

PLAYING BOOKS FOR THIRD-PARTY PROVIDERS OF PROPOSITION PLAYER SERVICES AND GAMBLING BUSINESSES

CGCC-GCA-2016-01-R

COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS

I. 45-DAY WRITTEN COMMENT PERIOD

The following written comments/objections/recommendations were received regarding the proposed text dated May 18, 2016, during the 45-day written comment period that commenced June 10, 2016, and ended July 25, 2016:

A. COMMENTS MADE IN GENERAL TO THE PROPOSAL.

1. The following comments were received about the proposal, in general:

- a. **Mitchell Goldstein – Gold Gaming Consultants:** Mr. Goldstein commented that the gaming laboratory approval, software licensing, and the location of the server seem too strict for his company's needs. Further, he recommended that the Commission add language to the pending regulations that states that paper forms may also include a printed form on non-compliant electronic database and signed in ink by the player.

Recommended Response: This comment was considered but not incorporated. This proposed action has been drafted to supplement the current requirement that TPPPS and Gambling Businesses maintain playing books for all session of play with an option to do so electronically. Understanding that the option to use an electronic playing book database and playing book to track the activities would be too strict for Mr. Goldstein's company's needs, this suggested language would make the proposed language for electronic playing books moot.

B. AMEND SECTION 12003. GENERAL REQUIREMENTS.

1. Subsection (c) [Page 1, Line 24] amends the existing provision to include language that allows the Bureau representatives to inspect, copy, or audit all required documents, papers, books, and other records to include hardware, associated equipment, and systems that support the operation of the licensed activities.
 - a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow suggests that the definition address access to inspect all programs or applications that have access either to Electronic Playing Book terminal(s) or the database(s) associated with the operation of those terminal(s).

Recommended Response: This comment was considered but not incorporated. The Business and Profession Code section 19827 provides the Department of Justice the powers necessary to enable it to carry out fully and effectually the duties and

responsibilities of the Department as specified in the Gambling Control Act. Further, staff believes that the suggested language [“The inspection may include all hardware, associated equipment, and systems that support the operation of the licensed activities.”](#) which can be found in Section 12003 (c) provides the Bureau the authority to inspect all programs or applications as stated in Ms. Morrow’s comment.

C. AMEND SECTION 12200. DEFINITIONS.

1. Subsection (b)(15) [page 3, line 6] amends the existing definition to include subcontractor and independent contractor as an “other employee”; and, moves language from the “License” definition currently in Section 12200(b)(12)(B).
 - a. **Keith Sharp – Metis TPS, LLC:** Mr. Sharp suggests that the amended language not be included as it is a potentially burdensome and an unwieldy requirement. Requiring every third party vendor employee who sets foot into a gambling establishment to be registered or licensed could potentially hold up the installation/troubleshooting/maintenance of a third party playing book database; thereby, jeopardizing the security of that database.

Recommended Response: This comment was considered but not incorporated. Section 12250(b)(7) defines information technology technician to mean any person who is responsible for and has the system permission necessary to access an electronic playing book system database, including but not limited to the software coding, data storage functions, all critical components of system functioning and the receipt of system alerts. These types of duties could be performed remotely or at the business address of the TPPPPS; therefore, not requiring the IT technician to perform the duties at a gambling establishment to be registered or licensed. Further, this requirement is being suggested to ensure that the electronic playing book system and information are maintained by person(s) who are eligible to meet the licensing standards.

D. AMEND SECTION 12220. DEFINITIONS.

1. Subsection (b)(16) [page 10, line 13] amends the existing definition to include subcontractor and independent contractor as an “other employee”; and, to move language from the “License” definition currently in Section 12220(b)(13)(B).
 - a. **Keith Sharp – Metis TPS, LLC:** Mr. Sharp suggests that the amended language not be included as it is a potentially burdensome and unwieldy requirement. Requiring every third party vendor employee who sets foot into a gambling establishment to be registered or licensed could potentially hold up the installation, troubleshooting, and/or maintenance of a third party playing book database; thereby, jeopardizing the security of that database.

Recommended Response: This comment was considered but not incorporated. Please see recommended response for C.1.a.

E. ADOPT SECTION 12250. DEFINITIONS.

1. Subsection (b)(12) [page 15, line 17] moves existing definitions from Chapters 2.1 and 2.2, Sections 12200 and 12220 respectively as it is no longer required in the licensing section since the process for playing book approval has changed. Further, the definition has been amended to delete the reference to Section 12200.13, which would be repealed, and to specify that a session of play is limited to a specific gaming table.
 - a. **Keith Sharp – Metis TPS, LLC:** Mr. Sharp suggests that the definition be tied to a game and a gambling table rather than an individual’s work shift. Tying the playing book to the table and providing space on the playing book form for several individuals to record their service on that table greatly enhances game security.

Recommended Response: This comment was considered and accepted in part. The initial intent of the definition of “session of play” was to require a playing book form to be completed by an individual to monitor the activities of that individual as they provide proposition player services at a gaming table during their work shift which they sign under penalty of perjury. The playing book form is a tool to assist the Bureau when investigating if money laundering, loan sharking, theft, etc. occurred during an individual’s time while performing proposition player services at a particular gaming table. Now with the understanding that an individual does not sit at one gaming table for their entire shift, the language “continuous work shift” is not appropriate. Therefore, staff recommends the following changes to the language:

“Session of play” as used in Section 12250 (“Playing Book”) means the time period when a TPPPS company or gambling business operates, respectively, a third-party proposition player or individual player at a gaming table before the gaming table closes; however, provided that in no event may a time period be longer than 24 consecutive hours ~~a continuous work shift performed by an individual proposition player at a specific gaming table.~~

F. ADOPT SECTION 12260. GENERAL PROVISIONS.

This section provides specific requirements relating to the use of playing books that a licensee is responsible for following when providing third-party proposition services.

1. Subsection (g)(12) [page 17, line 9] requires the signature of the player whose activity is being recorded along with the signature of a supervisor. In the absence of a supervisor, the player would be responsible to obtain a receipt from the cage employee and kept in accordance with Section 12003.
 - a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow suggests changes to the text to change the phrase “TPPPS company bank account” to “TPPPS Player’s Bank”.

Recommended Response: This comment was considered and accepted in part. “Player’s bank” is currently a definition in Section 12002(w); therefore, changing the

proposed language remains consistent with that definition. Staff recommends the following changes to the language:

(12) The signature of the player whose activity is being recorded; and, the signature of a supervisor. Each signature shall include a declaration in the following form: “I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.” If a supervisor is not present to sign, the funds shall be deposited into a TPPPS company player’s bank ~~account~~ within the gambling establishment; and, a cage receipt shall be obtained and substituted for that signature. The receipt shall be kept in accordance with Section 12003.

2. Subsection (h) [page 17, line 27] requires all IT technicians employed by a registrant or licensee be registered or licensed as “other employees” pursuant to either Chapters 2.1 or 2.2, as applicable. This requirement would also be made applicable to any subcontractor, independent contractor or any employee of either, who are authorized to perform IT technician duties.

- a. **Keith Sharp – Metis, TP, LLC:** Mr. Sharp continues to suggest that subcontractors/independent contractors and their employees not be required to be registered/licensed. Mr. Sharp suggests that the TPPPS could instead provide notice to the Bureau of the contact information for any such vendor or subcontractor.

Recommended Response: This comment was considered but not incorporated. Please see recommended response for C.1.a.

3. Subsection (i) [page 18, line 2] provides the notification requirements when a licensee is reporting an incident to the Bureau:

- a. **Tracey Buck-Walsh – PT Gaming, LLC:** Ms. Buck-Walsh recommends changing the term “in this Chapter” to “as found in section 12290(c)” for clarity and ease of understanding.

Recommended Response: This comment was considered and accepted. The proposed changes does provide clarity and ease of understanding as subsection 12290(c) is the only subsection that identifies when an incident report is required and is not found elsewhere in Chapter 3. The proposed changes are as follows:

(i) Any incident notification requirements ~~in this Chapter~~ as found in section 12290(c) must be submitted to the Bureau with the following information:

G. ADOPT SECTION 12262. ELECTRONIC PLAYING BOOK DEVICE REQUIREMENTS.

This section provides specific information storage and retrieval requirements for electronic playing book devices.

1. Subsection (b) would establish security requirements for the playing book device.

- a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow suggests that the regulation, as written, does not address software, programs, or applications that are ancillary to those that are installed on the device solely for electronic playing book functions. Further, Ms. Morrow expressed concerns that any other electronic media installed on a device, other than those designed for electronic playing book functions, may corrupt or compromise the functionality of the electronic playing book device or the system itself. Ms. Morrow suggested that the following language be added to prohibit any ancillary electronic media access to any electronic playing book related function:

(3) Any software, program, or application installed on the terminal ancillary to the electronic playing book function of the terminal must not have access to any recorded data or properties of the electronic playing book function of the terminal.

Recommended Response: This comment was considered but not incorporated. Proposed language in Section 12260(a) provides for a licensee to have other applications or program accessible from a terminal with access to the playing book system. Further, it provides the Bureau with the authority to approve any program with access to the electronic playing book database. Therefore, the suggested language is not required.

H. ADOPT SECTION 12264. REVIEW OF ELECTRONIC PLAYING BOOK SYSTEMS.

This section provides specific provisions on the process for the Bureau to review electronic playing book systems.

- a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow expresses concern that the issuance of an approval by the Bureau of an electronic playing book system could be taken as an assurance of the system's functionality, thereby opening the Bureau or the Commission to liability in the event of the an approved system's failure or malfunction. Ms. Morrow suggests that the following language be included in the regulation:

(d) The approval by the Bureau of any electronic playing book system shall not form the basis for any liability whatsoever on the part of the Bureau or the Commission in the event of a failure or malfunction of the electronic playing book system.

Recommended Response: This comment was considered but not incorporated. Although the proposed language allows for the Bureau to review and approve electronic playing book systems, it is the requirement in Section 12264(a)(3) that allows for a gaming test laboratory through the certification process to ensure that the electronic playing book system, which includes the software, database, and a playing book device prototype, meets the relevant requirements. Therefore, it would be the gaming test laboratory that is assuring the system's functionality through its certification.

I. ADOPT ARTICLE 4. SECURITY AND USE OF PLAYER BANKS.

This article provides for the general provisions for the TPPPS and Gambling Businesses for the security and use of player's banks.

- a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow suggests that the term “Player Banks” used in the title of Article 4 be changed to “Player’s Banks” as this term is defined and the term “Player Banks” is not.

Recommended Response: This comment was considered and accepted. The initial draft incorrectly used the term “Player Banks”. It is suggested that the language be changed to read:

Article 4. Security and Use of Player’s Banks

J. ADOPT SECTION 12285. GENERAL PROVISIONS.

1. This section provides specific requirements as it relates to the security and use of player’s banks.
 - a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow suggests that the title of Section 12285 be changed from “General Provisions” to “Loss Notification” because the draft provisions address a specific requirement for written procedures related to loss notification.

Recommended Response: This comment was considered and accepted in part. The written procedures provision should remain under General Provisions title; however, for clarity purposes it is recommended that the provisions for loss notification be moved to its own section. Staff recommends the following change:

§ 12287. Loss Notification

2. Subsection (a) [page 23, line 30] requires the TPPPS and Gambling Business primary owner to develop written procedures acceptable to the Bureau which establishes a threshold of any significant loss incurred in a single controlled game; and, that the procedures include a provision that requires immediate notification to the Bureau.
 - a. **Yolanda Morrow – Bureau of Gambling Control:** Ms. Morrow suggests a language change due to a concern that a reader could interpret “licensees” to mean cardroom licensees although this section pertains to TPPPS and Gambling Businesses. Further, Ms. Morrows points out that this section does not consider instances where established procedures require amendments. Ms. Morrow also suggests that the notification be made to the Bureau’s Criminal Intelligence Unit within 24 hours of the significant loss.

The suggested change for subsection (a) related to the “licensees” concern is as follows:

(a) A licensed or registered TPPPS or Gambling Business shall develop ...”

Recommended Response: This comment was considered and accepted in part. Staff recommends changes to the language as follows:

§ 12285. General Provisions

- (a) Any written procedures required pursuant to this Chapter must be submitted to the Bureau for their review and approval. This includes any amendments made to the written procedures after initial approval.
- (b) The written procedures must be established and implemented in accordance with the applicable provisions of this chapter [the first day of the first full month six months following the effective date of this section].

§ 12287. Loss Notification

- (a) A licensed or registered TPPPS and Gambling Business must develop written procedures which:
 - (1) Establish a dollar threshold for notification to the primary owner of any significant loss incurred in a single controlled game immediately upon the determination of the loss.
 - (2) Includes a provision that requires notification to the Bureau's Criminal Intelligence Unit 24 hours after notification has been made to the primary owner.

- b. **Tracey Buck-Walsh – PT Gaming, LLC:** Ms. Buck-Walsh suggests an amendment to the language which addresses an amendment process to the written procedures. Further, Ms. Buck-Walsh indicated that the requirement to provide “immediate notification” of a significant loss once the primary owner is notified causes some concern as it is difficult to determine when a loss is truly a loss. She suggests changing the draft language to require that significant losses be reported within 72 hours of the primary owner receiving notification.

Recommended Response: This comment was considered and incorporated in part. See the recommended response in J.2.a. which responds to both of Ms. Buck-Walsh’s comments. Further, the initial suggestion of immediate notification was based on if the Bureau were to seek a copy of the surveillance tape for investigative purposes they would have sufficient amount of time to retrieve the data as the current requirement in Section 12396(a)(7)(A) requires that all recordings shall be retained for a minimum of seven complete days of operation. Changing the notification requirement to 72 hours would only allow the Bureau four days to potentially retrieve the data and run the risk that it would not be available.

K. ADOPT SECTION 12290. COMPLIANCE.

This section provides specific requirements a licensee is responsible for following as it relates to the use of playing books when providing third-party proposition services.

- 1. Subsection (a) [page 24, line 9], which requires that all game rules be complied with, would be moved from Sections 12200.21 and 12220.21 to this subsection.

- a. **Tracey Buck-Walsh – PT Gaming, LLC**: Ms. Buck-Walsh comments that although proposed section 12290 (a) is existing language that is being moved and renumbered from another section, she would like to seek clarification regarding the requirements of the TPPPS. *Note: Ms. Buck-Walsh's letter indicates section 12290(c); although, the comments are specific to section 12290(a).*

Recommended Response: This comment was considered but not incorporated. This section is designed to ensure that proposition players (1) are not given an unfair advantage over other players; (2) comply with legal requirements concerning rotation of the player-dealer position; and, comply with incident reporting requirements.