

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
NOTICE OF PROPOSED REGULATORY ACTION
120-DAY TIMELINE
CGCC-GCA-2019-01-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

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 **June 10, 2019**. 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 midnight on June 11, 2019**. **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.**

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. 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 no later than 15 days prior to the close of the written comment period.

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, 19853(a)(3), 19876(a), and 19984, of the Business and Professions Code; and to implement, interpret or make specific sections 19841, 19850, 19851, 19852, 19853(a)(3), 19854, 19855, 19856, 19857, 19864, 19865, 19866, 19867, 19868, 19876(a), 19880, 19881, 19883, 19890, 19893, 19951, 19982, and 19984 of the Business and Professions Code, the Commission is proposing to adopt the following changes to Chapters 2.1, 2.2, 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 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.

EXISTING LAW:

Section 19825 of the Business and Professions Code² provides authority for the Commission to elect to utilize the administrative procedures act in place of a hearing or meeting of an adjudicative nature under the GCA.

Section 19870, subdivision (a) provides authority for holding evidentiary hearings, and states that “the Commission, after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.”

Section 19871, subdivision (a) provides authority for promulgating regulations pertaining to the evidentiary hearing process, and provides a list of items that must be part of the process by stating that “[t]he Commission meeting described in section 19870 shall be conducted in accordance with regulations of the Commission...”

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

² All statutory references hereinafter are to the Business and Professions Code, unless otherwise specified.

EFFECT OF REGULATORY ACTION:

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.

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.

SPECIFIC PROPOSAL:

This proposed action will make changes within Division 18 of Title 4 of the California Code of Regulations, as follows:

A general change has been made in the proposal to replace the word “shall” with other words less subject to interpretation.

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.”

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.”

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.”

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 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.”

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.

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 generally set forth in section 19841. As provided in subdivision (a) of section 19870, the Commission may approve or deny a license “... after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting...” As provided in subdivision (a) of section 19871, “the Commission meeting described in Section 19870 shall be conducted in accordance with regulations of the commission...” Those regulations that currently implement the Commission’s authority to establish hearing procedures are being amended in this proposal. The only equivalent process available to the Commission outside of its regulatory authority is provided in section 19825 which provides that “[t]he Commission may require that any matter

that the Commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial... of a license... be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

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:

There would be no fiscal impact on the Commission or to any state agencies, including costs or savings or costs/savings in Federal funding.

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.

EFFECT ON HOUSING COSTS: None.

IMPACT ON BUSINESS:

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:

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.

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 SMALL BUSINESS:

The Commission has determined that the proposed regulatory action will not affect small businesses because gambling enterprises, TPPPS and Gambling Businesses are not small businesses as defined in Government Code section 11342.610.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have any impact on the creation of new jobs or businesses, the elimination of existing jobs or businesses, or the expansion of businesses in California.

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 simply makes consistent the timelines related to the issuance of the Commission's decision.

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

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 primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, 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:

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislation and Regulatory Affairs Division
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

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:

Alex Hunter, Legislative and Regulatory Specialist
Legislation and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@cgcc.ca.gov

WEB SITE ACCESS

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