

**TITLE 4.**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
**NOTICE OF PROPOSED REGULATORY ACTION**  
**AND PUBLIC HEARING CONCERNING**  
**NOTICE OF CHANGE OF CONTACT INFORMATION AND NOTICE OF**  
**RELOCATION OF GAMBLING ESTABLISHMENT**  
**CGCC-GCA-2012-04-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 1, 2012**, 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 October 1, 2012. 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 October 1, 2012**, 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 19811, 19823, 19824, 19826, 19840, 19841, 19853, 19860, 19862, 19864, and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19811, 19824, 19826, 19850, 19852, 19860, 19862, and 19868 of the Business and Professions Code,<sup>1</sup> the Commission is proposing to adopt the following changes to Chapter 1 and Chapter 6 of Division 18 of Title 4 of the California Code of Regulations:

## **INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW**

### **INTRODUCTION:**

The Commission is the state agency charged with the administration and implementation of the Gambling Control Act (Act).<sup>2</sup> The Commission is authorized to adopt regulations governing the operation of gambling establishments (cardrooms) in California,<sup>3</sup> including, in limited circumstances, the location of those establishments.

Currently, there is no formally established process for an owner-licensee to relocate a gambling establishment. Under existing practice, an owner-licensee can submit a request to the Commission to relocate the establishment, and the Commission considers each request on a case-by-case basis at a public hearing. In order to provide guidance and uniformity regarding the relocation of a gambling establishment, the Commission has proposed these regulations.

### **SPECIFIC PROPOSAL:**

These proposed regulations establish a process by which a gambling enterprise shall notify the Bureau of Gambling Control (Bureau) of a planned physical relocation of a gambling establishment. The regulations also make technical, clarifying changes to existing regulations regarding changes of address or other contact information.

### **EXISTING LAW:**

Under the Act, most of the authority to regulate the location of gambling establishments is placed with the local governing jurisdiction, as evidenced by the following:

- Section 19801(*l*) states that “the location of lawful gambling premises ... [is a] proper subject for regulation by local government bodies.”
- Section 19860(a) requires the Commission to deny a license with respect to any gambling establishment that is located in a local jurisdiction that does not have an ordinance governing, among other things, the location of gambling establishments.

The Act also provides some authority, under specified limited circumstances, for the Commission to consider the location of gambling establishments:

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<sup>1</sup> All statutory references hereinafter are to the Business and Professions Code, unless otherwise specified.

<sup>2</sup> Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

<sup>3</sup> Business and Professions Code section 19840.

- Section 19824 authorizes the Commission to “take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.”
- Section 19801(l) states that “consideration of [the location of lawful gambling premises] by a state regulatory agency ... is warranted when local governmental regulation respecting those subjects is inadequate or the regulation fails to safeguard the legitimate interests of residents in other governmental jurisdictions.” (emphasis added)
- Section 19841(p) allows the Commission to promulgate regulations to “define and limit the area” of controlled games if it determines that “local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.” (emphasis added)
- Section 19862 allows the Commission to deny a license for a new gambling establishment, or the expansion of the existing establishment, if the proposed location is next to an unsuitable location (e.g., a school, place of worship, playground, hospital, or convalescence facility) in a neighboring jurisdiction. (emphasis added)

#### **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:

#### **Section 12004**

Section 12004 is amended to clarify that any change of contact information must be reported to the Commission within 10 days of such change. The relevant form (CGCC-032) with which to notify the Commission of such changes is updated and the date is changed accordingly. Additionally, amendments are made to clarify that this section does not apply to the physical relocation of a gambling establishment.

- CGCC-032 (Rev. 06/12) – The previous version of the form, *Notice of Address Change, CGCC-032 (New 06-05)*, is repealed and replaced with a revised version, *Notice of Contact Information Change, CGCC-032 (Rev. 06/12)*. The form is streamlined and removes some of the superfluous information (e.g., previous address and previous phone number). Spaces are added to include the individual’s license, permit, or registration number and type.

#### **Section 12364**

Subsection (a) defines a “physical relocation” to be the relocation of a gambling establishment to a site for which a different parcel number has been assigned by the county assessor.

Subsection (b) requires an owner-licensee to notify the Bureau of a planned physical relocation of a gambling establishment at least 90 days in advance of the intended commencement of gambling operations, using a newly-created form, CGCC-050 (New 06/12).

- CGCC-050 (New 06/12) – this new form is to be used to notify the Bureau of the planned physical relocation of a cardroom.

- Section 1 requests basic information from the owner-licensee, including the name of the owner-licensee, license number, name of the gambling establishment, the previous address, the new address, the new phone and fax numbers, the date of the planned commencement of gambling operations, and the local jurisdiction.

This section also includes a place to indicate whether or not the new location is within 1,000 feet of the boundary line of the local jurisdiction.

- Section 2 provides a summary of the required documentation that must be provided to the Bureau prior to the commencement of the associated activity.
- Section 3 applies only to those gambling establishments that will be located within 1,000 feet of the boundary line of the local jurisdiction. Paragraph (2) of subsection (b) requires the owner licensee to obtain documentation from a neighboring jurisdiction confirming that the neighboring jurisdiction has no concerns with the location. Section 3 of form CGCC-050 provides a convenient location for the appropriate individual in the neighboring jurisdiction to indicate there are no concerns with the location or, if such documentation cannot be obtained, for the owner-licensee to request the matter be placed before the Commission for review.
- Section 4 includes the standard declaration and signature included on all Commission forms.
- Paragraph (1) addresses circumstances in which the new location of the gambling establishment will not be within 1,000 feet of the boundary line of the local jurisdiction, and requires that the following information be submitted to the Bureau prior to the commencement of gambling operations.
  - Subparagraph (A): A copy of the rental or lease agreement, or evidence of the owner-licensee's ownership of the new location.
  - Subparagraph (B): A copy of the licensee's fully executed fire safety and evacuation plan for the new location.
  - Subparagraph (C): A copy of the licensee's security and surveillance plan.
  - Subparagraph (D): Documentary evidence of all required approvals, licenses, and permits by any applicable local jurisdictional entity.
  - Subparagraph (E): Documentary evidence of all required approvals, licenses, and permits by any applicable state or federal agency.
- Paragraph (2) addresses circumstances in which the new location of the gambling establishment will be within 1,000 feet of the boundary line of the local jurisdiction. The owner-licensee would be required to obtain the signature of the appropriate official in the appropriate agency or department attesting that the neighboring jurisdiction has no objections to the proposed location of the gambling establishment.

If the neighboring jurisdiction objects, the regulation requires the objection to be based upon evidence of probable negative effects resulting from the location of the gambling establishment or proof that the legitimate interests of the residents in the neighboring jurisdiction are threatened.

Subsection (c) allows the owner-licensee to request that the matter be placed before the Commission for consideration in instances where the owner-licensee cannot obtain sign-off from a neighboring local jurisdiction.. The Commission will notify the neighboring jurisdiction of the scheduled Commission hearing, so that representatives of the jurisdiction have the opportunity to attend and be heard.

Subsection (d) offers two options for public comment. The Commission wishes to hear the comments from interested parties on both options and then make a decision regarding the desired policy. The options are as follows:

- Option 1: Paragraph (1) requires the Bureau to schedule and conduct a site visit of the new location prior to the commencement of gambling operations or within 30 days after gambling operations have begun. A written report of the findings must be provided to the Commission.

Paragraph (2) requires the Bureau to issue a notice to correct any noted deficiency, specifying a reasonable time in which the deficiency is to be corrected. This paragraph also limits the circumstances under which a noted deficiency can delay the commencement of gambling operations or suspend gambling operations to those cases in which the deficiency prevents substantial compliance with laws or regulations, materially threatens public safety or the integrity of gambling operations, and cannot be cured or mitigated within a reasonable time.

- Option 2: Paragraph (1) requires the Bureau to conduct a site visit of a new location prior to the commencement of gambling operations to ensure that specified internal controls meet existing regulatory standards. Paragraph (2) requires any deficiency noted by the Bureau to be corrected before gambling operations begin.

Subsection (e) states that gambling operations may not be conducted at the new location until the required notifications and reviews have been completed.

Subsections (f) and (g) explicitly apply the disciplinary provisions of Chapter 10 to violations of subsection (e).

### **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 [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.

This regulation modifies the process by which a relocation of a gambling establishment is addressed. Specifically, rather than requiring Commission approval for any relocation, this regulation requires only *notification* to the Bureau for the majority of relocations. It is anticipated that this will likely result in a minor decrease in the cost associated with a gambling establishment relocation, as the owner-licensee would not need to appear before the Commission at a public hearing. More importantly, this proposal decreases the uncertainty currently in place regarding relocating a gambling establishment. Under the existing practice, there is no guarantee that the Commission will approve the new location. Under this proposal, there is no need, except in limited cases, for the Commission to review the location. If the owner-licensee receives the necessary approvals required by the local governing jurisdiction as to the proposed location, there would be no need for approval by the Commission.

In a small number of cases, the relocation would have to be reviewed by the Commission; however, this process would not differ significantly in terms of cost from the current process. It is anticipated that this review would be sought before the owner-licensee invested a significant amount of money into a new location.

#### **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.

However, this regulation simplifies the process by which a gambling establishment, including any gambling establishment that would qualify as a small business, can relocate. As noted previously, this regulation only requires notification to the Bureau, rather than approval by the Commission, which is anticipated to decrease the costs associated with relocation.

**RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

**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.

**BENEFITS OF PROPOSED REGULATION:**

This proposed action will likely result in a minor decrease in the cost associated with a gambling establishment relocation, as the owner-licensee would not need to appear before the Commission at a public hearing. This proposal also decreases the uncertainty regarding relocating a gambling establishment. Under the existing practice, there is no certainty that the Commission will approve the new location. Under this proposal, there is no need, except in limited cases, for the Commission to review the location. If the owner-licensee receives the necessary approvals required by the local governing jurisdiction as to the proposed location, there would be no need for additional approval by the Commission.

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](mailto: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  
E-mail: [jrosenstein@cgcc.ca.gov](mailto:jrosenstein@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](http://www.cgcc.ca.gov).