

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
NOTICE OF PROPOSED REGULATORY ACTION
AND PUBLIC HEARING CONCERNING
MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING
ESTABLISHMENTS – PHASE IV:
CAGE OPERATION AND FUNCTIONS; SECURITY OF FLOOR BANKS, GAMBLING
EQUIPMENT AND CONFIDENTIAL DOCUMENTS
CGCC-GCA-2013-04-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections and recommendations received concerning the proposed action. Comments, objections and recommendations may be submitted as follows:

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 December 2, 2013. 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 December 2, 2013. 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.** Written comments will also be accepted at the public hearing described below.

PUBLIC HEARING

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 January 8, 2014**, in the Commission's Hearing Room located at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833.

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 19811, 19824, 19840, 19841, and 19924 of the Business and Professions Code; and to implement, interpret or make specific sections 19805, 19811, 19841, 19860, 19922, and 19924 of the Business and Professions Code,¹ 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 section 19841.⁴ 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 Commission and the Bureau of Gambling Control (Bureau) in meeting

¹ All statutory references hereinafter 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.

their oversight responsibilities under the Act, 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.⁷ These regulations establish a baseline for gambling establishment (cardroom) operation, by requiring that licensees establish and 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, and provides transparency.

Specifically, this proposed action would make clarifying changes in Section 12386 regarding the operation and functions of cages. In some instances the proposed changes would provide additional flexibility to licensees in determining the manner in which they will comply. In addition, this proposed action would add Section 12387 regarding the security and use of floor banks, gambling equipment and confidential documents, to establish minimum performance standards that would assist licensees in protecting their assets and the integrity of their gambling operations. This would also help to ensure that the public health, safety and general welfare is protected and that gambling is conducted honestly and competitively.

EXISTING LAW:

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.

Section 19824, provides the Commission with “*all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of*” the Act.

Section 19840 allows the Commission to adopt regulations for the administration and enforcement of the Act.

Section 19841, subdivision (h), mandates that the Commission’s regulations “[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.

Section 19924 mandates that owner-licensees maintain security controls over the gambling premises and all operations therein related to gambling.

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:

⁷ Business and Professions Code, section 19920

Section 12360. Chapter Definitions.

In Article 1, Section 12360 provides definitions for numerous terms that govern the construction of Chapter 7. This proposed action would add definitions for several new terms that will be used in Article 3, as follows:

1. A new subsection (a) would be added with a definition for the term “cage bank.” The definition of this term is being added as a convenient means of referring, in general, to the monetary content, including gambling chips, cash and cash equivalents, that is held in a cage.
2. A new subsection (b) would be added with a definition for the term “cashier bank.” The definition of this term is being added as a convenient means of referring, in general, to the individual imprest fund assigned to an individual cashier inside a cage.
3. A new subsection (c) would be added with a definition for the term “confidential document.” The definition of this term is being added as a convenient means of referring to several different types of documents, records or writings with similar characteristics, whether maintained in writing or electronically.
4. A new subsection (d) would be added with a definition for the term “floor bank.” The definition of this term is being added as a convenient means of referring, in general, to an individual imprest fund kept on or near the gambling floor.
5. A new subsection (e) would be added with a definition for the term “gambling equipment.” The definition of this term is being added as a convenient means of referring to gambling equipment, in general.
7. As a result of the additional definitions proposed by this action in the new subsections (a) through (e), the pre-existing subsection (a) through (e) will be renumbered accordingly as subsection (f) through (j).

Section 12386. Cage Operation and Functions.

In Article 3, Section 12386 prescribes the MICS that must be addressed in licensees’ policies and procedures relative to the operation and functions of cages. These include standards for cage location, design and construction; security and accountability; staffing and access; activity reconciliation; and, surveillance. The scope and complexity of many of these standards progressively escalate with the higher tiers. This proposed action would amend Section 12386, as follows:

1. Paragraph (1) of subsection (a) would be amended to clarify that the public does not have access to enter a cage. Language would be added to clarify that the purpose of a cage is to provide for a convenient location in which to conduct patron transactions while maintaining security and accountability for not just funds, but also for monetary transactions occurring at the cage and all cage contents. Cage content may include, but is not limited to, the cage bank, cashiers’ banks, and gambling equipment and confidential documents, when kept in a cage.

2. Paragraph (2) of subsection (a) would be amended to clarify that the names of gambling enterprise employees who work in a cage are not required to be included in the organizational charts of the gambling enterprise. The word “designated” would be changed to “assigned” throughout this paragraph, and the second sentence would be reworded to indicate that the title, classification or position of cage employees must be listed on the organizational charts. The reference to the duties of cage employees would be changed to provide that those employees’ duties “may include any or all of” the specific duties listed in this paragraph. Further clarification of those specified duties would also be provided.
3. Paragraph (3) of subsection (a) would be amended to clarify that it is applicable to both physical cages and areas designated as cages, pursuant to paragraph (1) and that routine access is to be limited to the cage personnel assigned pursuant to paragraph (2). The term “gambling establishment” would be changed to the correct term, “gambling enterprise,” and “key employee” would be added to the list of license types held by other gambling enterprise employees who may be given access to a cage for the performance of their duties.
4. Paragraph (4) of subsection (a) would be amended to allow a cage access log to be maintained either in writing or electronically.
5. Paragraph (5) of subsection (a) would be amended to specify that it is the cage and cashiers’ banks that are to be reconciled, not all cage “activity.” The requirement to summarize all cage transactions and the definition of the word “shift” would be deleted. The requirement, in paragraph (2) of subsection (b), to document reconciliation on a cage accountability form would be moved to paragraph (5) of subsection (a) as a new subparagraph (B) and the current text of paragraph (5) would become subparagraph (A). Additional clarification would be made to the specified content of a cage accountability form.
6. This proposed action would add paragraph (7) to subsection (a) to specify that in instances where a licensee operates multiple cages during any shift, all cages, irrespective of their designation (e.g., main cage, satellite cage, auxiliary cage, supplementary cage, secondary cage, back up cage, support cage, etc.), shall be subject to and comply with all applicable provisions of this article.
7. Paragraph (1) of subsection (b) would be deleted as it specifies that only cardrooms in Tiers III through V are required to maintain continuous recorded video surveillance of cages and cage activities. However, Section 12396 (a)(1) provides that “cage and cashier activities” shall be subject to recorded video surveillance in all tiers.
8. With the deletion of paragraph (1) and the relocation of paragraph (2), the remaining paragraph (3) would become subsection (b). Subsection (b) would be amended to require that cardrooms in Tiers III through V have the reconciliations specified in paragraph (5) of subsection (a) posted to the general ledger by someone other than an assigned cage employee or cage supervisor.
9. Paragraph (1) of subsection (c) would be amended to better describe the construction and function of a cage for Tiers IV and V by specifying that it must be a secure enclosed structure

with at least one window for processing transaction with patrons. A new subparagraph (A) would be added to provide that cage windows must be secure and designed to prevent entry into, or theft from, the cage.

10. Paragraph (2) of subsection (c) would be amended to clarify that these provisions apply to all banks, and the reference to beginning and ending balances would be deleted. Subparagraph (C) would also be amended to clarify that the “amount,” rather than the “source,” of other items of monetary value is to be itemized. Reference to “dealers’ banks” and “chip runner’s banks” would be removed from the examples of other items of monetary value. Subparagraph (D) would be added to address the dealers’ banks and floor (chip runners’) banks by specifically requiring an itemization of the amount assigned to each of those banks.
11. Paragraph (3) of subsection (c) would be amended to allow the names or classifications of employees authorized to access a cage to be recorded either in writing or electronically, and to require that the record must be updated each time an assignment is added or deleted.
12. Numerous nonsubstantive conforming, editorial and grammatical changes would be made throughout Section 12386 to clarify and ensure that that the provisions of the new paragraph (7) apply to all cages and cage areas, irrespective of their designation, and to provide consistency with provisions of the proposed adoption of Section 12387.

Section 12387. Security and Use of Floor Banks; Security of Gambling Equipment and Confidential Documents.

This proposed action would also establish a new Section 12387 in Article 3, which would require cardrooms of all tiers to adopt specified minimum policies and procedures regarding the security and use of floor banks, and the security of gambling equipment and confidential documents, on the gambling floor. This proposed action would adopt Section 12387, to provide as follows:

1. Subsection (a), paragraph (1) would require that a floor bank, when kept in any public area of a gambling establishment, be secured in a locked receptacle, drawer or compartment. This paragraph would specify that the drawer or compartment shall remain locked, with the key removed, except when being appropriately accessed and that all keys, combinations and access codes shall be subject to the key security and control provisions of Section 12395.
2. Subsection (a), paragraph (2) would require the lock or locking mechanism of a receptacle, drawer or compartment containing a floor bank to be keyed differently from any other receptacle, drawer or compartment in the gambling establishment. However, when a single gambling enterprise employee requires access to multiple receptacles in the performance of his or her duties, that access is exclusive to that employee during his or her shift, and the receptacles all contain a floor bank, those receptacles may have a key, combination or access code in common with each other. Managers and supervisors would also be permitted to have a duplicate or master key for the receptacles used by the employees they supervise.
3. Subsection (a), paragraph (3) would require that any cabinet used or intended to be used to contain a floor bank, be located so that it is clearly visible for security and surveillance purposes, and that it be kept under continuous recorded video surveillance with camera

coverage that shall be adequate for monitoring and recording the contents of any drawer when open, to the extent reasonably possible, and all activities involving the floor bank. This paragraph would also allow the use of a mobile cabinet and would require that it be kept at a fixed secure location under continuous recorded video surveillance when not being actively used on the gambling floor.

4. Subsection (a), paragraph (4) would prohibit the commingling of a floor bank with any gambling equipment, documents, supplies or other materials that are not directly related to a floor bank, in the same drawer or compartment. This paragraph would also prohibit the use of the cabinet or any drawer, compartment or receptacle therein, from being used to store any personal property of any employee, patron, or any other person; or to store any equipment, documents, supplies or other materials that are not directly related to the conduct of gambling operations.
5. Subsection (a), paragraph (5) would require that each floor bank be individually balanced at least daily and the imprest amount verified. Any shortages or overages would be required to be documented in an exception report and included in the cage bank reconciliation for the shift during which the verification was performed.
6. Subsection (a), paragraph (6) would require the licensee to establish the maximum imprest amount that may be assigned to the each floor bank and would limit the imprest amount that may be assigned to a floor bank in a mobile cabinet to \$20,000.
7. Subsection (a), paragraph (7) would require the licensee to adopt policies and procedures for the establishment of specific provisions governing the sale or distribution of gambling chips and the disbursement of cash to patrons from a floor bank by the assigned gambling enterprise employee. This paragraph would also limit the redemption of chips from a floor bank to a maximum amount of \$500, except when the floor bank is being temporarily used as a cage and is in compliance with the provisions of Section 12386. This paragraph would explicitly prohibit any redemption of chips from a floor bank in a mobile cabinet.
8. Subsection (b), paragraph (1) would require that gambling equipment be secured in a locked receptacle, drawer or compartment when being kept, held or stored in any public area of the gambling establishment. Any gambling equipment that is too large to be placed in a receptacle, drawer or compartment when not in use, or that is normally left on a gambling table when not in use, would be required to be secured with a locking mechanism to prevent it from being moved or tampered with. This paragraph would allow the lock or locking mechanism of the receptacle, drawer or compartment to be keyed the same as any similar receptacle, drawer or compartment used for the same purpose. This paragraph would specify that the drawer or compartment shall remain locked, with the key removed, except when being appropriately accessed and that all keys, combinations and access codes shall be subject to the key security and control provisions of Section 12395.

This paragraph further provides that confidential documents shall be secured in a locked receptacle, drawer or compartment when being kept, held or stored in any public area of the gambling establishment. This requirement would apply to all confidential documents and

information, except when maintained electronically or when in use, in which cases the document or information shall be covered and kept out of public view to the extent reasonably possible.

9. Subsection (b), paragraph (2) would require the lock or locking mechanism of a receptacle, drawer or compartment containing gambling equipment or confidential documents to be keyed differently from any other receptacle, drawer or compartment in the gambling establishment. However, when a single gambling enterprise employee requires access to multiple receptacles in the performance of his or her duties, that access is exclusive to that employee during his or her shift, and the receptacles all contain either gambling equipment or confidential documents, those receptacles may have a key, combination or access code in common with each other. Managers and supervisors would also be permitted to have a master key for the receptacles used by the employees they supervise.
10. Subsection (b), paragraph (3) would require that any cabinet containing gambling equipment or confidential document be located so that it is clearly visible for security and surveillance purposes, and that it be kept under continuous recorded video surveillance.
11. Subsection (b), paragraph (4) would prohibit gambling equipment or confidential documents from being commingled with or kept in the same drawer or compartment as a cardroom bank, or commingled with or kept in the same drawer or compartment with any personal property or possession of any employee, patron, or any other person.
12. Subsection (b), paragraph (5) would require the establishment of specific provisions governing the storage, distribution and tracking of gambling equipment kept, held or stored in any public area of the gambling establishment.
13. Subsection (c) provides that, if a licensee allows access to or the use of any cabinet used or intended to be used for any of the purposes described in subsection (a) or (b), to any TPPPS company, that access and use shall be exclusive to the TPPPS company and its employees, and the cabinet shall not be used by the licensee for any purpose.
14. Subsection (d) would require cardrooms to implement the applicable provisions of this section no later than six months following its effective date.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations. As provided in subdivision (b) of section 19811, the Commission is vested with jurisdiction and supervision over gambling establishments, and over all persons or things having to do with the operations of gambling establishments in California. The scope and content of the Commission's regulations is set forth in section 19841. While the Bureau of Gambling Control (Bureau), in the Department of Justice, has also been granted some authority to adopt regulations (section 19826), that authority is limited to the adoption of regulations reasonably related to its

specified duties and responsibilities. These proposed regulations are not inconsistent or incompatible with any Bureau regulation (Title 11, CCR, Division 3), nor do they fall within the Bureau's authority to adopt regulations.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

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 adoption of these regulations would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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 gambling establishment would qualify as a small business.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

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.

This determination is based on the fact that this proposed action will not impose any significant cost or other adverse economic impact on cardroom licensees or affect the employment of gambling enterprise employees. Furthermore, this proposed action would have no impact on any other businesses or jobs.

BENEFITS OF PROPOSED REGULATION:

This proposed action would clarify certain provisions of existing regulations affecting the operation and functions of cages and would provide licensees more flexibility in determining how to achieve compliance with certain performance standards. The development of internal policies and procedures for the security of floor banks, gambling equipment and confidential documents would assist licensees in protecting their assets and the integrity of their gambling operations. This would also help to ensure that the public health, safety and general welfare is protected and that gambling is conducted honestly and competitively. This proposed action would help to ensure consistency and uniformity, and provide greater transparency.

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

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 be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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, Manager
Regulatory Actions Unit
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0499
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:

Joshua Rosenstein, Regulatory Actions Analyst
Regulatory Actions Unit
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 274-5823
Fax: (916) 263-0499
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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.