

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING
PORTABLE PERSONAL KEY EMPLOYEE LICENSES
CGCC-GCA-2009-08-R**

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 SCHEDULED

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 and must be received no later than 15 days prior to the close of the written 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 January 18, 2010.

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period. 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 January 18, 2010**. Written comments should be directed to one of the individuals designated in this notice as a contact person. **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 19811, 19823, 19824, 19840, 19841, 19850, 19851, 19852, 19853, 19854, 19858, 19861, 19864, 19870, 19872, 19876, 19880, 19890, 19915, 19951,

19982, and 19984 of the Business and Professions Code, and to implement, interpret or make specific sections, 19800, 19805, 19811, 19826, 19841, 19850, 19851, 19852, 19853, 19854, 19855, 19856, 19857, 19858, 19859, 19860, 19862, 19863, 19864, 19865, 19866, 19867, 19868, 19870, 19876, 19880, 19881, 19883, 19890, 19893, 19915, 19951, 19960, 19982, and 19984 of the Business and Professions Code,¹ the Commission is proposing to adopt the following changes to Chapters 1 and 6 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 proposing to adopt regulations that would implement Senate Bill 730 by Senator Florez (SB 730)² as it relates to establishing portable personal key employee licenses. Under the provisions of this bill, a key employee license entitles the holder to work as a key employee in **any** key employee position at **any** gambling establishment, provided the key employee terminates employment with one gambling establishment before commencing work for another. The bill requires the Commission to establish a program for portable personal licenses for key employees. The bill also requires the schedule of fees to distinguish between initial and renewal licenses with respect to costs and charges.

SB 730 required the Commission to establish and implement a program for portable personal key employee licenses on or before July 1, 2008.³ The Commission initiated the program by continuing to utilize existing key employee application forms and procedures. In order to implement the program and issue portable personal licenses, key employees were requested to provide a 2x2 inch color passport-style photograph to the Commission. Key employees were then issued licenses with their same expiration date and their names were subsequently removed from the endorsement on the owner-licensee's gambling license.

Since the implementation of the program several items were identified that needed to be developed in regulations. These items include a method for key employees to notify the Commission when they leave one employer to work for another and requests for a replacement license in the event the key employee license is lost, stolen, damaged, or due to a change in name. Current regulations commingle the licensing requirements for gambling establishment owners and key employees; therefore, these proposed regulations separate the two license types. In addition, amendments were made to the interim key employee regulations to provide consistency with the key employee license process and to further enhance the purpose of the regulation that was established in 2007 in a separate rulemaking file.⁴

SPECIFIC PROPOSAL:

The proposed action would amend sections in Chapter 1 and Chapter 6 of Division 18 of Title 4 of the California Code of Regulations to separate the key employee license requirements from the gambling license requirements for owner-licensees. The proposed action also creates a new

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

² Chapter 438, Statutes of 2007.

³ Business and Professions Code, section 19854, subdivision (d).

⁴ California Code of Regulations, Section 12347, adopted regulatory action file No. CGCC-GCA-2007-R-4 (OAL File No. 2007-1012-03 S).

Article 3, entitled “Portable Personal Key Employee License” and new Sections 12350, 12351, 12352, 12353, 12354, and 12355 that describe the requirements for interim, initial, renewal, and replacement of portable personal key employee licenses, including the required forms, documentation, and processing times. The application fees are being added to Section 12008. Several sections would be combined and renumbered to provide consistency and to allow for additional sections for future regulations. Other sections are renumbered and amended to conform to the separation of key employee license requirements from the gambling license requirements.

EXISTING LAW:

Prior to the enactment of SB 730, the Gambling Control Act (Act)⁵ required that licenses issued to key employees be for specified positions only and that those licenses be endorsed on the owner’s gambling license.⁶ Key employee renewal applications were also required to be included with those of the gambling establishment, in a single package. In addition, state law required that the key employee’s license application fee be assessed against the gambling license issued to the owner of the gambling establishment.⁷

SB 730 provides that key employee licenses are independent of the gambling establishment employer’s license by creating a portable key employee license that can be used from job-to-job. As a result, key employees are responsible for maintaining their own licenses. In addition, gambling establishment owners who might have paid the key employee license fees in the past may decide not to continue that practice. Prior to SB 730, the application fee to renew a license for a term of one year was \$500. This same application fee was also assessed each time the key employee changed from one employer to another. Although, the application fee increased from \$500 to \$750 in a previous rulemaking,⁸ key employee licenses are now valid for a period of two years; therefore, the fee was reduced by 25%, which should help to ease the transition for key employees who must pay the fee themselves.⁹

EFFECT OF REGULATORY ACTION:

This proposed action would make the following specific changes to Chapter 1 and Chapter 6 of Division 18 of Title 4 of the California Code of Regulations:

Chapter 1, Section 12008

Section 12008 (b) would be amended and paragraphs (1), (2), and (3) would be added, which prescribe the key employee fees for an interim license, an initial, renewal, and a replacement license. The initial and renewal license fees remain unchanged.

Chapter 6

The title of Chapter 6 would be amended by deleting the word “state” when referring to gambling licenses and to reflect the addition of portable personal key employee licenses.

⁵ Business and Professions Code, section 19800 et seq.

⁶ Business and Professions Code, section 19951, subdivision (a), as written prior to SB 730.

⁷ Business and Professions Code, section 19951, subdivision (b), as written prior to SB 730.

⁸ California Code of Regulations, Section 12340, subsection (c), adopted in regulatory action file No. CGCC-GCA-2007-R-3 (OAL File No. 2008-0904-03 S).

⁹ The employer is not precluded from paying the fee on behalf of an employee.

Article 1, Section 12335

Section 12335 would be amended by adding paragraph (2) to subsection (b) to define “portable personal key employee license” or “key employee license.”¹⁰

Article 2

The title of Article 2 would be amended from “Licensing” to “Gambling Licenses.” The regulation provisions applicable to gambling licenses and key employee licenses are being divided between two separate articles.

Article 2 would be amended to specify only the requirements for obtaining a gambling license as follows:

Section 12340

Section 12340 would be amended to delete the references to key employee licenses, to delete “state” in reference to gambling licenses, to delete subsection (b), and to renumber the subsections accordingly.

Section 12342

The title of Section 12342 would be amended to include “Processing Times.” The processing times are being moved from Section 12343 and combined with Section 12342 in order to include this topic with the initial application processing and to provide an additional section for future regulations.

Section 12345

Section 12344 would be renumbered to Section 12345 and the license renewal application requirements and processing times would be combined into one section. This section would be amended to specify the requirements for license renewals for a gambling license including the requirement that the Bureau shall submit a written report, which may include a recommendation. In addition, any forms or references concerning a key employee renewal license would be deleted.

Section 12346

Section 12348 would be renumbered to 12346 and any reference to mandatory and discretionary grounds for denial of an application for a key employee license would be deleted. These deleted references to key employee licenses are now addressed in later sections.

Article 3

Article 3, referring to “Table Fees,” would be amended to become Article 4.

A new Article 3 would be added to contain the requirements for portable personal key employee licenses and titled accordingly. The new sections included under this article are described as follows:

¹⁰ Business and Professions Code, section 19805, subdivisions (w) and (ac), as amended by SB 730.

Section 12350

Section 12350 would be added to include the licensing requirements for obtaining an initial portable personal key employee license, including the required forms, documentation, and application processing timeframes. These requirements are similar to the previous licensing requirements for key employees that were included in Sections 12340, 12342, and 12343.

Section 12351

Section 12351 would be added to describe the license renewal requirements for portable personal key employee licenses, including the required forms, documentation, and timeframes.

Section 12352

Section 12352 would be added to describe the notification requirements when a key employee changes employers or when his/her employment status changes. In addition, this section describes the process to obtain a replacement license. The required forms, documentation, and processing timeframes are also included in this section.

Section 12353

Section 12353 would be added to specify the contents of the key employee license and requires that the key employee must wear the license, in a visible and conspicuous manner, while on duty in the gambling establishment. In addition, the key employee must present the license upon request.

Section 12354

Section 12347 would be renumbered as Section 12354, and the title amended to read, "Interim Key Employee Licenses; Processing Times."

Section 12354 is a separate topic and does not specifically pertain to the provisions in SB 730 regarding the gambling license or key employee license; however, these amendments are being proposed to provide consistency and clarity in this section since it is related to key employees. This section will make the interim key employee requirements equivalent whether the employee is working at a corporate owned or non-corporate owned gambling establishment.

Section 12355

This section is consistent with the language previously located in Section 12348. The language is being restated in Article 3 as it still applies to key employees.

INCLUDED FORMS:

The following forms are included in the regulation text as Appendix A:

- CGCC-031 Application for Gambling Establishment Key Employee License (Rev. 08/09)
- CGCC-033 Notification of Change in Employment Status (New 08/09)
- CGCC-034 Request for Replacement Key Employee License (New 08/09)
- CGCC-035 Application for Interim Key Employee License (New 08/09)

INCORPORATION BY REFERENCE:

The incorporation by reference in paragraph (4) of subsection (c) of Section 12350 of the form “Key Employee Supplemental Background Investigation Information, BGC-APP. 016A (Rev. 08/09)” is appropriate since publishing this document in the California Code of Regulations would clearly be cumbersome, unduly expensive, impractical and unnecessary. This document consists of multiple pages of text, tables and charts. It is 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. Form BGC-APP. 016A is available for viewing on the Commission’s Web site, and is also available to anyone upon request to the Commission or Bureau. This form 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:

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.

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, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

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 would not affect small businesses. This initial determination is based on the fact that the regulations being proposed for adoption do not affect any 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 Coordinator
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:

Joy Calkin, Staff Services Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-3628
Fax: (916) 263-0452
E-mail: Jcalkin@cgcc.ca.gov

WEB SITE ACCESS

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