CALIFORNIA GAMBLING CONTROL COMMISSION

INITIAL STATEMENT OF REASONS

CGCC-GCA-2019-01-R

HEARING DATE: **None Scheduled**

SUBJECT MATTER OF PROPOSED REGULATIONS: 120-Day Timeline

SECTIONS AFFECTED: California Code of Regulations, Title 4, Division 18: Sections 12218.7, 12235, 12342, and 12350

SPECIFIC PURPOSE OF REGULATORY PROPOSAL:

INTRODUCTION:

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the California Gambling Control Act (Act or GCA).[1] Under the Act, the Commission is required to approve, condition, or deny an application for license or other approval at a meeting [evidentiary hearing] where certain provisions must be provided. The Commission previously adopted regulations under California Code of Regulations, Title 4, Division 18, Sections 12006 to 12068 concerning the procedures for evidentiary hearings in 2014. As part of this new process, applications are no longer denied at non-evidentiary hearing meetings but instead are assigned to an evidentiary hearing if they are not approved or have some other action other than a denial applied at the non-evidentiary hearing. While the Commission still acts on an application within the 120-day timeline, it no longer denies within the 120-day timeline. Modifications are proposed to maintain the 120-day timeline, but alter the requirements to reflect and align with the new process.

PROBLEM ADDRESSED:

Currently, the Commission's regulations require that four licensing types be approved or denied within 120 days. This timeline is inconsistent with changes made to the regulations in 2014. These modifications maintain the 120-day timeline, but alter the requirements to reflect the new process.

PURPOSE:

This proposed action has been prepared to modify the Commission's licensing regulations to make all review timelines consistent with the hearing process regulations.

[1] Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing clarity and consistency in the hearing process by more fully identifying the steps and requirements, correcting ambiguities, and providing clear guidance to the Commission, the Bureau, and the applicant, while protecting the applicant's due process and statutory rights.

PROPOSED ACTION:

A general change has been made in the proposal to replace the word "shall" with other words less subject to interpretation. Shall is a potentially ambiguous word. In most connotations it is used to convey an obligation. However, the word has been used in a variety of contexts to convey a range of ideas including "may," defining a term, meaning "should," compelling as "must," etc. In an effort to foreclose any such ambiguity, shall is replaced throughout the text with other words subject to less interpretation. These are non-substantive, clarifying changes to syntax within the meaning of Section 100(a)(4), Title 1 of California Code of Regulation (CCR).

CHAPTER 2.1. THIRD-PARTY PROVIDERS OF PROPOSITION PLAYER SERVICES: REGISTRATION; LICENSING.

ARTICLE 3. LICENSING.

Amend 12218.7. Processing Times - Request to Convert Registration to License.

Subsection (d) is amended to remove the requirement that an application be approved or denied within 120 days after the receipt of the final written recommendation of the Bureau. This requirement is replaced with a requirement that the Commission will act on the application, pursuant to Section 12054, within 120 days after receipt of the Bureau report. This amendment provides for two changes: (1) corrects the 120-day timeline to reflect the change in the Commission's approval and denial process that was implemented in a previous regulatory change (OAL File No. 2014-1013-02 S); and, (2) revises the language to use the defined term "Bureau report."

Change (1) is necessary to ensure that all application timelines are consistent. Prior to the change in the Commission's hearing procedures in 2014, the Commission would typically approve or purportedly deny an application within 120 days of receipt of a Bureau report. An applicant whose application may be or which ostensibly had been denied would then have the opportunity to request an evidentiary hearing, at which point any initial decision would be set aside and a new decision made at the conclusion of an evidentiary hearing. The 120-day timeline ensured that an application was promptly provided an initial review by the Commission, after which further processes could occur if requested or warranted before a final decision was made.

In 2014, the Commission changed the process. Now, the Commission will typically either approve an application, send the application to an evidentiary hearing, or take other actions provided for in Section 12054. This new process still includes prompt consideration by the Commission for action, as reflected by the 120-day timeline, but the specific terminology was altered. This amendment to the regulation keeps the timeline at 120 days while maintaining the requirement that the Commission promptly act on an application.

Change (2) is necessary to make the language consistent with other parts of the regulation but provides no substantive change to the provision. As part of the prior change to the regulations, the term "Bureau report" was defined to mean "a final determination… by the Chief of the Bureau regarding his or her recommendation to the Commission on any application…."[2] This amendment removes the general reference to the Bureau's recommendation and replaces it with the specific defined term.

CHAPTER 2.2. GAMBLING BUSINESSES: REGISTRATION; LICENSING.

ARTICLE 3. LICENSING.

Amend 12235. Processing Times - Request to Convert Registration to License.

Subsection (d) is amended to remove the requirement that an application be approved or denied within 120 days after the receipt of the final written recommendation of the Bureau. This requirement is replaced with a requirement that the Commission will act on the application, pursuant to Section 12054, within 120 days after receipt of the Bureau report. This amendment provides for two changes: (1) corrects the 120-day timeline to reflect the change in the Commission's approval and denial process that was implemented in a previous regulatory change (OAL File No. 2014-1013-02 S); and, (2) revises the language to use the defined term "Bureau report."

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[2] Title 4, CCR, Section 12002(f)
[3] Ibid

CHAPTER 6. GAMBLING LICENSES AND APPROVALS FOR GAMBLING ESTABLISHMENTS AND OWNERS; PORTABLE PERSONAL KEY EMPLOYEE LICENSES.

ARTICLE 2. GAMBLING LICENSES.

Amend 12342. Initial Gambling License Applications; Required Forms; Processing Times.
Subsection (d) is amended to remove the requirement that an application be approved or denied within 120 days after the receipt of the final written recommendation of the Bureau. This requirement is replaced with a requirement that the Commission will act on the application, pursuant to Section 12054, within 120 days after receipt of the Bureau report. This amendment provides for two changes: (1) corrects the 120-day timeline to reflect the change in the Commission's approval and denial process that was implemented in a previous regulatory change (OAL File No. 2014-1013-02 S); and, (2) revises the language to use the defined term "Bureau report."

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ARTICLE 3. PORTABLE PERSONAL KEY EMPLOYEE LICENSE.

Amend 12350. Initial Licenses; Required Forms; Processing Times.
Subsection (d) is amended to remove the requirement that an application be approved or denied within 120 days after the receipt of the final written recommendation of the Bureau. This requirement is replaced with a requirement that the Commission will act on the application, pursuant to Section 12054, within 120 days after receipt of the Bureau report. This amendment

[4] Ibid

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REQUIRED DETERMINATIONS:

LOCAL MANDATE:
A mandate is not imposed on local agencies or school districts.

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

BUSINESS IMPACT:
The Commission has made a determination that the 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. This determination is based on the following facts or evidence/documents/testimony:

[5] Ibid

This proposed action imposes no mandatory requirement on businesses. The regulation makes existing timelines consistent with other changes to the hearing process and makes no change to the costs associated with pursing a license.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

The proposed action does not mandate the use of specific technologies or equipment.

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. For this purpose, the consolidated small business definition provided in Government Code section 11346.3, subdivision (b), paragraph (4) was utilized.

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission's current practices and procedures. The proposed action provides a clear and consistent process to follow once a party has decided to submit an application for Commission consideration.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling.

WORKER SAFETY:

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

STATE'S ENVIRONMENT:

It has been determined that the proposed action will not affect the State's environment because it has nothing to do with environmental issues.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing clarity and consistency in the hearing process by more fully identifying the steps and requirements, correcting ambiguities, and providing clear guidance to the Commission, the Bureau, and the applicant, while protecting the applicant's due process and statutory rights.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulations would be more effective in carrying out the purpose for which the action is proposed, would be as effective as 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.

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.