pull-tab bingo ticket be determined in advance of opening the deal by manufacture, printing, color variations, assembly, packaging markings, or by use of a light. Each manufacturer is subject to inspection by the Commission, its authorized representative, or designee.

(2) All winning pull-tab bingo tickets as identified on the payout schedule must be randomly distributed and mixed among all other pull-tab bingo tickets of the same serial number in a deal regardless of the number of packages, boxes, or other containers in which the deal is packaged. The position of any winning pull-tab bingo ticket of the same serial numbers must not demonstrate a pattern within the deal or within a portion of the deal. If a deal of pull-tabs is packed in more than one box or container, no individual container may indicate that it includes a winner or contains a disproportionate share of winning or losing tickets.

(3) Each deal's package, box, or other container shall be sealed at the manufacturer's 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.

(4) Each 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 package, box or container.

(5) A flare must accompany each deal.

(6) The information contained in subsection (a)(3)(A), (B), (C), (D), and (F) of this section shall be located on the outside of each deal's sealed package, box, or other container.

(7) Manufacturers must seal or tape, with tamper resistant seal or tape, every entry point into a package, box or container of pull-tab bingo tickets prior to shipment. The seal or tape must be of such

construction as to guarantee that should the container be opened or tampered with, such tampering or opening would be easily discernible.

(8) All high tier winning instant pull-tab bingo tickets must utilize a secondary form of winner verification.

(9) Each individual pull-tab bingo ticket must be constructed so that, until opened by a player, it is substantially impossible, in the opinion of the Commission, to determine its concealed letter(s), number(s) or symbol(s).

(10) No manufacturer may sell or otherwise provide to a distributor and no distributor may sell or otherwise provide to a licensed authorized organization of this state or for use in this state any pull-tab bingo game that does not contain a minimum prize payout of 65% of total receipts if completely sold out.

(11) A manufacturer in selling or providing pull-tab bingo tickets to a distributor shall seal or shrink-wrap each package, box, or container of a deal completely in a clear wrapping material.

(12) Pull-tab bingo tickets must:

(A) be constructed of cardboard and glued or otherwise securely sealed along all four edges of the pull-tab bingo ticket and between the individual perforated break-open tab(s) on the ticket. The glue must be of sufficient strength and type so as to prevent the separation of the sides of a pull-tab bingo ticket;

(B) have letters, numbers or symbols that are concealed behind perforated window tab(s), and allow such letters, numbers or symbols to be revealed only after the player has physically removed the perforated window tab(s);

(C) prevent the determination of a winning or losing pull-tab bingo ticket by any means other than the physical removal of the perforated window tab(s) by the player;

(D) be designed so that the numbers and symbols are a minimum of 2/32 (4/64) inch from the dye-cut window perforations;

(E) be designed so that the lines or arrows that identify the winning symbol combinations will be a minimum of 5/32 inch from the open edge farthest from the hinge of the dye-cut window perforations;

(F) be designed so that highlighted "pay-code" designations that identify the winning symbol combinations will be a minimum of 3.5/32 (7/64) inch from the dye-cut window perforations;

(G) be designed so that secondary winner protection codes appear in the left margin of the ticket, unless the secondary winner protection codes are randomly generated serial number-type winner protection codes. Randomly generated serial number-type winner protection codes will be randomly located in either the left or middle column of symbols and will be designed so that the numbers are a minimum of 3.5/32 (7/64) inch from the dye-cut window perforations. Any colored line or bar or background used to highlight the winner protection code will be a minimum 3.5/32 (7/64) inch from the dye-cut window perforations;

(H) have the Commission's seal placed on all pull-tab bingo tickets by only a licensed manufacturer; and

(I) be designed so that the name of the manufacturer or its distinctive logo, form number and serial number unique to the deal, name of the game, price of the ticket, and the payout structure remain when the letters, numbers, and symbols are revealed.

(13) Wheels must be submitted to the Commission for approval. As a part of the approval process, the following requirements must be demonstrated to the satisfaction of the Commission:

(A) wheels must be able to spin at least four times with reasonable effort;

(B) wheels must only contain the same number or symbols as represented on the event ticket; and

(C) locking mechanisms must be installed on wheel(s) to prevent play outside the licensed authorized organization's licensed time(s).

(14) A manufacturer must include with each pull-tab bingo ticket deal instructions for how the pull-tab bingo ticket can be played in a manner consistent with the Bingo Enabling Act and this chapter. The instructions are not required to cover every potential method of playing the pull-tab bingo ticket deal.

(e) Sales and redemption.

(1) Instant pull-tab bingo tickets from a single deal may be sold by a licensed authorized organization over multiple occasions. A winning instant pull-tab bingo ticket must be presented for payment during the licensed authorized organization's bingo occasion(s) at which the instant pull-tab bingo ticket is available for sale.

(2) Except as provided by paragraph (3) or (4) of this subsection, the event used to determine the winner(s) of an event pull-tab bingo ticket deal must occur during the same bingo occasion at which the first event pull-tab bingo ticket from that deal was sold. A winning event pull-tab ticket must be presented for payment during the same bingo occasion at which the event occurred.

(3) For a licensed authorized organization that conducts bingo through a unit created and operated under Texas Occupations Code, Subchapter I-1, any organization in the unit may sell or redeem event pull-tab tickets from a deal on the premises specified in their bingo licenses and during such licensed time on consecutive occasions within one 24-hour period.

(4) For a licensed authorized organization that conducts bingo on consecutive occasions within one 24-hour period, the organization may sell or redeem event pull-tab tickets from a deal during either occasion.

(5) Licensed authorized organizations may not display or sell any pull-tab bingo ticket which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a person's chances of winning.

(6) A licensed authorized organization may not withdraw a deal of instant pull-tab bingo tickets from play until the entire deal is completely sold out or all winning instant pull-tab bingo tickets of \$25.00 prize winnings or more have been redeemed, or the bingo occasion ends.

(7) A licensed authorized organization may not commingle different serial numbers of the same form number of pull-tab bingo tickets.

(8) A licensed authorized organization may bundle pull-tab bingo tickets of different form numbers and may sell these bundled pull-tab bingo tickets during their licensed times.

(9) The licensed authorized organization's gross receipts from the sale of pull-tab bingo tickets must be included in the reported total gross receipts for the organization. Each deal of pull-tab bingo tickets must be accounted for in sales, prizes or unsold cards.

(10) A licensed authorized organization may use video confirmation to display the results of an event ticket pull-tab bingo game(s). Video confirmation will have no effect on the play or results of any ticket or game.

(11) A licensed authorized organization must sell the pull-tab ticket for the price printed on the pull-tab ticket.

(12) Immediately upon payment of a winning pull-tab ticket of \$25.00 or more, the licensed authorized organization must punch a hole with a standard hole punch through or otherwise mark or deface that winning pull-tab bingo ticket.

(f) Inspection. The Commission, its authorized representative or designee may examine and inspect any individual pull-tab bingo ticket or deal of pull-tab bingo tickets and may pull all remaining pull-tab bingo tickets in an unsold deal.

(g) Records.

(1) Any licensed authorized organization selling pull-tab bingo tickets must maintain a purchase log showing the date of the purchase, the form number and corresponding serial number of the purchased pull-tab bingo tickets.

(2) Licensed authorized organizations must show the sale of pull-tab bingo tickets, prizes that were paid and the form number and serial number of the pull-tab bingo tickets on the occasion cash report. The aggregate total sales for the licensed authorized organization must be recorded on the cash register or point of sale station.

(3) Licensed authorized organizations must maintain a perpetual inventory of all pull-tab bingo games. They must account for all sold and unsold pull-tab bingo tickets and pull-tab bingo tickets designated for destruction. The licensed authorized organization will be responsible for the gross receipts, prizes and prize fee associated with the unaccounted for pull-tab bingo tickets.

(4) As long as a specific pull-tab bingo game serial number is in play, all records, reports, receipts and redeemed winning pull-tab bingo tickets of \$25.00 or more relating to this specific pull-tab bingo game serial number must be retained on the licensed premises for examination by the Commission.

(5) If a deal is removed from play and marked for destruction then all redeemed and unsold pull-tab bingo tickets of the deal must be retained by the licensed authorized organization for a period of four years from the date the deal is taken out of play or until the destruction of the deal is witnessed by the Commission, its authorized representative or designee.

(6) Manufacturers and distributors must provide the following information on each invoice and other document used in connection with a sale, return, or any type of transfer of pull-tab bingo tickets:

(A) date of sale;

(B) quantity sold;

(C) cost per each deal of pull-tab bingo game sold;

(D) form number and serial number of each pull-tab bingo game's deal;

(E) name and address of the purchaser; and

(F) Texas taxpayer number of the purchaser.

(7) All licensed organizations must retain these records for a period of four years.

(h) Style of Play. The following pull-tab bingo tickets are authorized by this rule. A last sale feature can be utilized on any pull-tab bingo ticket.

(1) Sign-up Board. A form of pull-tab bingo that is played with a sign-up board. Sign-up board tickets that contain a winning

numeric, alpha or symbol instantly win the stated prize or qualify to advance to the sign-up board. The sign-up board that serves as the game flare is where identified winning sign-up board ticket holders may register for the opportunity to win the prize indicated on the sign-up board.

(2) Sign-up Board Ticket. A sign up board ticket is a form of pull-tab bingo played with a sign-up board. A single window or multiple windows sign-up board ticket reveals a winning (or losing) numeric, alpha or symbol that corresponds with the sign-up board.

(3) Tip Board. A form of pull-tab game where perforated tickets attached to a placard that have a predetermined winner under a seal.

(4) Coin Board. A placard that contains prizes consisting of coin(s). Coin boards can have a sign-up board as part of its placard.

(5) Coin Board Ticket. A form of pull-tab bingo that when opened reveals a winning number or symbol that corresponds with the coin board.

(6) Event Ticket. A form of pull-tab bingo that utilizes some subsequent action to determine the event ticket winner(s), such as a drawing of ball(s), spinning wheel, opening of a seal on a flare(s) or any other method approved by the Commission so long as that method has designated numbers, letters, or symbols that conform to the randomly selected numbers or symbols. When a flare is used to determine winning tickets, the flare shall have the same form number and serial number as the event tickets. Pull-tab bingo tickets used as event tickets must contain more than two instant winners.

(7) Instant Ticket. A form of pull-tab bingo that has predetermined winners and losers and has immediate recognition of the winners and losers.

(8) Multiple Part Event or Multiple Part Instant Ticket. A pull-tab bingo ticket that is broken apart and sold in sections by a licensed authorized organization. Each section of the ticket consists of a separate deal with its own corresponding payout structure, form number, serial number, and winner verification.

(9) Jackpot Pull-Tab Game. A style of pull-tab game that has a stated prize and a chance at a jackpot prize(s). A portion of the stated payout is contributed to the jackpot prize(s). Each jackpot is continuous for the same form number and continues until a jackpot prize(s) is awarded; provided that, any jackpot prize(s) must not exceed the statutory limits.

(10) Video Confirmation shall be subject to Commission approval.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER D. LICENSING REQUIREMENTS

### 16 TAC §402.402

The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §402.402 (Registry of Bingo Workers) with changes to the proposed text as published in the April 27, 2018, issue of the *Texas Register* (43 TexReg 2513). Changes to the adopted text are intended to correct minor grammatical errors.

The purpose of the rule amendments is to (1) remove a requirement that a provisional employee of a licensed authorized organization (bingo conductor) must indicate the playing location(s) where they are provisionally employed on the Application for Registry of Approved Bingo Workers (Bingo Registry) form submitted to the Commission; and (2) extend the length of time a provisional employee who is not a resident of Texas may work without being listed on the Bingo Registry from 45 days to 75 days. A provisional employee is an individual who is employed by a bingo conductor as an operator, manager, cashier, usher, caller, or salesperson while awaiting the results of a criminal history background check, whether paid or not. Except during the time period allowed for provisional employees awaiting the result of a background check, all bingo workers must be listed on the Bingo Registry.

A public comment hearing was held on Wednesday, May 9, 2018, at 10:00 a.m., at 611 E. 6th Street, Austin, Texas 78701. The Department of Texas, Veterans of Foreign Wars; Texas Charity Advocates; and the Bingo Interest Group each provided comments in support of the proposed amendments at the hearing.

The rule amendments are adopted under the Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, and the Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction.

The adopted amendments implement the Texas Occupations Code, Chapter 2001.

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## TITLE 19. EDUCATION

### PART 2. TEXAS EDUCATION AGENCY

#### CHAPTER 61. SCHOOL DISTRICTS

##### SUBCHAPTER AA. COMMISSIONER'S

##### RULES ON SCHOOL FINANCE

## 19 TAC §61.1016

The Texas Education Agency adopts new §61.1016, concerning commissioner's rules on school finance. The new section is adopted without changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2692) and will not be republished. The adopted new rule implements Senate Bill (SB) 195, 85th Texas Legislature, Regular Session, 2017, by providing for additional transportation funding for areas with hazardous traffic conditions or a high risk of violence.

**REASONED JUSTIFICATION.** Texas Education Code (TEC), §42.155, allows a school district to apply for up to 10% of its regular transportation allotment in additional funding to transport children who live within two miles of their campus but are subject to hazardous traffic conditions in getting to school. SB 195, 85th Texas Legislature, Regular Session, 2017, expanded the criteria to apply for additional funds to include areas within two miles of a campus where students are at high risk for violence when walking to and from school. To be eligible for funding under the statute, districts must adopt a board policy that identifies specific hazardous or high-risk-of-violence areas for which the allocation is requested. In determining these areas, districts are to consult with local law enforcement agencies and must obtain law enforcement records that document a high incidence of violent crimes. Districts may use all or part of additional funds to support community walking transportation programs.

Adopted new §61.1016 implements the TEC, §42.155, by establishing provisions for hazardous transportation funding. The adopted new rule provides definitions and eligibility criteria as well as detailing how school districts must submit the additional data and the formulas to be used to calculate the additional funding.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES.** The public comment period on the proposal began May 4, 2018, and ended June 4, 2018. No public comments were received.

**STATUTORY AUTHORITY.** The new section is adopted under Texas Education Code (TEC), §42.155(d), as amended by Senate Bill (SB) 195, 85th Texas Legislature, Regular Session, 2017, which authorizes hazardous transportation funding for areas within two miles of a campus where students would be subject to hazardous traffic conditions or a high risk of violence when walking to and from school; TEC, §42.155(d-1), as amended by SB 195, 85th Texas Legislature, Regular Session, 2017, which requires the school district board of trustees to provide an explanation of the hazardous traffic conditions or areas presenting a high risk of violence applicable to that district and to identify the specific hazardous or high-risk areas for which the allocation is requested by consulting with local law enforcement agencies and obtaining law enforcement records that document a high incidence of violent crimes; and TEC, §42.155(d-2), as added by SB 195, 85th Texas Legislature, Regular Session, 2017, which allows school districts to use all or part of additional funds to support community walking transportation programs and requires the commissioner to adopt rules for the administration of TEC, §42.155.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §42.155, as amended by Senate Bill 195, 85th Texas Legislature, Regular Session, 2017.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 21, 2018.

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Texas Education Agency  
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## TITLE 22. EXAMINING BOARDS

### PART 10. TEXAS FUNERAL SERVICE COMMISSION

#### CHAPTER 201. LICENSING AND ENFORCEMENT--PRACTICE AND PROCEDURE

##### 22 TAC §201.18

The Texas Funeral Service Commission (Commission) adopts new rule Title 22 Texas Administrative Code, Chapter 201 -- Practice and Procedure §201.18 -- Agency Staff Training and Education, without changes to the proposed text as published in the April 6, 2018, issue of the *Texas Register* (43 TexReg 2116). The rule will not be republished.

**BACKGROUND AND JUSTIFICATION.** The Commission is complying with the State Employee Training Act (Texas Government Code Chapter 656 Subchapter C), which sets out requirements for state agencies to adopt rules regarding training and education for state employees.

No comments were received regarding the new rule.

**STATUTORY AUTHORITY.** This proposal is made pursuant to Texas Occupations Code §651.152, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Texas Government Code §656.048, which requires the agency to adopt rules regarding training offered to state employees.

No other statutes, articles, or codes are affected by this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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TRD-201802808  
Janice McCoy  
Executive Director  
Texas Funeral Service Commission  
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For further information, please call: (512) 936-2469

#### CHAPTER 205. CEMETERIES AND CREMATORIES

##### 22 TAC §205.11

The Texas Funeral Service Commission (Commission) adopts amendments to Title 22 Texas Administrative Code, Part 10, Chapter 205, Cemeteries and Crematories, §205.11, Prerequisites for Cremation. This rule was adopted with changes to the proposed text as published in the April 6, 2018, issue of the *Texas Register* (43 TexReg 2118). The change clarifies the location of subsection (a)(2).

**BACKGROUND AND JUSTIFICATION.** In 2014, the agency updated Chapter 205 in its entirety as a part of the agency's quadrennial rule review. The update was intended to improve ease of use for both consumers and industry and to improve efficiencies for agency staff as the rules were updated and clarified.

However it has been brought to the agency's attention the changes made to §205.11 - Prerequisites for Cremation created delays in the cremation process which negatively impact consumers and their requests for timely disposition of their loved ones.

This amendment clarifies the death record required by Texas Health and Safety Code Chapter 716.051 can be the burial transit permit as required by 25 Texas Admin. Code §181.2. In effect, this clarification allows only two documents to be presented before cremation can occur.

No comments were received regarding the amendment.

**STATUTORY AUTHORITY.** This proposal is made pursuant to Health and Safety Code §716.002, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Health and Safety Code §716.051, which outlines the documents necessary for cremation.

No other statutes, articles, or codes are affected by this section.

*§205.11. Prerequisites for Cremation.*

(a) The following documents are required to cremate deceased human remains:

(1) a cremation authorization form signed by the person responsible for making arrangements for final disposition; and

(2) a death certificate or other death record indicating that the deceased human remains may be cremated.

(b) A burial transit permit is required under 25 TAC §181.2 and may be considered other death record under subsection (a)(2) of this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Texas Funeral Service Commission

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## TITLE 34. PUBLIC FINANCE

# PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

## CHAPTER 3. TAX ADMINISTRATION

### SUBCHAPTER O. STATE AND LOCAL SALES AND USE TAXES

#### 34 TAC §3.336

The Comptroller of Public Accounts adopts amendments to §3.336, concerning gold, silver, coins, and currency, without changes to the proposed text as published in the May 18, 2018, issue of the *Texas Register* (43 TexReg 3229). The comptroller adopts to retitle the section "Currency, Certain Coins, and Gold, Silver, and Platinum Bullion" to describe the subject of the section more completely. The comptroller amends the section to implement House Bill 78, 83rd Legislature, 2013. Effective October 1, 2013, House Bill 78 amended Tax Code, §151.336 (Certain Coins and Precious Metals) to exempt all sales of gold, silver, or numismatic coins and gold, silver, or platinum bullion. The comptroller also amends the section to add headings, make it easier to read, and to conform to other sections of this title.

The comptroller amends subsection (a) to delete existing language and to add definitions. The comptroller deletes language that required that sales of gold, silver, or numismatic coins or of gold, silver, or platinum bullion in a single transaction be at least \$1,000 to be exempt from sales tax. Because all sales of these items are now exempt, the comptroller also deletes the requirement that sellers of gold, silver, platinum, or numismatic coins hold a sales and use tax permit to collect sales tax on all taxable sales within the state. Additionally, the comptroller deletes the reference to the official state coin because Texas never produced an official state coin and the legislature repealed State Purchasing and General Services Act, §11.05.

The comptroller defines the term "bullion" in new paragraph (1), adapting the proposed definition from the definition of the term in Government Code, §2116.001(2) (Definitions). The comptroller defines the term "currency" in new paragraph (2), basing the proposed definition on the definition of the term in Finance Code, §151.301(b)(1) (Definitions) and §151.501(b)(1) (Definitions).

The comptroller adopts a definition for the term "numismatic coin" in new paragraph (3), deriving the definition from long standing guidance in Comptroller's Decision No. 12,033 (1983) and STAR Accession No. 7405L0014E02 (May 16, 1974), and from industry usage of the term. For example, the Web site investorwords.com defines a "numismatic coin," in part, as "{a} type of coin that typically has a higher value than the face value on the coin..." See [http://investorwords.com/8131/numismatic\\_coin.html](http://investorwords.com/8131/numismatic_coin.html) (last visited August 21, 2017).

The comptroller deletes language in existing subsections (b) and (c) because §3.286 (relating to Seller's and Purchaser's Responsibilities, including Nexus, Permits, Returns and Reporting Periods, Collection and Exemption Rules, and Criminal Penalties) and §3.346 (relating to Use Tax) already provide general information on seller's and purchaser's responsibilities for sales and use tax.

The comptroller amends subsection (b) to implement House Bill 78, stating that all sales of gold, silver, or numismatic coins and gold, silver, or platinum bullion are exempt. The comptroller adopts new subsection (b)(1) to explain that the exemption from sales and use tax does not include specific coins or bullion when

in the form of jewelry or other items of adornment. The comptroller includes guidance from existing subsection (e), revising the existing language to make it easier to read.

The comptroller adopts new subsection (b)(2) to restate information from existing subsection (f) concerning commodity contracts. The comptroller amends the existing language to explain that the purchase of a commodity contract for items exempted from tax is not a taxable transaction.

The comptroller amends subsection (c) to address the taxability of currency exchanges. This subsection incorporates guidance from existing subsection (d), regarding the taxability of the exchange of foreign currency at face value, with revisions to address currency exchanges in general. To determine taxability, the comptroller will no longer rely on whether the currency is United States or foreign currency or on whether the currency was sold above face value. Instead, the comptroller's policy is that the exchange of currency for another form of currency based on an exchange rate is not a taxable transaction if the invoice, receipt, billing, sales slip or ticket, or contract issued to the customer identifies the exchange rate.

The comptroller amends subsection (d) to delete existing language because the comptroller addresses the information in subsection (c) and to address the taxability of the sale of certain paper money. To determine taxability, the comptroller will no longer rely on whether paper money is United States or foreign money or on whether the paper money was sold above face value. Instead, the sale of paper money that is not currency is taxable as the sale of tangible personal property and sales or use tax is due on the total sales price of the paper money. To implement House Bill 78, the comptroller deletes all references to United States and foreign coins being taxable. The exemption in Tax Code, §151.336, together with the comptroller's proposed definitions of the terms "numismatic coin" and "currency," and the fact that currency exchanges are not taxable, makes sales of any coins nontaxable.

The comptroller amends subsection (e) to delete existing language because the comptroller states the information provided in this subsection more clearly in proposed subsection (b)(1). The comptroller moves language from existing subsection (g) to subsection (e) to address the use of gold, silver, or numismatic coins, or gold, silver, or platinum bullion to acquire taxable items. The comptroller removes references from existing subsection (g) to diamonds and other precious stones because those items are not the subject of this section.

The comptroller deletes subsection (f), as the language was moved to subsection (b)(2).

The comptroller deletes subsection (g), as applicable language is included in subsection (e).

No comments were received regarding adoption of the amendment.

The comptroller adopts this section under Tax Code, §111.002 (Comptroller's Rules; Compliance; Forfeiture), which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2 (State Taxation).

The section implements Tax Code, §151.336 (Certain Coins and Precious Metals).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 475-0387



## CHAPTER 5. FUNDS MANAGEMENT (FISCAL AFFAIRS)

### SUBCHAPTER L. CLAIMS PROCESSING-- REPLACEMENT PAYMENTS

#### 34 TAC §5.140

The Comptroller of Public Accounts adopts amendments to §5.140, concerning replacement warrants and an amendment to the title of Subchapter L, without changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2714). The amendments clarify that if a payment is issued to replace an original warrant, it may be issued either in the form of a paper warrant or as an electronic funds transfer.

The amendment to the title of Subchapter L changes the title from "Claims Processing--Duplicate Warrants" to "Claims Processing--Replacement Payments" to more accurately describe the content of the subchapter.

The amendment to the title of §5.140 changes the title from "Replacement Warrants" to "Replacement Payments" to more accurately describe the content of the section.

The amendments to subsection (a) move the definitions of "appropriation year" and "fiscal year" to place them in alphabetical order in the list of definitions in this subsection, while simplifying the language of the definition of "appropriation year" and keeping the current definition of "fiscal year", and renumber the subsequent paragraphs accordingly; change "of" to "for" in current paragraph (2) to make the definition of comptroller in this paragraph consistent with other definitions of comptroller in this chapter; change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; delete the definition of "person" in current paragraph (6) and add the contents of that definition to the definition of "payee" in current paragraph (4) to make the definition of "payee" more readable; delete "paper" from the definition of "payment cancellation voucher" in current paragraph (5) to clarify that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; define "replacement payment" in current paragraph (7) so that it includes a payment issued in paper form and one made by initiating an electronic funds transfer; change "statewide accounting systems" in current paragraph (9) to "statewide accounting system" to reflect the way the term is used in the text of the section; clarify in current paragraph (9) that the Centralized Accounting and Payroll/Personnel System is a statewide accounting system; and clarify in current

paragraph (12) that a warrant may be issued to a payee by either a state agency or the comptroller on behalf of a state agency.

The amendments to subsection (b) clarify that the requestor must be the payee of the original warrant and that the request must be sent to the agency that initiated the original warrant; change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; and move the issues an agency must determine upon receipt of a request from this subsection to current subsections (c)(1) and (d)(3) because this language is more relevant to the content of current subsections (c)(1) and (d)(3) than it is to the content of this subsection.

The amendments to subsection (c) change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; add the language from current subsection (b) to current paragraph (1); clarify in paragraph (1) that an agency must receive a request for issuance of a replacement payment from the payee of the original warrant and that a replacement payment must replace an original warrant previously issued by the agency; and remove the comma from current paragraph (3) to correct the grammar in that paragraph.

The amendments to subsection (d) change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; revise the language in paragraph (1) to more closely reflect the language of Government Code, §403.060 regarding the printing and issuance of warrants; add the language from current subsection (b) to current paragraph (3); and remove the comma from paragraph (4) to correct the grammar in that paragraph.

The amendments to subsection (e) change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; remove the comma from current paragraphs (1) and (2) to correct the grammar in those paragraphs; clarify in current paragraphs (1) and (2) that current paragraph (2) applies only to specified financial assistance warrants and back pay award warrants and that current paragraph (1) applies to all other warrants; and simplify the language in current paragraph (3) to make it more readable without changing its meaning.

The amendments to subsection (f) change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer.

The amendments to subsection (g) change "warrant" to "payment" in this subsection to indicate that the term includes not only a payment issued in paper form, but also one made by initiating an electronic funds transfer; delete redundant language in current paragraph (4) and add language to that paragraph to clarify that an electronic funds transfer may not be issued to replace a state employee payroll warrant; and clarify in current paragraph (5) that the agency that issues a replacement payment determines the form of the payment and must follow appropriate comptroller procedures.

No comments were received regarding adoption of the amendments.

The section is adopted under Government Code, §403.016(j) and §403.054(h), which require the comptroller to adopt rules regarding electronic funds transfer and the issuance of replacement warrants.

This section implements Government Code, §403.016 and §403.054, regarding electronic funds transfer and replacement warrant.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on June 22, 2018.

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## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 218. MOTOR CARRIERS

##### SUBCHAPTER B. MOTOR CARRIER REGISTRATION

###### 43 TAC §218.13

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 218, Motor Carriers, Subchapter B, Motor Carrier Registration, §218.13, Application for Motor Carrier Registration, without changes to the proposed text as published in the March 2, 2018, issue of the *Texas Register* (43 TexReg 1245). The rule will not be republished.

###### EXPLANATION OF AMENDMENTS

An amendment to §218.13(a)(12)(F) requires a sole proprietor who applies for motor carrier operating authority to provide a copy of their driver's license or other identification document. Applicants must scan in a copy of their identification document via the department's online system, which is currently called eLINC.

This additional documentation will help the department verify the identity of the individuals who apply for operating authority. The amendment will help the department determine whether the applicant is a potential chameleon carrier or reincarnated carrier, which is a motor carrier that reinvents itself or operates affiliated companies to avoid the consequences of prior violations of the laws, rules, and/or regulations. Chameleon carriers create a new business or operate affiliated companies because otherwise, they would not qualify for operating authority under Transportation Code, Chapter 643.

Other amendments to §218.13 modify the language to be consistent with the amendments in House Bill 3254 from the 85th Legislature, Regular Session, 2017.

###### COMMENTS

No comments on the amendments as proposed were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; and more specifically, Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; and Transportation Code, §643.052(8), which authorizes the department by rule to require an application to include any information the department determines is necessary for the safe operation of a motor carrier under Chapter 643.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 643.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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