

TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION
NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
TWO-YEAR LICENSE FEES & TWO-YEAR TPPS LICENSES
CGCC-GCA-2008-R-1

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest.

NO PUBLIC HEARING AT THIS TIME

At this time, the Commission has not scheduled a public hearing. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the comment period.

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 July 21, 2008.

To be considered for summary and response, written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Persons in this Notice, must be received by the Commission at its office no later than 5:00 p.m. on July 21, 2008. Comments sent to persons or addresses other than those specified under Contact Persons, or received after the date and time specified above, regardless of the manner of transmission, will be included, but will not be summarized or responded to in the record of this proposed regulatory action.

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 testimony or written comments related to this proposal or who have requested notification of any changes to this proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19811, 19824, 19840, 19841, 19851, 19853, 19854, 19864, 19876, 19915, 19951 and 19984 of the Business and Professions Code, and to implement, interpret or make specific sections 19841(a), 19853(a), 19854(c) and (d), 19876(a), 19951(a) and

(b) and 19984(b) of the Business and Professions Code; the Commission is proposing to adopt the following changes to Chapters 1, 2, 2.1, 2.2, 4 and 6 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Introduction:

The Commission is proposing regulations that would implement the provisions of Senate Bill 730 (2007 Stat. Ch. 438) by establishing two-year license application fees for Gambling Establishments, Key Employees, providers of Third-Party Proposition Player Services (TPPS) and Gambling Businesses. As a result of SB 730, these proposed regulations would also establish two-year license terms for TPPS and Gambling Businesses.

Background:

The Commission, is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).¹ The Act assigns the Commission with the responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.² The Act directs the Commission to issue licenses only to those persons of good character, honesty and integrity, whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this state.³

Prior to SB 730, the Act established that a license must be renewed annually, or for a longer period set by the Commission, not to exceed two years.⁴ Also prior to SB 730, the Act set the license application fee at \$500.⁵

Introduced by Senator Florez, SB 730 was passed by the Legislature on September 12, 2007 and signed by the Governor on October 10, 2007. SB 730 became effective on January 1, 2008. Among other things, SB 730 mandates that the Commission establish two-year license terms no later than August 1, 2008.⁶ SB 730 also requires the Commission to adopt by regulation license application fees by no later than January 1, 2009.⁷

Specific Proposal:

These proposed regulations would establish a new section in Chapter 1 of Division 18 that contains the initial and renewal application fee schedule for all licenses, registrations and permits issued by the Commission. Accordingly, the application fee amounts stated in all other chapters

¹ Business and Professions Code, sections 19800 through 19987

² Business and Professions Code, section 19823

³ Business and Professions Code, section 19857

⁴ Business and Professions Code, subdivision (a) of section 19876, as written prior to SB 730 (2007 Stat. Ch. 438)

⁵ Business and Professions Code, subdivision (a) of section 19951, as written prior to SB 730 (2007 Stat. Ch. 438)

⁶ Business and Professions Code, subdivision (a) of section 19876, as amended by SB 730 (2007 Stat. Ch. 438)

⁷ Business and Professions Code, subdivision (a) of section 19951, as amended by SB 730 (2007 Stat. Ch. 438)

of Division 18 would be deleted, and the fee amount referenced to this new single section within Chapter 1.

The license application fee amounts stated in this new section would reflect an adjustment from one-year (annual) licenses to two-year (biennial) licenses for gambling establishments, key employees, TPPS and gambling businesses. The Commission recently established two-year license terms for gambling establishments and key employees.⁸ As a result of SB 730, these proposed regulations would further establish two-year license terms for TPPS and gambling businesses, rather than the current one-year term.

Accordingly, for primary owners and owners of gambling establishments, TPPS and gambling businesses, these proposed regulations would double the annual license application fee amount to adjust to a two-year license term. The resulting license application fee of \$1000 would be the same as two years at the previous annual rate ($\$500 \times 2 = \1000). These proposed regulations would reduce the burden of license renewal by also extending the term of these TPPS and gambling business licenses to two years.

For key employees of gambling establishments, and supervisors of TPPS and gambling businesses, these proposed regulations would establish a two-year license application fee of \$750, which is a \$250 reduction over the current annual license application fee, once adjusted for a two-year license term ($\$500 \times 2 = \$1000 - \$750 = \250 reduction). In addition to this 25% reduction in the license application fee, these proposed regulations would also reduce the burden of license renewal by extending the term of these TPPS and gambling business licenses to two years.

Players and other employees of TPPS and gambling businesses already have a two-year license term. As a result, these proposed regulations would retain the current two-year license application fee of \$500.

Accordingly, the following license application forms would also be amended to reflect the new two-year fee schedule:

- Application for State Gambling License, CGCC-030 (Rev. 04/08)
- Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08)

The application fees and terms for all other registrations and permits issued by the Commission would remain the same as is currently established in regulation.

As a result of the new two-year term for the licenses of TPPS and gambling businesses, these proposed regulations would also prescribe a new due date for payment of the annual fee and submission of the employee report. Different from the license application fee, the annual fee is paid by the owner of a TPPS or gambling business, and is based on the number of other licensees (ex.- players) that are associated with that TPPS or gambling business. The due dates for the

⁸ California Code of Regulations, subsection (c) of section 12340, established in rulemaking file # CGCC-GCA-2007-R-3 (OAL Notice # Z-07-0626-01)

annual fee and employee report are currently tied to the renewal of the license, which as a result of these proposed regulations would be every two years, rather than annually. This would leave no annual renewal event from which to collect the annual fee and employee report. Under these proposed regulations, the due date for payment of the fee and submission of the report by licensed TPPS and gambling businesses would be the same as what is currently required of registered TPPS and gambling businesses (i.e., September 1st of each year).

Current Regulation:

Existing regulation in the California Code of Regulations, Title 4, Division 18 is summarized as follows:

Chapter 2, Article 3, Section 12122(a) prescribes a temporary work permit fee of \$25, in addition to the regular work permit fee of \$500.

Chapter 2.1, Article 1, Section 12200.14 requires the primary owner of a registered or licensed TPPS to submit an updated organizational chart and form Third Party Proposition Player Services Employee Report (CGCC-440, Rev. 09/04) to the Bureau of Gambling Control (Bureau) and the Commission upon renewal of the registration or license.

Chapter 2.1, Article 1, Section 12200.20(a)(2) prescribes that the annual fee paid by each licensed primary owner of a TPPS be based upon the total number of licensees affiliated with the primary owner 120 days prior to the license renewal date.

Chapter 2.1, Article 2, Section 12202(b)(1) prescribes that TPPS registration applications of all types include a \$500 application fee.

Chapter 2.1, Article 2, Section 12203A prescribes that applications for the renewal of a TPPS registration include an application fee of \$500.

Chapter 2.1, Article 2, Section 12203.2(a) prescribes a temporary TPPS player registration fee of \$25, in addition to the regular registration fee of \$500.

Chapter 2.1, Article 2, Section 12205.1(c) prescribes that if a TPPS registration expires while an application to convert a registration to a license is being processed, the applicant shall submit a new registration fee of \$500.

Chapter 2.1, Article 3, Section 12218.13 prescribes the term of a TPPS license as a primary owner, owner and supervisor to be one year, and that the term of a TPPS license as a player and other employee to be two years.

Chapter 2.2, Article 1, Section 12220.14 requires the primary owner of a registered or licensed gambling business to submit an updated organizational chart and form Gambling Business Employee and Independent Contractor Report (CGCC-540, Rev. 09/04) to the Bureau and the Commission upon renewal of the registration or license.

Chapter 2.2, Article 1, Section 12220.20(a)(2) prescribes that the annual fee paid by each licensed primary owner of a gambling business be based upon the total number of licensees affiliated with the primary owner 120 days prior to the license renewal date.

Chapter 2.2, Article 1, Section 12220.20A(a) prescribes the conditions under which a registered or licensed TPPS would not be required to pay additional annual fees as a registered or licensed gambling business. One of these conditions is that the primary owner of the gambling business must have filed an application under chapter 2.2 and have paid the application fee of \$500.

Chapter 2.2, Article 2, Section 12222(b)(1) prescribes that gambling business registration applications of all types include a \$500 application fee.

Chapter 2.2, Article 3, Section 12237 prescribes the term of a gambling business license as a primary owner, owner and supervisor to be one year, and that the term of a gambling business license as a player and other employee to be two years.

Chapter 4, Section 12301(b)(10) prescribes that an application for an equipment manufacturer or distributor registration include an application fee of \$500, and that an application for an antique slot machine distributor registration include an application fee of \$40.

Chapter 6, Article 2, Section 12342(a)(1) prescribes that an application for a state gambling license include a completed form: Application for State Gambling License, CGCC-030 (Rev. 04/08).

Chapter 6, Article 2, Section 12342(a)(2) prescribes that an application for a key employee license include a completed form: Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08).

Chapter 6, Article 2, Section 12342(a)(8) prescribes that an application for a state gambling license include a completed form: Trust Supplemental Background Investigation Information, BGC-APP-143 (Rev. 04/08).

Chapter 6, Article 2, Section 12342(a)(17) prescribes that an application for a state gambling license include a completed form: Instructions to Applicant's Spouse, BGC-APP-010 (Rev. 04/08).

Chapter 6, Article 2, Section 12343(a)(1) prescribes the maximum time within which the Commission shall notify the applicant that an initial gambling license or key employee license application is complete and accepted for initial processing. For the purposes of this section, an application is defined as an Application for State Gambling License, CGCC-030 (Rev. 04/08) and an Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08). This section also prescribes that an application is not complete unless accompanied by a fee of \$500.

Chapter 6, Article 2, Section 12344(a) prescribes that the renewal application for a state gambling license or key employee license shall include a \$500 application fee and a completed

form: Application for State Gambling License, CGCC-030 (Rev. 04/08) or Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08).

Chapter 6, Article 2, Section 12344(b) prescribes that each person whose name is required to be endorsed upon a license shall submit a separate renewal application, along with the application fee specified in Section 12344(a).

Chapter 6, Article 2, Section 12345(a)(2) prescribes the maximum time within which the Commission shall notify the applicant that a renewal gambling license or key employee license application is complete and accepted for initial processing. For the purposes of this section, an application is defined as an Application for State Gambling License, CGCC-030 (Rev. 04/08) and an Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 04/08). This section also prescribes that an application is not complete unless accompanied by a fee of \$500.

Effect of Regulatory Action:

The proposed action will make the following changes to existing regulation:

1. Within Chapter 1, establish section 12008, which would prescribe the initial and renewal application fees for all licenses, registrations and permits issued by the Commission. Refer to pages 2 and 3 of this notice for details.
2. Within Chapters 2, 2.1, 2.2 and 4, these regulations would amend Sections 12122(a), 12202(b)(1), 12203(A), 12203.2(a), 12205.1(c), 12222(b)(1) and 12301(b)(10) to transfer existing registration and permit application fees to the proposed section 12008. The application fee amounts for these registrations and permits would not be changed by these proposed regulations.
3. Within Chapters 2.1, 2.2 and 6, these regulations would amend Sections 12220.20A, 12343(a)(1), 12344(a), 12344(b) and 12345(a)(2) to delete current license application fee amounts, and reference the fee amount to the proposed section 12008. The move of these license application fees to section 12008 would include an adjustment of the fee amount to reflect a two-year license term. Refer to pages 2 and 3 of this notice for details.
4. Within Chapters 2.1 and 2.2, these regulations would amend Sections 12218.13 and 12237 to establish a two-year term for all TPPS and gambling business license types.
5. Within Chapters 2.1 and 2.2, these regulations would amend Sections 12200.14 and 12220.14 to require that the primary owner of a licensed TPPS or gambling business submit an employee report form on the same annual schedule that is required for the payment of the annual fee, as specified in sections 12200.20(a) or 12220.20(a). The submission schedule for these forms is currently tied to the annual expiration of the license. Since this proposed action would extend the term of these licenses to two years, these sections would be amended to change the form submission due date to be the same as that specified for the annual fee. These employee report forms are currently established in regulation as follows:

- Third Party Proposition Player Services Employee Report (CGCC-440, Rev. 09/04).
- Gambling Business Employee and Independent Contractor Report (CGCC-540, Rev. 09/04).

These sections would also be amended by these regulations to delete the requirement that these forms and updated organizational charts be forwarded to both the Bureau and the Commission. Instead, these forms and charts would be forwarded to only the Commission, and then electronically shared with the Bureau, eliminating the need for the registrant or licensee to send them to both.

6. Within Chapters 2.1 and 2.2, these regulations would amend Sections 12200.20(a) and 12220.20(a) to prescribe a new due date for payment of the annual fee that is currently required from the primary owners of licensed TPPS and gambling businesses. The payment due date for this fee is currently tied to the annual expiration of these licenses. Since this proposed action would extend the term of these licenses to two years, a new annual payment due date must be established that is not tied to the renewal of the license. These sections would be amended to change the due date for payment of the annual fee to be September 1 of each year, the same as what is currently required of registered TPPS and gambling businesses. These amendments would retain the current annual payment of this fee, even though the term of these licenses has been extended to two years.
7. Within Chapter 6, these regulations would amend Sections 12342(a)(1), 12342(a)(2), 12342(a)(8), 12342(a)(17), 12343(a)(1), 12344(a) and 12345(a)(2) to change the revision date as follows for the license application forms incorporated by reference therein:
 - Application for State Gambling License, CGCC-030 (Rev. 05/08)
 - Application for Gambling Establishment Key Employee License, CGCC-031 (Rev. 05/08)
 - Trust Supplemental Background Investigation Information, BGC-APP-143 (Rev. 05/08)
 - Instructions to Applicant's Spouse, BGC-APP-010 (Rev. 05/08)

In the case of forms CGCC-030 and CGCC-031, the license application fee amounts printed on the forms would be changed to reflect the two-year license terms, as stated above. In the case of forms BGC-APP-143 and BGC-APP-010, the reference to forms CGCC-030 and CGCC-031 printed on these forms would be changed to reflect an amended revision date of (Rev. 05/08).

Incorporation by Reference:

The incorporation by reference in sections 12342(a)(1), (2), (8) & (17), 12343(a)(1), 12344(a)(1) and 12345(a)(2) of forms CGCC-030, CGCC-031, BGC-APP-143 and/or BGC-APP-010 is appropriate since publishing these documents in the California Code of Regulations would clearly be cumbersome, unduly expensive, impractical and unnecessary. These documents consist of multiple pages of text, tables and charts. They are designed to be completed electronically, then printed and mailed to the Commission. It is unnecessary to print this information in the text of the regulation itself. Forms CGCC-030, CGCC-031, BGC-APP-143

and BGC-APP-010 are available for viewing on the Commission's website, and are also available to anyone upon request to the Commission. These forms will also be available for review throughout this rulemaking process.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

The license application fee reduction for key employees and supervisors of TPPS and gambling businesses will produce a projected annual revenue loss to the Gambling Control Fund of \$69,125. This revenue loss represents only 0.5% of the total annual budget expenditures for the Commission and the Bureau.⁹ As a result, this revenue loss is absorbable within existing resources, having a minimal and manageable fiscal impact upon the Commission and the Bureau.

Non-Discretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None.

Costs to Any Local Agency or School District for which Government Code Section 17561 Requires Reimbursement:

None.

Business Impact:

The Commission has made the initial determination that this proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Commission has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses, or the elimination of jobs or existing businesses, or the expansion of businesses within the State of 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 as follows:

The Commission has determined that this proposed action would reduce (by 25%) the current license application fees for key employees of gambling establishments and for supervisors of TPPS and gambling businesses. In the adjustment of these fees from one-year to two-year

⁹ Estimated annual expenditures are \$12,421,000 in the Gambling Control Fund Condition Statement, 2008-09 Governor's Budget

license terms, instead of merely doubling the fee, these proposed regulations change the fees from \$500 annually to only \$750 biennially, a 25% reduction over the two-year period.

In the case of all other types of licenses, registrations and permits issued by the Commission, these proposed regulations would have no cost impact on representative private persons or businesses.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The Commission has made an initial determination that the proposed regulatory action would affect small businesses. The action would benefit small business by extending the term of TPPS and gambling business licenses from one to two years, reducing the burden of license renewal by 50%.

CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative, which it considered or that has otherwise been identified and brought to its attention, 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 proposal described in this Notice.

Any interested person may present statements or arguments relevant to the above determinations during the public comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Commission has prepared an initial statement of reasons for this proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of these proposed regulations and of the initial statement of reasons, and all of the information upon which this proposal is based, may be obtained upon request to the California Gambling Control Commission at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231.

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

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below. Once it has been prepared, a copy of the final statement of reasons may be obtained by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed action may be addressed to the following primary contact person:

James Allen, Regulatory Actions Coordinator
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100,
Sacramento, CA 95833-4231
Telephone: (916) 263-0700
Fax No.: (916) 263-0452
E-mail: jallen@cgcc.ca.gov

The backup contact person is:

Joy Calkin, Office Technician
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100,
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Telephone: (916) 263-0700
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WEB SITE ACCESS

Materials regarding this proposal can also be found on the Commission's website at www.cgcc.ca.gov. Click on "Laws/Regulations" and then click on "**GAMBLING CONTROL ACT REGULATIONS**." Finally, click on "2008 Proposed Gambling Control Act Regulations/Documents."