

CALIFORNIA GAMBLING CONTROL COMMISSION
INITIAL STATEMENT OF REASONS
CGCC-GCA-2009-07-R

HEARING DATE: August 20, 2009

SUBJECT MATTER OF PROPOSED REGULATIONS: Conversion from Registration to License and Renewal of Third-Party Proposition Player Services (TPPS) and Gambling Businesses Licenses.

SECTIONS AFFECTED: **California Code of Regulations, Title 4, Division 18, Chapter 2.1:** §§ 12200.9, 12200.10A, 12200.11, 12200.13, 12203.2, 12205.1, 12218, 12218.7, 12218.8 and 12218.9. **Chapter 2.2:** §§ 12220.13, 12220.18, 12220.23, 12225.1, 12233, 12235, 12238 and 12239.

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

Currently, Third-Party Providers of Proposition Player Services (TPPS) and Gambling Businesses are required to *register* with the California Gambling Control Commission (Commission), and make application for a *license* when requested to do so by the Bureau of Gambling Control (Bureau). These proposed regulations would implement an ongoing renewal licensing program for TPPS, Gambling Businesses and their supervisors, players and other employees.

FACTUAL BASIS/RATIONALE:

BACKGROUND:

Business and Profession Code section 19980 was enacted in September of 2000. It required the Division of Gambling Control (now the Bureau) to adopt emergency regulations that would establish a licensing or registration program for TPPS.¹ In September of 2002, section 19980 was renumbered to Business and Professions Code section 19984 and amended to require that the *Commission* establish these emergency regulations.² In November of 2003, the Commission adopted emergency regulations requiring TPPS to obtain a registration by March 31, 2004, and Gambling Businesses to register by March 5, 2004.³ In December of 2004, the Commission

¹ Assembly Bill 1416 (2000 Stat. Ch. 1023)

² Assembly Bill 2431 (2002 Stat. Ch. 738)

³ California Code of Regulations, Title 4, Sections 12201 and 12221.

adopted additional regulations that required TPPS and Gambling Businesses to transition to a license, rather than a registration.⁴ This transition includes provisions that require TPPS and Gambling Business registrants to submit an application to convert a registration to a license when summoned to do so by the Bureau.

AUTHORITY:

The Commission is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).⁵ As part of the Act, the Commission has the responsibility to insure that no person is involved in a gambling operation that may threaten public health, safety or welfare.⁶ Further, the Commission must adopt regulations that *restrict, limit or otherwise regulate any activity that is related to the conduct of controlled gambling.*⁷ In the performance of these duties, the Commission is authorized to adopt regulations requiring the licensure of providers of Third-Party Proposition Player Services (TPPS)⁸ and Gambling Businesses.⁹

TPPS, Gambling Businesses and their supervisors, players and other employees play a pivotal role in the conduct of a controlled game. They primarily participate in controlled games that feature a player-dealer position in which participants are afforded the temporary opportunity to wager against multiple players at the same table.¹⁰ As a result, the TPPS or Gambling Business player will often bank games. In the case of a TPPS, this role is formalized in a required contract with a gambling establishment (cardroom).¹¹ For these reasons, the Commission has made the determination that TPPS, Gambling Businesses and their supervisors, players and other employees should be licensed, rather than registered. In reviewing an application for any license, the Commission must consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that gambling operations are free from criminal and dishonest elements.¹²

PROPOSED ACTION:

The Commission is proposing these regulations that would establish a license renewal program for TPPS, Gambling Businesses and their supervisors, players and other employees.

In contrast to a registration, a license requires a more complete background investigation on the applicant. Conducted by the Bureau, this background investigation helps determine the applicant's general character, integrity, and ability to participate in, engage in, or be associated with, controlled gambling.¹³ To help initiate this investigation, the Bureau requires license applicants to complete and submit a supplemental form which requires details about the

⁴ California Code of Regulations, Title 4, Sections 12205.1 and 12225.1.

⁵ Business and Professions Code, Division 8, Chapter 4, section 19800 *et seq.*

⁶ Business and Professions Code, subdivision (a) of section 19823.

⁷ Business and Professions Code, subdivision (o) of section 19841.

⁸ Business and Professions Code, section 19984.

⁹ Business and Professions Code, subdivisions (a) and (d) of section 19824, and subdivision (a) of section 19853.

¹⁰ Business and Professions Code, subdivisions (c) and (af) of section 19805, and California Code of Regulations, Title 4, Paragraph (28), subsection (b) of Section 12200(b) and Paragraph (11), subsection (b) of Section 12200.

¹¹ Business and Professions Code, section 19984.

¹² Business and Professions Code, subdivision (c) of section 19856.

¹³ Business and Professions Code, subdivision (b) of section 19856.

applicant's personal history, habits, character, criminal record, business activities, financial affairs, and business associates, covering at least a 10-year period immediately preceding the date of the application.¹⁴

Based on the results of the background investigation, and the information and documents submitted, the Commission cannot approve a license unless it is satisfied that the applicant is a person of good character, honesty, and integrity, and whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest, or to the effective regulation of controlled gambling, nor create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling.¹⁵

This proposed action would make the following specific changes within Division 18 of Title 4 of the California Code of regulations:

1. Within Chapters 2.1 and 2.2, these regulations would amend Sections 12200.09, 12200.10A, 12200.11, 12200.13 and 12220.13 to: establish a two-year term, rather than one year, for TPPS contracts; change the contract application/extension fee from \$500 to \$1000 to conform to the two-year term; and add new requirements for play book forms.

The change in the contract length and application fee would align TPPS contract criteria to the two-year term of the TPPS license, making it easier for the industry to renew the contracts. The new requirements for play book forms would establish a Bureau review process for the amendment of play book forms within the term of a TPPS contract. Current regulations do not accommodate the changes to these forms in-between contract renewals. With contracts valid for only one year, this has not been a problem. However, this change is needed to better accommodate the extended two-year term of the contract, by allowing for play book changes in-between. This new play book change process would also include a Bureau fee of \$75 to offset expenses incurred in processing the application and reviewing the new form.

2. Within Chapter 2.1, these regulations would amend Section 12203.2 to update the subsection referenced.

These changes are being proposed to clarify the subsection. During a Section 100 change to these regulations, Section 12203.3 was changed for clarity; however, the subsection in the preceding section referencing Section 12203.3 was not changed.

3. Within Chapter 2.2, these regulations would amend Section 12220.18 to add the word licensee to the revocation section and correct the referenced sections listed.

The addition of the word licensee is necessary to conform this section to reflect the industry as there are now licensed individuals and entities.

¹⁴ Business and Professions Code, section 19865.

¹⁵ Business and Professions Code, section 19857.

4. Within Chapter 2.2, these regulations would amend Section 12220.23 to add the words *license, licensed* or *temporary* where appropriate.

The addition of the words *license, licensee* or *temporary* is necessary to conform this section to reflect the industry as there are now licensed individuals and entities.

5. Within Chapters 2.1 and 2.2, these regulations would amend Sections 12205.1, 12218, 12218.7, 12225.1, 12233, and 12235 to change the form required to convert a registration to a license, incorporate the license applications and to put into practice the charging of the license application fees.

These amendments incorporate two new forms and one form currently used in reference to gambling establishments. The charging of the application fees is necessary to offset the administrative costs of handling the requests for licenses.

6. Within Chapter 2.1, these proposed regulations would adopt new Sections 12218.8 and 12218.9. Within Chapter 2.2, these proposed regulations would adopt new Sections 12238 and 12239. These amendments would establish a renewal process.

These amendments are necessary to conform these sections to the stated purpose of these proposed regulations (i.e., to establish a *licensing renewal* process for TPPS and Gambling Businesses).

7. Within both Chapters 2.1 and 2.2, this proposed action also includes several nonsubstantive conforming, grammatical or editorial changes which have no regulatory effect.

INCORPORATION BY REFERENCE:

The incorporation by reference in Sections 12200.9(a)(2), 12200.13(c)(1), 12205.1(a), and 12225.1(a), of forms CGCC-433, CGCC-434, CGCC-533, CGCC-534, BGC-APP-030, and BGC-APP-036, 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. All the forms are available for viewing on the Commission's Web site, and are also available to anyone upon request to the Commission. These forms will also be available for review throughout this rulemaking process.

UNDERLYING DATA:

Technical, theoretical or empirical studies or reports relied upon: None.

BUSINESS IMPACT:

These regulations will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony:

Since TPPS and Gambling Business registrants are already required to transition to a license, the TPPS and Gambling Business registrants will now have to pay an initial license fee. They currently do not pay a license fee. These proposed regulations would also implement a license renewal process. As a result, this proposed action does not impose any requirement upon or require any action by any business. There are no performance standards imposed, technologies or equipment specified, nor specific actions or procedures prescribed.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

These regulations do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to these regulations would be either 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 regulations.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

No reasonable alternative has been considered or otherwise identified and brought to the attention of the Commission.