

COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS
INFORMAL WORKSHOP/COMMENT PERIOD
MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING ESTABLISHMENTS
GAMBLING FLOOR OPERATIONS AND HOUSE RULES.
CGCC-GCA-2010- -R

COMMENTS FROM THE BUREAU ON APRIL 20, 2010

The following comments/objections/recommendations were made in writing regarding the proposed action by the Bureau of Gambling Control (Bureau) on April 20, 2010.

1. Section 12391(a)(3) permits an employee, key employee and licensee to play poker in their own cardroom, on or off duty, provided that they: not share in the prize winnings of any gaming activity; not be the house dealer in any game where he or she is participating; if an employee or key employee, display on their person a work permit or key employee badge; and be subject to all house and game rules applicable to all players participating in the game. Section 12391(a)(4) prohibits employees, key employees and licensees, on or off duty, from playing any California game in the cardroom at which they are employed or licensed.

a. Bureau: The Bureau recognizes that owners routinely serve as "game starters" in their own establishments, and utilize key employees for that same purpose. However, the Bureau believes strongly there remains a significant conflict of interest with these practices, with un-resolvable confusion as to where the money "house players" wager with comes from, and the perception of house banking and collusion.

Only owner licensees should be permitted to gamble in games that do not feature a player/dealer position, at any time. All other gambling enterprise employees (key employees, work permit holders, etc.), may only gamble in the establishment at which they are employed while off duty, and only in those games that do not feature a player/dealer position. The cardroom always has the option to hire and utilize proposition players, to start and/or maintain games.

Response: The original workshop version of the text prohibited cardroom employees (work permittees) from playing *any controlled game* while on duty, except for house prop players. The workshop version also prohibited licensees from playing any controlled game in their own cardroom, on or off duty.

At the workshop, the industry objected strongly to this proposal, sighting Penal Code section 330.11, which they believe authorizes the house to play in California Games, as long as they do not accept the player-dealer position.

At the workshop, the Bureau agreed to some changes, but insisted that employees and licensees not participate in jackpots, and that dealers not play while they were dealing. At the workshop, the Bureau also insisted that employees and licensees be prohibited from playing any California game.

Following the workshop, CGCC staff sent to the Bureau a revised text that allowed employees and licensees to play any controlled game while on duty, with specified limitations. These limitations included that they not accept a player-dealer position and not participate in any gaming activity (jackpots).

In response to the CGCC proposed changes, the Bureau returned a version of the text which allowed employees and licensees to play poker while on duty, provided that they not accept jackpot winnings and not play while also dealing the cards. The Bureau's changes also prohibited employees and licensees from playing any California Game, on or off duty. These changes were consistent with the Bureau's position taken at the workshop.

At a joint Commission/Bureau staff meeting on March 4th, Commission staff agreed to the Bureau's changes, and the March 25th version of the text allowed employees and licensees to play poker while on duty, provided that they not accept jackpot winnings and not play while also dealing the cards. This version also prohibited employees and licensees from playing any California Game, on or off duty.

The most recent recommendations from the Bureau are inconsistent with their position taken at the workshop and at the CGCC/BGC meeting on March 4th. These new recommendations go back to the original text, prohibiting employees from playing any game while on duty, allowing only owner-licensees to play poker while on duty. As before, these recommendations would prohibit employees and owner-licensees from playing any California Game, on or off duty.

These latest Bureau recommendations would, in one way, be more restrictive than the original workshop language by prohibiting *house prop players*. Since house prop players are cardroom employees that hold either a work permit or a key employee license, the Bureau's latest proposed changes would not allow them to play poker while on duty. Existing regulations already acknowledge the existence of house prop players.¹ The Bureau's only solution offered would be for the cardroom to utilize "proposition players" to start and/or maintain poker games. This solution is presumed to mean licensed *third-party proposition players*. It is not known whether third-party proposition players would be interested in playing poker, as their primary focus is California games.

The Bureau's latest rationale expresses concern about the perception of *house banking* when justifying why employees should not be allowed to play poker while on duty. However, this same rationale could be applied to the owner of the cardroom, who would still be allowed to play under the Bureau's proposal. Some may say that there is a greater propensity for patron's to believe that the house is funding an owner, rather than an employee.

The bottom line may be that there was little concern about *house banking* until the law was changed to allow California style games in cardrooms. That may be why the industry has claimed that their owners and employees have a long standing tradition of sitting in on poker games at their own cardrooms.

2. Section 12391(a)(9) requires that the purchase or redemption of chips be transacted at the cage or on the gambling floor only by those designated employees who have received the training required by

¹ California Code of Regulations, Title 4, Section 12388, subsection (a).

federal Title 31 regulations relating to the documentation of large cash transactions.

a. **Bureau:** Compliance with federal Title 31 regulations is very difficult to ensure. Limiting the locations where chips can be purchased or redeemed for cash value would increase likely compliance. The Bureau would like more information from several cardrooms from the various tiers as to what measures are currently taken to ensure Title 31 compliance. Because the Department of the Treasury is reporting such a high level of non-compliance from the gambling industry, having the industry provide its rationale for why chips sales/redemption should not take place solely at the cage needs to be better substantiated.

Response: Prior to the workshop of January 21, 2010, the Bureau did propose that chip purchasing and redemption occur only at the cage. However, that proposal was abandoned due to the common industry practice of utilizing chip runners on the floor. As a result, the original workshop version of the text allowed for the purchase and redemption of chips to be transacted by a designated employee at the cage or on the gambling floor, provided that the employee has received the training specified in federal regulations regarding the documentation of large cash transactions.

Until now, this provision of the proposed regulations had not been objected to by the industry or the Bureau since originally proposed at the workshop.

The March 25th version of the text that was recently sent to the Bureau contained only a technical non-substantive change to this provision involving word order.

Further, existing regulations already require that the purchase and redemption of chips be conducted at the cage *or by designated employees on the gambling floor.*²

3. Section 12391(b)(1) requires Tier II through V cardrooms to have, for each shift, at least one key employee to supervise the gambling operation for every eight gaming tables or fewer in operation.

a. **Bureau:** The Bureau's concern regarding adequate supervision of gaming tables stems from the considerable differences between poker games and California games. Where one key employee may be able to supervise ten or less poker style games/tables in progress, expecting that this same employee can simultaneously supervise California games in addition to poker, 1:8 is not as realistic. California games require much closer supervision than their poker-style counterparts do.

The Bureau suggests the key employees to table ratio be 1:7, or lower. The Bureau originally suggested 1:5 for California games and 1:10 for poker-style games, however the industry had reasonable concern that having two different ratios burdensome to comply with if they had to jockey staffing levels based on the ever-changing number and variety of tables in operation. Even with having just one fixed ratio, the cardroom would have to make staffing adjustments, but not the complex extent of having two ratios.

Response: The original workshop version of the text required at least one *key employee* to be on duty for each separate room, and required one *employee* (work permittee) to oversee every ten poker tables and one *employee* (work permittee) to oversee every five California tables.

² California Code of Regulations, Title 4, Section 12386, subsection (a), paragraph (6).

At the workshop, industry, Bureau and Commission staff all agreed that the language of this regulation could be simplified. Industry also objected to the need for multiple key employees for separate rooms. After the workshop, Commission staff sent to the Bureau a revised text that continued to require one key employee for each separate room, but allowed only one key employee for two rooms when one room was observable from the other. The revised text also simplified the number of employees to oversee tables by requiring one employee for each eight tables, with no distinction between poker or California tables.

In response to the proposed changes from Commission staff, the Bureau returned a version of the text which inserted the word “key” in front of employee, thus requiring one key employee for every eight tables.

At the Commission/Bureau staff meeting on March 4th, it was agreed that since a key employee would be required for every eight tables, the *one key employee in every room* requirement is redundant and should be abandoned. As a result, the March 25th version of the text deleted the requirement for a key employee in every room, leaving only the requirement that there be one key employee for every eight tables.

The most recent recommendations from the Bureau are inconsistent with their position taken at the meeting on March 4th. There was never any mention of reducing the eight tables to seven.

The Commission and the Bureau can expect opposition from the industry, especially from the larger cardrooms. Commission licensing records reflect a disproportionately higher key employee-to-table ratio at the Tier V level. The following licensing data shows the average number of key employees and authorized tables within each tier. These averages were calculated by dividing the total number of key employees or tables within each tier by the total number of cardrooms within that tier. The ratio of tables per key employee was then calculated by dividing the average tables by the average number of key employees. The resulting ratio at Tier V is one key employee for every eight tables (1 : 8). This number could actually be much higher, since the number of key employees may need to be adjusted by allowing for three work shifts per day and allowing for the fact that some current key employees may have duties other than supervising the gambling floor. Licensing records show that many key employees within Tier V cardrooms have titles such as *surveillance* manager, *security* manager or *cage* manager. After calculating these allowances for Tier V cardrooms, there may actually be only an average of six key employees available per shift to oversee the gambling floor. This would make the tables-to-key employee ratio as high as one key employee for every 27 tables.

Average Key Employee-To-Table Ratio

<u>Tier</u>	<u>Avg Keys</u>	<u>Avg Tables</u>	<u>Ratio</u>
I	1.0	3.3	1 : 3
II	5.2	7.7	1 : 2
III	9.2	16.1	1 : 2
IV	14.0	45.0	1 : 3
V	20.0	162.8	1 : 8

As a result of the above information, the Bureau should develop a rational for its key employee-to-table ratio that is based upon scientific data, such as a formula that may have been developed as part of a study or operational experience in California tribal casinos or other states that have gaming.