

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
NOTICE OF PROPOSED REGULATORY ACTION
AND PUBLIC HEARING CONCERNING
MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING
ESTABLISHMENTS – PHASE III;
GAMBLING FLOOR OPERATIONS AND HOUSE RULES
CGCC-GCA-2011-02-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the proposed regulatory action at a public hearing to be held at **10:00 a.m. on November 3, 2011**, at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on September 19, 2011. Written comments will also be accepted at the above referenced hearing.

Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on September 19, 2011**, or provided to the Commission at the above referenced hearing. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19801, 19811, 19824, 19826, 19840, 19841, 19861, 19920, 19924 and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19801, 19805, 19823, 19826, 19841, 19860, 19861, 19914, 19920, 19924 and 19984 of the Business and Professions Code,¹ and sections 330 and 330.11 of the Penal Code, the Commission is proposing to adopt the following changes to Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).² The Commission is authorized to adopt regulations governing the operation of gambling establishments (cardrooms) in California.³ Specifically, the Commission is mandated to adopt regulations on the subjects enumerated in Business and Professions Code,⁴ section 19841. Regulations concerning the establishment of minimum policies and procedures by owner licensees to exercise effective control over their gambling affairs have been prepared in compliance with section 19840⁵ and subdivisions (h) and (o) of section 19841.⁶

Gambling is the quintessential cash business and internal controls are the primary procedures used to protect the integrity of cardroom funds and games. Internal controls are therefore a vitally important part of properly regulated gambling.

SPECIFIC PROPOSAL:

In general, this proposed action has been drafted in an attempt to establish uniform procedures and standards to assist the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) in meeting their oversight responsibilities under the Gambling Control Act (Act)⁷, while taking into account variations in the size of gaming operations. More importantly, the proposed action is intended to provide for minimum standards that protect public health, safety and general welfare.⁸ These regulations establish a baseline for Gambling Establishment (cardroom) operation, by requiring that licensees establish and

¹ All statutory references hereafter are to the Business and Professions Code, unless otherwise specified.

² Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

³ Business and Professions Code section 19840.

⁴ All statutory references are to the Business and Professions Code, unless otherwise specified.

⁵ Section 19840 provides, in pertinent part, that “[t]o the extent appropriate, regulations of the Commission ... shall take into consideration the operational differences of large and small establishments.”

⁶ Subdivision (h) of section 19841 mandates that the Commission’s regulations shall “[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs ...” as specified. Subdivision (o) of section 19841 mandates that the Commission’s regulations shall “[r]estrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

⁷ Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

⁸ Business and Professions Code, section 19920

implement written policies and procedures that meet or exceed the prescribed Minimum Internal Control Standards (MICS), as they relate to the established size category of the individual licensee. Establishing baseline standards helps to ensure consistency and uniformity.

EXISTING LAW:

Business and Professions Code section 19811, subdivision (b), provides the Commission with the primary jurisdiction over all persons and things having to do with the operations of gambling establishments within the state.

Business and Professions Code section 19826, in pertinent part, assigns the Bureau with the responsibility to investigate suspected violations of the Act; to investigate complaints against licensees; to initiate appropriate disciplinary actions; and, to approve the play of any controlled game, as specified.

Business and Professions Code section 19840 allows the Commission to adopt regulations for the administration and enforcement of the Act.

Business and Professions Code section 19841, subdivision (h), mandates that the Commission's regulations shall "*[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs,*" as specified. Subdivision (i) provides that the Commission's regulations shall "*[r]estrict limit or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of*" the Act.

Business and Professions Code section 19861 provides criteria and conditions for the issuance of a gambling license for a gambling establishment that may not be open to the general public, as specified.

Business and Professions Code section 19924 mandates that owner-licensees maintain security controls over the gambling premises and all operations therein related to gambling, subject to the approval of the Commission.

EFFECT OF REGULATORY ACTION:

This proposed action would make the following specific changes in Articles 1 and 3 of Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

1. Amend Section 12360. Chapter Definitions.

Within Article 1, Section 12360 provides definitions for the words that govern the construction of Chapter 7. This section currently incorporates the definitions in Business and Professions Code section 19805 and includes specific definitions for the words "licensee", "security department" and "surveillance unit.

- a. This proposed action would amend Section 12360 by incorporating the definitions in Section 12002.

- b. This action would add a definition for the term “gaming activity.” Proposed Section 12360(a) would define “gaming activity” as meaning the same as currently defined in Title 11, CCR, Section 2010(f).
- c. This action would add a definition for the terms “house prop player” and “public relations player.” Proposed Section 12360(b) would define “house prop player” and “public relations player” as meaning a gambling enterprise employee whose duties include, but are not necessarily limited to, playing in controlled games for the purpose of starting or continuing a game.
- d. This action would also add a definition for the term “house rules.” Proposed Section 12360(c) would define “house rules” as those which set general parameters under which a gambling enterprise operates the play of controlled games.
- e. This action would also correct the statutory reference for the definition of “licensee” in the current subsection (c), renumbered as (d), to conform to a recent statutory change.
- f. Existing subsections would be renumbered to conform to this action and additional non-substantive editorial and grammatical changes would be made which have no regulatory effect.

2. Adopt Section 12391. Gambling Floor Operations.

This proposed action would establish new Section 12391 within Article 3. Section 12391 would require cardrooms to adopt specified minimum policies and procedures that relate to the operation of the gambling floor.

- a. Subsection (a), paragraph (1) would require cardrooms to have a policy stating that their gambling floor must be *open to the public*. This proposed regulation also provides for exceptions to this *open-to-the-public* rule should the provisions of Business and Professions Code section 19861 apply to any cardroom in the state. This proposed regulation would allow for additional exceptions when any of the following Business and Professions Code sections apply:
 - Section 19844 (Exclusion or Ejection of Individuals from Gaming Establishment)
 - Section 19845 (Removal of Persons from Licensed Premises; Reasons)
 - Section 19921 (Persons Under 21; Areas of Access)
- b. Subsection (a), paragraph (2) would require a cardroom to have policies and procedures that place conditions on the use of “house prop players” and “public relations players.” When playing controlled games, house prop players and public relations players would be required to:
 - (A) Hold a valid work permit or key employee license, and wear their work permit or key employee badge;
 - (B) Comply with all house and game rules applicable to the game being played;

- (C) Comply with all laws and regulations applicable to the play of controlled games;
 - (D) Not accept the deal when playing a California Game;
 - (E) Not use house funds to wager bets;
 - (F) Not be the house dealer for the game being played; and
 - (G) Leave the table when a waiting list exists for the game being played.
- c. Subsection (a), paragraph (3) would require owners and employees of cardrooms to comply with house and game rules and the applicable laws and regulations when playing controlled games on the premises of their own cardroom.
- d. Subsection (a), paragraph (4) would prohibit a licensee from *requiring* that their employees play controlled games on the premises of the cardroom where they are employed. This paragraph would not apply to house prop players and public relations players.
- e. Subsection (a), paragraph (5) would require a licensee to maintain specified information relating to gaming table operation. The following information must be maintained, by shift and by date:
- (A) The tables that were open,
 - (B) The games that were played and the collection rates,
 - (C) The total time that each table was in use, and
 - (D) The names of the house dealers that were assigned to work the tables.
- f. Subsection (a), paragraph (6) would require that the information in paragraph (5) be made available to the Bureau within two hours of their request, when the request is made during normal business hours. If the request is made after normal business hours, the cardroom would have until two hours after the start of the next business day to provide the information.
- g. Subsection (a), paragraph (7) would prohibit a licensee from having on the gambling floor more gaming tables than that which is authorized by the license, unless all excess tables are covered or prominently labeled as non-operational and are under continuous video surveillance.
- h. Subsection (a), paragraph (8) would require that the purchase or redemption of chips be transacted only by designated cardroom employees who have received the training required by section 103.64 of Title 31 of the Code of Federal Regulations. The policies and procedures put in place regarding this regulation must also ensure compliance with Section 12404 in Article 4, which also regulates these types of transactions.
- i. Subsection (a), paragraph (9) would prohibit a licensee from providing house funds to any person for the purposes of playing a controlled game, except when extending credit, pursuant to Section 12388, and when providing payment to a third-party provider of

proposition player services, in accordance with a Bureau-approved contract, pursuant to Section 12200.9.

- j. Subsection (b) would require Tier III through V cardrooms to have at least one owner-licensee or key employee on duty during all hours of operation to supervise gambling operations and insure compliance with the Act and its regulations.
- k. Subsection (c) would require cardrooms to implement the provisions of Section 12391 no later than six months following the effective date of the regulation.

3. Adopt Section 12392. House Rules.

This proposed action would also establish new Section 12392 within Article 3. Section 12392 would require cardrooms of all tiers to adopt specified minimum policies and procedures regarding house rules.

- a. Subsection (a) would require cardrooms to adopt and implement house rules, written in English, which promote the fair and honest play of controlled games and gaming activity. This section would also require that the house rules:
 - (1) Allow for the play of only those games that are permitted by local ordinances and state and federal laws and regulations;
 - (2) Address player conduct, etiquette and other general rules so as to promote the orderly conduct of controlled games and gaming activities;
 - (3) Include provisions that discourage players from, during the play of a hand, speaking in a language, or using any other form of communication, that is not understood by all persons at the table;
 - (4) Not conflict with Bureau-approved *game rules*; and
 - (5) Address the following situations as they may apply during the play of a controlled game or gaming activity:
 - (A) Customer conduct,
 - (B) Table policies,
 - (C) Betting and Raising,
 - (D) "Misdeals,"
 - (E) Irregularities,
 - (F) "The Buy-In,"
 - (G) "Tied Hands,"
 - (H) "The Showdown,"
 - (I) "House Way,"
 - (J) Player Seating and Seat Holding, and
 - (K) Patron Disputes.

- b. Subsection (b) would require that house rules be readily available and provided to patrons and the Bureau upon request.
- c. Subsection (c) would require cardrooms to implement the provisions of Section 12392 no later than six months following the effective date of the regulation.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

IMPACT ON BUSINESS:

The Commission has made an initial determination that the proposed regulatory action may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

- Gambling enterprises that do not already have internal control standards in place that are in compliance with the minimum standards proposed by these regulations.

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action:

1. Maintenance of written policies and procedures for minimum internal control standards.
2. Maintenance of documentation and records for the operation and staffing of gambling tables.
3. The possible addition of one key employee per shift to supervise gambling operations.
4. The printing of house rules to insure their availability to patrons and the Bureau.

The Commission has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- (A) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (B) Consolidation or simplification of compliance and reporting requirements for businesses.
- (C) The use of performance standards rather than prescriptive standards.
- (D) Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination.

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Commission, are:

1. Maintenance of written policies and procedures for minimum internal control standards.
2. Maintenance of documentation and records for the operation and staffing of gambling tables.
3. The possible addition of one key employee per shift to supervise gambling operations.
4. The printing of house rules to insure their availability to patrons and the Bureau.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action may affect small businesses, if any affected cardroom would qualify as a small business.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0452
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

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MICS III; GAMBLING FLOOR OPERATIONS AND HOUSE RULES
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WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at www.cgcc.ca.gov.