

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 4 BINGO AND RAFFLES
PART 2 APPLICATION FOR LICENSURE

15.4.2.1 ISSUING AGENCY: New Mexico Gaming Control Board.
[15.4.2.1 NMAC - Rp, 15.4.2.1 NMAC, 2/23/2021]

15.4.2.2 SCOPE: This rule applies to all licensees or applicants for licensure, or other approval under the New Mexico Bingo and Raffle Act.
[15.4.2.2 NMAC - Rp, 15.4.2.2 NMAC, 2/23/2021]

15.4.2.3 STATUTORY AUTHORITY: Authority for this rule derives from the New Mexico Bingo and Raffle Act Section 60-2F-3 NMSA 1978. Subsections I, J, K and L of 60-2F-6 NMSA 1978 authorize the board to adopt regulations concerning licensure for persons involved in the conducting of games of chance.
[15.4.2.3 NMAC - Rp, 15.4.2.3 NMAC, 2/23/2021]

15.4.2.4 DURATION: Permanent.
[15.4.2.4 NMAC - Rp, 15.4.2.4 NMAC, 2/23/2021]

15.4.2.5 EFFECTIVE DATE: February 23, 2021, unless a later date is cited at the end of a section.
[15.4.2.5 NMAC - Rp, 15.4.2.5 NMAC, 2/23/2021]

15.4.2.6 OBJECTIVE: This rule establishes standards and requirements for licensure and other approvals under the New Mexico Bingo and Raffle Act.
[15.4.2.6 NMAC - Rp, 15.4.2.6 NMAC, 2/23/2021]

15.4.2.7 DEFINITIONS: See 15.4.1.7 NMAC for applicable definitions.
[15.4.2.7 NMAC - Rp, 15.4.2.7 NMAC, 2/23/2021]

15.4.2.8 NATURE OF LICENSE AND APPLICATION REQUEST:

A. Any license or other approval issued by the board is deemed a revocable privilege. No person holding such a license or other approval is deemed to have any property rights therein.

B. Any application for a license or other approval submitted under the provisions of the act or this rule constitutes the seeking of a privilege, and the burden of proving qualification is on the applicant.

C. Any application for license or other approval from the board will constitute a request to the board for a decision on the applicant's general suitability, character, integrity, financial responsibility, and ability to engage in, or be associated with, the conduct of games of chance in New Mexico. By filing an application with the board, the applicant specifically consents to investigation to the extent deemed appropriate by the board.

D. By applying for and obtaining any license or other approval from the board, the applicant agrees to abide by all provisions of the act, the regulations promulgated pursuant to the act and all other applicable laws and regulations.

E. By applying for a license or other approval from the board, the applicant accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss that may result from any disclosure or publication of any material or information contained in or relating to any application to the board.

[15.4.2.8 NMAC - Rp, 15.4.2.8 NMAC, 2/23/2021]

15.4.2.9 LICENSE CLASSIFICATIONS:

- A.** Licenses include:
- (1)** manufacturer's license, which authorizes the approved licensee to manufacture, produce, or sell to licensed distributors or licensed qualified organizations, any equipment or supplies for the conduct of games of chance in the state or for sale outside the state in accordance with the act and board rules;
 - (2)** distributor's license, which authorizes the approved licensee to buy, sell, distribute or market any equipment or supplies for the conduct of games of chance in the state or outside the state in accordance with the act and board rules; and

(3) and bingo and raffle operator's license, which authorizes a qualified organization to acquire equipment and supplies for the conduct of games of chance and to conduct games of chance on the licensed premises.

B. Other approvals include:

(1) staff permit, which authorizes the participation of the holder in the conduct of games of chance; staff permit for bingo caller, bingo manager, alternate bingo manager, accountant, all bingo employees, and any other position deemed necessary by the board;

(2) approval and classification of games of chance as either bingo, raffle, or pull-tabs; and

(3) approval to amend a license to show a change in the name and address of the permittees of the licensee under whom the games of chance shall be held. Should there be any change to the permittees listed on the license; the licensee shall be responsible for submitting the proper documentation within 10 days.

[15.4.2.9 NMAC - Rp, 15.4.2.9 NMAC, 2/23/2021]

15.4.2.10 APPLICATIONS, STATEMENTS, AND NOTICES - FORM AND GENERAL REQUIREMENTS:

A. Every application, statement, and notice required to be filed under the act or this rule shall be submitted on forms prescribed by the board and shall contain such information and documents as specified.

B. The applicant shall file with the application all requested information requested by the board. The application requires full disclosure of all information requested therein. The failure to provide all required and requested information may result in denial or delay in consideration of the application.

C. Upon request of the board or its agents, the applicant shall provide any additional information. The applicant shall provide all requested documents, records, supporting data, and other information within the time period specified in the request, or if no time is specified, within 15 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request or this rule, the board may deny the application unless the applicant can show good cause.

D. All information required to be included in a renewal application shall be true and complete as of the date of board action sought by the applicant. If there is any change in the information submitted to the board in the renewal application, the applicant shall file, within five days of the change, a written amendment disclosing all facts necessary to adequately inform the board of the change in circumstances before the board takes the requested action.

E. The application and any amendments shall be sworn to or affirmed by the applicant before a notary public.

F. At the board's discretion an applicant may be required to submit to a background investigation.

G. Neither the state, the board, or any agency with which the board contracts to conduct background investigations, or the employees of any of the foregoing, shall be held liable for any inaccurate information obtained through such an investigation.

H. The applicant shall cooperate fully with the board and its agents with respect to background investigation of the applicant, including, upon request, making available any and all of its books and records for inspection. The board may examine the background, personal history, financial associations, character, record and reputation of the applicant to the extent the board determines is necessary to evaluate the qualifications and suitability of the applicant.

I. The board may deny the application of any applicant that refuses or fails to provide any information requested by the board or its agents, provides incomplete or false information, or refuses to submit to a background investigation to the extent the board determines is necessary to evaluate the qualifications for a suitability of the applicant.

J. All new applications submitted to the board shall be completed within 30 days of the initial submission of the application, which time may be extended by the board upon good cause. Failure to complete the application within such time period shall result in the forfeiture of all licensing fees. Applicant shall be required to re-submit a new application with licensing fees should the applicant still wish to pursue licensure.

K. An applicant may amend the application at any time prior to final action by the board. The date of receipt of the amendment by the board shall establish the new filing date of the application with respect to the time requirements for action on the application.

L. An amendment to an application filed by the applicant after the date on which the board has taken the action sought under the application, if the amendment is approved by the board, shall become effective on the date determined by the board.

M. An applicant may file a written request for withdrawal of the application at any time prior to final action on the application by the board.
[15.4.2.10 NMAC - Rp, 15.4.3.10 NMAC, 2/23/2021]

15.4.2.11 REQUIREMENTS FOR DISCLOSURE IN APPLICATION; CONTENTS OF

APPLICATION: The applicant for a bingo and raffle operator's license shall submit with the application a proposed plan for the conduct of games of chance. Failure to include any of the following shall constitute an incomplete application. The plan shall include the following:

- A.** a physical address where games of chance will be conducted, mailing and physical address of the administrative office where all documentation for games of chance are kept;
- B.** a floor plan;
- C.** a copy of the applicant's current charter, articles of incorporation, or bylaws;
- D.** a list of the organization's current official roster of active and auxiliary members;
- E.** proof of organization's tax exempt status, if applicable;
- F.** if conducting pull-tab dispenser sales without concurrent bingo events, applicants that are not a veterans' or fraternal organization, shall include proof of IRS 501 (c)(3) tax exempt status;
- G.** if a charitable organization, documentation of the preceding four quarters or the last calendar year's activities in furtherance of a charitable purpose. Activities in furtherance of a charitable purpose include:
 - (1)** services provided directly by the organization for a charitable purpose;
 - (2)** monetary donations to other charitable organizations;
 - (3)** goods donated to individuals and organizations for a charitable purpose, substantiated by the names of the recipients, description of items donated and receipts for any items purchased by the organization prior to donation;
 - (4)** a charitable contribution shall be made to an organization outside the state of New Mexico only if the organization is either a charitable organization under Section 501(c)(3) of the Internal Revenue Code or the organization is the qualified organization's national organization and the distribution is used for charitable purposes.
- H.** evidence of good standing with the public regulation commission, parent organization, and the attorney general's office if applicable;
- I.** a description of all games of chance that the licensee will conduct for each approved occasion including:
 - (1)** the order in which games will be played;
 - (2)** the patterns needed to win;
 - (3)** whether the prize payout is based on sales or attendance; and
 - (4)** the price of each type of bingo card(s) offered for sale.
- J.** a payout schedule of the games of chance; if the applicant chooses to award prizes contingent on the number of patrons who play, separate payout schedules shall be submitted to the board in addition to announcing and posting the time of the attendance count; the attendance count shall be conducted 10 minutes prior to the start of each occasion; only schedules submitted to the board shall be used to pay prizes; issuance of the license constitutes approval of the payout schedule;
- K.** if checks will be used as an optional payout for prizes;
- L.** the days and times of each occasion where games of chance are held;
- M.** the house rules;
- N.** the name, address of the in-state financial institution where a bingo operating account has been established and into which all gross receipts from games of chance will be deposited;
- O.** bank signature card with all signatures and names of authorized signors on the bingo operating account; any changes to signatories on the bingo operating account, including additions and deletions, require notification to the board within three days;
- P.** a copy of any contract to lease the licensed premises or bingo equipment from a lessor or distributor; and
- Q.** any other information requested by the board or its agents.

[15.4.2.11 NMAC - Rp, 15.4.9.11 NMAC, 2/23/2021]

15.4.2.12 APPLICATION FOR STAFF PERMIT:

A. An organization with a bingo and raffle license shall designate only one bingo manager and one bingo accountant responsible for completion of the bingo and raffle activity reports, but may designate up to three alternate bingo managers.

B. Applicants shall submit:

- (1) completed staff permit application;
- (2) application fee;
- (3) signed and notarized authorization for a background investigation;
- (4) self disclosure form;
- (5) the applicant's fingerprints and photograph in duplicate. Fingerprints shall not be

accepted unless the fingerprints were taken under the supervision of a certified identification technician or a certified law enforcement officer;

(6) certificate of completion for training provided by the board or its agents if required by the board; and

(7) the applicant's credit report dated within the 30 days prior to submission of the applicant's signed application to the board.

C. Applicant shall not have a warrant for their arrest in any jurisdiction.

D. Each applicant shall submit a current photograph with each initial and renewal application. The photographs shall have been taken no earlier than three months before the date the application is filed.

E. A staff permit badge issued to a bingo employee shall indicate the permittee's name, staff permit number, and expiration date.

F. A staff permit issued by the board is not an endorsement or clearance by the board, but is merely verification that the individual has furnished the requested information for a staff permit to the board.

G. Applicants or permittees who intend to utilize their approval at a licensed venue not currently designated on the initial application shall submit notice to the board in writing prior to beginning new employment. Additionally this notification shall clearly specify whether the new employment is in addition to or substitute for the current employment. This shall be done on forms prescribed by the board.

H. An initial application shall be reviewed, granted or denied and responded to by the board's staff within 60 days of receipt of completed application.

I. All permits are valid for three years from the date of issuance.

J. Bingo managers and alternate bingo managers may work at other licensed organizations but shall be active members in good standing with each of the licensed organization.

[15.4.2.12 NMAC - Rp, 15.4.2.12 NMAC, 2/23/2021]

15.4.2.13 APPLICATION FOR MANUFACTURER'S OR DISTRIBUTOR'S LICENSE:

A. A person shall apply for and obtain a manufacturer's or distributor's license prior to engaging in the manufacture or distribution of equipment or supplies used in the conduct of games of chance.

B. Applicants shall submit a form prescribed by the board to include the vendor's name, address, contact information, federal and state tax identification numbers, evidence of good standing with the public regulation commission, all license numbers required to conduct business in New Mexico and a list of licensees with whom the applicant intends to conduct business.

C. Licenses shall be renewed every three years. Any change of vendor information shall be reported in writing to the licensing division within 10 days of change.

D. Applications for manufacturer's or distributor's licenses shall be made, processed, and determined in the same manner as applications for other licenses as set forth in the act and this rule.

[15.4.2.13 NMAC – Rp, 15.4.2.13 NMAC, 2/23/2021]

15.4.2.14 APPLICATION FEES:

A. The applicant shall pay, in the amount and manner prescribed by this rule, all license fees and fees and costs incurred in connection with the processing and investigation of any application submitted to the board.

B. Applicants shall submit the following nonrefundable fees with an application for licensure or other approval:

- (1) manufacturer's license, \$200;
- (2) distributor's license, \$200;
- (3) bingo and raffle operator's license, \$200;
- (4) bingo managers, alternate bingo managers and accountants staff permits, \$50; and
- (5) all other bingo employee staff permits, \$25.

C. In addition to any nonrefundable license or approval fee paid, all bingo, raffle, and pull tab operators, manufacturers, and distributors shall pay supplementary investigative fees and costs, if any.

D. The board may refuse to take final action on any application unless all license, approval, and investigation fees and costs have been paid in full. The board shall deny the application if the applicant refuses or fails to pay all such fees and costs. In addition to any other limitations on reapplication, the applicant shall not file any other application with the board until all such fees and costs are paid in full.

E. If the board determines at any time during the application process that the applicant is not qualified, or cannot qualify, to hold the license or other approval sought, the board shall notify the applicant, in writing. The board shall discontinue investigation and processing of the application and shall issue a final, written order denying the application.

F. The board may contract with any state board or agency to conduct any investigation required or permitted to be conducted under the act or board regulations, as determined necessary by the board.

G. Neither the license or approval fees nor any other fees or costs arising in connection with the application or investigation shall be refunded or waived on the grounds that the application was denied or withdrawn or that processing was otherwise terminated.

[15.4.2.14 NMAC - Rp, 15.4.2.14 NMAC, 2/23/2021]

15.4.2.15 CONDITIONS OF APPROVAL OF APPLICATION: The approval of any application is subject to the following conditions and constitutes the following agreements by the licensee:

A. the licensee shall at all times make its bingo establishment or business premises available for inspection by the board or its authorized representatives, with or without prior announcement;

B. the licensee consents to the examination of all accounts, bank accounts, and records of, or under the control of, the licensee, an account or preparer of the report, or any entity in which the licensee has a direct or indirect controlling interest; upon request of the board or its agents, the licensee shall authorize all third parties in possession or control of the requested documents to allow the board or its agents to examine such documents;

C. with respect to new license applications, the licensee shall commence the activity approved by the board within 90 days after the date of approval by the board on the application; failure to commence the approved activity voids the board's approval, and the licensee shall file a new application; the board, in its discretion, may waive the requirements of a new application; the licensee shall make written application for waiver to the board within thirty days of the date the board's action on the original application becomes void; and

D. the licensee shall be responsible for all registration, taxation, and licensing costs imposed by the act or other state law.

[15.4.2.15 NMAC - Rp, 15.4.2.15 NMAC, 2/23/2021]

15.4.2.16 GROUNDS FOR DENIAL OF APPLICATION:

A. The board may deny an application on any grounds deemed reasonable by the board. Without limiting the foregoing, the board may deny the application on any of the following grounds:

(1) evidence of an untrue or misleading statement of material fact, or willful omission of any material fact, in any application, statement, or notice filed with the board or made in connection with any investigation, including the background investigation;

(2) conviction of any crime in any jurisdiction;

(3) conviction of any administrative gaming offense in any jurisdiction;

(4) entry of a civil judgment against the applicant that is based, in whole or in part, on conduct that allegedly constituted a crime;

(5) direct or indirect association with persons or businesses of known criminal background or persons of disreputable character that may adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the proposed activity;

(6) any aspect of the applicant's past conduct, character, or behavior that the board determines would adversely affect the credibility, security, integrity, honesty, fairness or reputation of the proposed activity;

(7) failure of the applicant or its employees to demonstrate adequate business ability and experience to establish, operate, and maintain the business for the type of activity for which application is made;

(8) failure to satisfy any requirement for application or to timely respond to any request by the board or its agents for additional information;

(9) permanent suspension, revocation, denial or other limiting action on any bingo license issued by any jurisdiction; or

(10) approval of the application would otherwise be contrary to New Mexico law or public policy.

B. The board may issue a license subject to conditions deemed appropriate by the board. Such conditions may include the imposition of a probationary period, specific limitations on bingo, raffle or pull-tab activities permitted under the license, administrative fines, or such other terms as the board requires.
[15.4.2.16 NMAC – Rp, 15.4.2.16 NMAC, 2/23/2021]

15.4.2.17 RESTRICTION FOR REAPPLYING: Any applicant whose application has been denied or whose license has been suspended or revoked shall not reapply for licensing or approval by the board for the period of one year.
[15.4.2.17 NMAC – Rp, 15.4.2.17 NMAC, 2/23/2021]

HISTORY OF 15.4.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives by department of alcohol and beverage control under:

ABC Regulation No. 2B-8(B), Game Manager and Employees, Relating to Section 60-2B-8(B), filed 12/22/1982).
Regulation No. 2B-8(B), Game Manager and Bingo Game Controls, filed 3/29/84.

ABC Regulation No. 2B-8(F), Inspection of Premises, Records, Machines and Devices, Relating to Section 60-2B-8(F) NMSA 1978, filed 12/22/1982.

Regulation No. 2B-8(F), Inspection of Premises, Records, Machines and Devices, Relating to Section 60-2B-8(F) NMSA 1978, filed 3/21/1984.

ABC Regulation No. 2B-8(O), Conduct During Bingo Games, Relating to Section 60-2B-8(O), filed 12/22/1982.
Regulation No. 2B-8(O), Conduct During Bingo Games, filed 3/21/1984.

ABC Regulation No. 2B-8(Q), Disclosure of Prizes, Relating to Section 60-2B-8(Q), filed 12/22/1982.
Regulation No. 2B-8(Q), Disclosure of Prizes, Relating to Section 60-2B-8(Q), filed 3/21/1984.

ABC Regulation No. 2B-8(S), Sale of Bingo Cards, Relating to Section 60-2B-8(S), filed 12/22/1982.
Regulation No. 2B-8(S), Sale of Bingo Cards, Relating to Section 60-2B-8(S), filed 3/21/1984.

ABC Regulation No. 2B-9(F), Security Guard or Personnel Relating to Section 60-2B-9(F), filed 12/22/1982.
Regulation No. 2B-9(F), Security Personnel, filed 3/29/1984.

Regulation No. 2B-8(K), Times of Occasions, Relating to Section 60-2B-8(K), filed 3/21/1984.

Regulation No. 2B-8(R), Verification of Numbers Drawn, Relating to Section 60-2B-8 (R), filed 3/21/1984.

History of Repealed Material: 15.4.2 NMAC, Bingo Controls, filed 9/16/2005 - Repealed, effective 4/15/2013.
15.4.2 NMAC, Bingo Controls, filed 3/27/2013 - Repealed, effective 2/23/2021.

Other: 15.4.2 NMAC, Bingo Controls, filed 9/16/2005 replaced by 15.4.2 NMAC, Bingo Controls, effective 4/15/2013.
15.4.2 NMAC, Bingo Controls, filed 3/27/2013 replaced by 15.4.2 NMAC, Bingo Controls, effective 2/23/2021.