

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
CGCC-GCA-2021-02-E

FINDING OF EMERGENCY
REGULATIONS FOR
FINANCIAL REPORTING REQUIREMENTS AND TEMPORARY TABLE
DECREASES

The California Gambling Control Commission (Commission) finds it necessary to adopt regulations on an emergency basis to extend the deadline to submit an independent auditor or accountant's report of a cardroom business licensee or TPPPS business licensee's annual financial statements (as applicable). Because generally accepted auditing standards often necessitate audits be conducted in-person at the licensee's place of business to reduce audit risk, the adoption of emergency regulations is necessary for the immediate preservation of the public health, safety, and general welfare.

Additionally, the Commission finds it necessary to adopt regulations on an emergency basis that allow a cardroom business licensee to apply for a temporary reduction in permanent tables if the licensee is subject to a state of emergency or other order and that state of emergency or other order is associated with a virus and includes isolation, stay-at-home, telework, teleconferencing, or physical distancing order(s). Because gambling establishments (also known as cardrooms) must operate at reduced capacities while such orders are in place, the adoption of the regulations on an emergency basis is necessary to provide greater incentive to reduce the number of tables in a gambling establishment to an advisable amount that commensurate with the actual fees for the year to be paid. It also provides controlled gambling regulators a more precise idea of the size of operations of a cardroom during these unprecedented times while providing cardroom business licensees limited financial relief from paying fees for permanent tables that have been temporarily closed to the public for reasons related to public health and safety.

SECTION 48 STATEMENT

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

EMERGENCY FACTS

California is presently under a declared State of Emergency as part of the State's response to address the Coronavirus Disease 2019 (COVID-19) global outbreak. On March 19, 2020, Governor Newsom signed Executive Order (EO) N-33-20, issuing a stay-at-home order to protect the health and well-being of all Californians and to establish consistency across the State in order to slow the spread of COVID-19. As a result, since March 2020 California gambling establishments and other businesses that provide nonessential services to the public have been

required to cease nonessential operations and close their doors to the public multiple times. The California Department of Public Health (CDPH) Order, issued on July 13, 2020, required all gambling establishments to close indoor operations until further notice. A subsequent CDPH Order, issued on August 28, 2020, along with a new plan known as California's Blueprint for a Safer Economy provides operational restrictions on gambling establishments depending on the current Tier status assigned to the county within which the establishment is located (see [covid19.ca.gov/safer-economy/](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Safer-Economy.aspx) for Tier status of each county). Most recently, CDPH has implemented a Regional Stay at Home Order on December 3, 2020. The latest order requires a gambling establishment to close all operations (including outdoor operations) if they are located in one of the state's five specified regions (identified on [covid19.ca.gov](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Safer-Economy.aspx)) that is determined to have less than a 15 percent Intensive Care Unit (ICU) capacity available.

State of Emergency Proclamation

On March 4, 2020, a State of Emergency was declared in California in response to a global outbreak of respiratory illness due to a novel coronavirus known as COVID-19. The virus has rapidly spread to more than 75 countries including the United States within a short time. Various state and federal agencies have been working in collaboration to monitor and plan for the potential spread of COVID-19 to the United States since December 2019. In response to the outbreak, by early March 2020 the US Centers for Disease Control and Prevention (CDC) activated the Emergency Response System, CDPH activated the Medical and Health Coordination Center, and the California Office of Emergency Services activated the State Operations Center to provide support and guidance to health facilities and the public. As of March 4, 2020, there were 94,000 confirmed cases of COVID-19 and 3,000 deaths worldwide. At that time, 129 of the confirmed cases were in the US, including 53 in California, with infections expected to increase pending the availability of more testing. Based on how rapidly the virus had spread in other countries, the state of emergency proclamation found that the number of persons requiring medical care may exceed locally available resources and it is necessary for state and local health departments to use all available preventative measures to combat the spread of COVID-19. As of January 6, 2021, there have been 20,960,096 confirmed cases of Covid-19 and 356,005 deaths in the United States; 2,482,226 confirmed cases and 27,462 deaths within the State of California alone.

The state of emergency orders all state agencies to perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as CDPH and the Emergency Medical Services Authority. Additionally, all residents of the state have been ordered to follow the advisories of emergency officials in order to protect their safety. This state of emergency continues to remain in effect until further notice.

Executive Order N-33-20

On March 19, 2020, Governor Newsom signed Executive Order (EO) N-33-20 to protect the public health of Californians consistently across the state by disrupting the spread of COVID-19 and mitigating its impact. The EO remains in effect until further notice. The EO finds that COVID-19 has rapidly spread throughout California, necessitating more stringent guidance from federal, state, and local public health officials. The EO directs all residents immediately heed to CDPH's current State public health directives to stay home, except as needed to maintain continuity of operations of the federal essential critical infrastructure sectors and additional

sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

California Department of Public Health – Essential Critical Infrastructure Workers List

The State Public Health Officer released a list of designated “Essential Critical Infrastructure Workers” on March 22, 2020, and updated April 28, 2020, in an effort to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list identifies specific essential workers in the following essential critical infrastructure sectors:

- Healthcare / Public Health Sector
- Emergency Services Sector
- Food and Agriculture Sector
- Energy Sector
- Water and Wastewater Sector
- Transportation and Logistics Sector
- Communications and Information Technology Sector
- Government Operations and Other Community-Based Essential Functions
- Critical Manufacturing Sector
- Financial Services Sector
- Chemical Sector
- Defense Industrial Base Sector
- Industrial, Commercial, Residential and Sheltering Facilities and Services

Gambling enterprise and TPPPS employees are not identified as essential workers under any of the critical infrastructure sectors.

California’s Six Indicators to be Used for Modifying Stay-at-Home and Other Orders During a Pandemic

On April 14, 2020, Governor Newsom unveiled the following six key indicators that will guide California’s thinking for when and how to modify the stay-at-home and other orders during the COVID-19 pandemic:

1. The ability to monitor and protect our communities through testing, contact tracing, isolating, and supporting those who are positive or exposed.
2. The ability to prevent infection in people who are at risk for more severe COVID-19.
3. The ability of the hospital and health systems to handle surges.
4. The ability to develop therapeutics to meet the demand.
5. The ability for businesses, schools, and childcare facilities to support physical distancing.
6. The ability to determine when to reinstitute certain measures, such as the stay-at-home orders, if necessary.

Specifically, indicator number five above requires the ability for businesses to support physical distancing and other protocols, which are relevant to the Commission’s proposed emergency regulations. The key question that must be considered under this indicator are:

- Have we worked with businesses to support physical distancing practices when employees perform their necessary work functions?

Update on California's Roadmap to Pandemic Resilience – Four Stages

While California remains under a state of emergency, on April 28, 2020, Governor Newsom announced four Resilience Roadmap Stages in an update on California's Roadmap to Pandemic Resilience, which discusses how the state is planning its path forward in phases based on science, health, and data. The four stages that California will use to guide its gradual reopening process are:

- Stage 1: Safety and Preparedness – making essential workforce environment as safe as possible.
- Stage 2: Lower Risk Workplaces – creating opportunities for lower risk sectors to adapt and reopen. Modified school programs and childcare reopen.
- Stage 3: Higher Risk Workplaces – creating opportunities for higher risk sectors to adapt and reopen.
- Stage 4: End of Stay at Home Order – return to expanded workforce in highest risk workplaces. Requires Therapeutics.

Cardrooms are included in Stage 3, and are designated as “higher risk workplaces”.

Executive Order N-60-20

On May 4, 2020, EO N-60-20 informed local health jurisdictions and industry sectors that they may gradually reopen sectors under Stage 2, and eventually Stage 3, of *California's Roadmap to Pandemic Resilience* under specific criteria and procedures outlined by the State Public Officer.

COVID-19 INDUSTRY GUIDANCE AND SUBSEQUENT CLOSURE ORDERS: Cardrooms, Satellite Wagering Facilities, and Racetracks

On June 5, 2020, Governor Newsom released a document that provides guidance for cardrooms (formally known as gambling establishments), satellite wagering facilities, and racetracks with onsite wagering to support a safe, clean environment for workers. This document also provides guidance for TPPPS businesses that operate within a gambling establishment, where applicable. The guidelines recommended effective date of opening for cardrooms that had approved county variances to be no sooner than June 12, 2020. Updated versions of the publication have been subsequently released on July 2, 2020 and July 28, 2020.

On July 1, 2020, Governor Newsom and CDPH released guidance directing counties that have been on the County Monitoring List for three consecutive days or more to close indoor operations for certain sectors which promote the mixing of populations beyond households and make adherence to physical distancing and wearing face coverings difficult. The directive includes the closing of cardrooms within the specified counties. On July 1, the following 19 counties were impacted: Contra Costa; Fresno; Glenn; Imperial; Kern; Kings; Los Angeles; Merced; Orange; Riverside; Sacramento; San Bernardino; San Joaquin; Santa Barbara; Santa Clara; Solano; Stanislaus; Tulare; and Ventura. On July 7, 2020 and July 8, 2020, additional counties were added, totaling 27 counties.

On July 13, 2020, Governor Newsom and CDPH released a Public Health Order closing all indoor operations for specific sectors statewide, including all gambling establishments. In addition, the Public Health Order required all cardrooms and TPPPS operations to comply with the existing guidance, which was subsequently updated on July 28, 2020.

On August 28, 2020, Governor Newsom and CDPH released a Public Health Order along with California’s Blueprint for a Safer Economy—a new framework that further refines the state’s approach to gradually reopening various business sectors. The Blueprint makes a number of changes to the state’s previous Resilience Roadmap and builds on lessons learned from the first six months of the disease. The Blueprint utilizes a targeted system, which considers both current epidemiological conditions and the latest understanding of transmission risk in certain sectors. Each county falls into one of four colored tiers – Purple (Widespread), Red (Substantial), Orange (Moderate) and Yellow (Minimal) – based on how prevalent COVID-19 is in each county and the extent of community spread. The new framework imposes risk-based criteria on tightening and loosening COVID-19 allowable activities and expands the length of time between changes to assess how any movement affects the trajectory of the disease.

On December 3, 2020, Governor Newsom and CDPH implemented a Regional Stay at Home Order. The new order is a modification of the state’s initial Stay at Home Order signed in March and builds on the Blueprint for a Safer Economy. The state is divided into five regions: Northern California, Bay Area, Greater Sacramento, San Joaquin Valley and Southern California. CDPH evaluates the adult ICU bed capacity for each region (identified on [covid19.ca.gov](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/RegionalStayatHomeOrder.aspx)). The Regional Stay at Home Order is triggered when ICU capacity drops below 15 percent in a given region. When that capacity is less than 15 percent, gambling establishments must close all operations. Counties will return to the Blueprint for a Safer Economy tier determined by their case rate and test positivity after they are eligible to exit the Regional Stay at Home Order.

These emergency regulations seek to support Commission regulations and safeguards in ensuring necessary financial reporting functions required of licensees continue while mitigating the risks of spreading the disease during a pandemic through in-person financial audits. Additionally, the regulations provide financial relief to cardroom business licensees by allowing for a temporary reduction in permanent gaming tables while also providing a greater understanding to regulators of the current activity within the controlled gambling industry for each gambling establishment. This will reduce a licensee’s financial burden in paying table fees for those tables that are not currently in operation due to reduced capacity restrictions imposed by the state.

United States Centers for Disease Control and Prevention and the Occupational Safety and Health Administration

CDC is responding to this pandemic of respiratory disease spreading from person to person caused by COVID-19. According to CDC, the situation poses a serious public health risk. COVID-19 can cause mild to severe illness with the most severe illness occurring in adults 65 years of age and older and people of any age with serious underlying medical problems.

According to CDC, the disease is thought to be spread in the following ways:

- Person-to-Person:
 - How easily a virus spreads from person to person can vary. The virus that causes COVID-19 appears to spread more efficiently than influenza but not as efficiently as measles, which is among the most contagious viruses known to affect people.
- During Close Contact (most common):

- People who are physically near (within 6 feet) a person with COVID-19 or have direct contact with that person are at greatest risk of infection.
- When people with COVID-19 cough, sneeze, sing, talk, or breathe they produce respiratory droplets. These droplets can range in size from larger droplets (some of which are visible) to smaller droplets. Small droplets can also form particles when they dry very quickly in the airstream.
- Infections occur mainly through exposure to respiratory droplets when a person is in close contact with someone who has COVID-19.
- Respiratory droplets cause infection when they are inhaled or deposited on mucous membranes, such as those that line the inside of the nose and mouth.
- As the respiratory droplets travel further from the person with COVID-19, the concentration of these droplets decreases. Larger droplets fall out of the air due to gravity. Smaller droplets and particles spread apart in the air.
- With passing time, the amount of infectious virus in respiratory droplets also decreases.
- Airborne Transmission:
 - Some infections can be spread by exposure to virus in small droplets and particles that can linger in the air for minutes to hours. These viruses may be able to infect people who are further than 6 feet away from the person who is infected or after that person has left the space.
 - This kind of spread is referred to as airborne transmission and is an important way that infections like tuberculosis, measles, and chicken pox are spread.
 - There is evidence that under certain conditions, people with COVID-19 seem to have infected others who were more than 6 feet away. These transmissions occurred within enclosed spaces that had inadequate ventilation. Sometimes the infected person was breathing heavily, for example while singing or exercising.
 - Under these circumstances, scientists believe that the amount of infectious smaller droplet and particles produced by the people with COVID-19 became concentrated enough to spread the virus to other people. The people who were infected were in the same space during the same time or shortly after the person with COVID-19 had left.
 - Available data indicate that it is much more common for the virus that causes COVID-19 to spread through close contact with a person who has COVID-19 than through airborne transmission.
- Contact with Contaminated Surfaces (less common):
 - Respiratory droplets can also land on surfaces and objects. It is possible that a person could get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or eyes.
 - Spread from touching surfaces is not thought to be a common way that COVID-19 spreads.

CDC advises that maintaining good physical distance (about six feet) is very important in preventing the spread of COVID-19. People should cover their nose and mouth with a face covering when around others, wash their hands often with soap and water or use hand sanitizer that contains at least 60% alcohol (if soap and water is unavailable), avoid crowded indoor spaces, and stay home and isolate from others when sick. Also, frequently touched surfaces

should be routinely cleaned and indoor spaces should be properly ventilated by bringing in outdoor air as much as possible.

CDC has provided guidance on its website for businesses and employers to plan and respond to COVID-19 and recommends following guidelines published by the United States Occupational Safety and Health Administration (OSHA). OSHA has developed the document *OSHA 3990-03 2020, Guidance for Preparing Workplaces for COVID-19*, which is based on traditional infection prevention and industrial hygiene practices. The document focuses on the need for employers to implement engineering, administrative, and work practice controls and personal protective equipment (PPE), as well as considerations for doing so.

The proposed emergency regulations promote public health and safety by aligning with the publications and guidance aforementioned and by creating financial audit safeguards and protections to minimize in-person contact during a viral pandemic. Because generally accepted auditing standards often necessitate audits be conducted on-site at the licensee's place of business, it is necessary to adopt regulations to extend the deadline for submitting audited annual financial reports so that such audits are delayed until specified public health orders are lifted and the spread of a virus is under better control. Accordingly, the Commission has utilized the aforementioned information and directives in developing these regulations. The documents have been incorporated into the emergency rulemaking file and the relevant information therein is also discussed in the Informative Digest section below.

In addition, gambling establishments subject to public health orders are operating at reduced capacities, if at all. The proposed regulations provide financial relief to cardrooms by allowing licensees to apply for a temporary reduction in the number of tables operating on a permanent basis while the licensee is subject to a state of emergency or other order associated with a virus (as specified). Upon application approval, a licensee would not be required to pay table fees on the number of tables scheduled to be temporarily removed from operation.

AUTHORITY AND REFERENCE

Statutes of Authority

Business and Professions (B&P) Code section 19811 provides the Commission jurisdiction over the operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operations of gambling establishments.

B&P Code section 19823 provides the responsibilities of the Commission include, without limitation, all of the following:

- Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.
- Assuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.
- For the purposes of this section, “unqualified person” means a person who is found to be unqualified pursuant to the criteria set forth in Section 19857, and “disqualified person”

means a person who is found to be disqualified pursuant to the criteria set forth in Section 19859.

B&P Code section 19824 provides the Commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of the Gambling Control Act (Act), including, without limitation, the power to:

- Require any person to apply for a license, permit, registration, or approval as specified in the Act, or regulations adopted pursuant to Act.
- For any cause deemed reasonable by the Commission via the Act or regulations adopted pursuant to the Act, deny, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved.
- Approve or disapprove transactions, events, and processes as provided in the Act.
- Take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.
- Grant temporary licenses, permits, or approvals on appropriate terms and conditions.

B&P Code section 19826 provides the Department of Justice, Bureau of Gambling Control (Bureau) shall perform all investigatory functions required by the Act and shall have the following responsibilities:

- To receive and process applications for any license, permit, or other approval, and to collect all related fees. The Bureau shall investigate the qualifications of applicants before any license, permit, or other approval is issued, and investigate any request to the Commission for any approval that may be required pursuant to the Act. The Bureau may recommend the denial or the limitation, conditioning, or restriction of any license, permit, or other approval.
- To monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by, and that there is no direct or indirect material involvement with, a gambling operation or holding company by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

B&P Code section 19840 authorizes the Commission to adopt regulations for the administration and enforcement of the Act. Additionally, the provision requires that, to the extent appropriate, regulations of the Commission and Bureau shall take into consideration the operational differences of large and small establishments.

B&P Code section 19841 requires the Commission to adopt regulations that do the following:

- With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:
 - Prescribe the method and manner of application and registration.
 - Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

- Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.
- Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.
- Prescribe the manner and method of collection and payment of fees and issuance of licenses.
- Implement the provisions of this chapter relating to licensing and other approvals.
- Require owner licensees to report and keep records of transactions, including transactions as determined by the Bureau, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the Bureau reports similar to those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.
- Govern all of the following:
 - The extension of credit.
 - The cashing, deposit, and redemption of checks or other negotiable instruments.
 - The verification of identification in monetary transactions.
- Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:
 - The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.
 - Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.
 - The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the Bureau.
- Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, "internal audit" means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).
- Require periodic financial reports from each owner licensee.
- Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.
- Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.
- Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the Bureau.
- Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the Bureau's authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

- Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of the Act.
- Define and limit the area, games, hours of operation, number of tables, wagering limits, and equipment permitted, or the method of operation of games and equipment, if the Commission, upon the recommendation of, or in consultation with, the Bureau 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.

B&P Code section 19984 provides, notwithstanding any other law, a licensed gambling enterprise may contract with a third party for the purpose of providing proposition player services at a gambling establishment, subject to the following conditions:

- The Commission shall establish reasonable criteria for, and require the licensure and registration of, any person or entity that provides proposition player services at gambling establishments pursuant to this section, including owners, supervisors, and players. The Commission may impose licensing requirements, disclosures, approvals, conditions, or limitations as it deems necessary to protect the integrity of controlled gambling in this state, and may assess, and the Bureau may collect, reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight.
- The Bureau, pursuant to regulations of the Commission, is empowered to perform background checks, financial audits, and other investigatory services as needed to assist the Commission in regulating third-party providers of proposition player services, and may assess and collect reasonable fees and deposits as necessary to defray the costs of providing this regulation and oversight. The Bureau may adopt emergency regulations in order to implement this subdivision.

Reference Statutes

B&P Code section 19801 provides legislative findings and declarations that state the following:

- Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is conducted in suitable locations.
- All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.
- In order to effectuate state policy as declared in the Act, it is necessary that gambling establishments, activities, and equipment be licensed, that persons participating in those activities be licensed or registered, that certain transactions, events, and processes involving gambling establishments and owners of gambling establishments be subject to prior approval or permission, that unsuitable persons not be permitted to associate with gambling activities or gambling establishments, and that gambling activities take place only in suitable locations. Any license or permit issued, or other approval granted pursuant to the Act, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.
- Records and reports of cash and credit transactions involving gambling establishments may have a high degree of usefulness in criminal and regulatory investigations and,

therefore, licensed gambling operators may be required to keep records and make reports concerning significant cash and credit transactions.

B&P Code section 19841 (see *Statutes of Authority* section above)

B&P Code section 19857 provides no gambling license shall be issued unless, based on all of the information and documents submitted, the Commission is satisfied that the applicant is all of the following:

- A person of good character, honesty, and integrity.
- A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.
- A person that is in all other respects qualified to be licensed as provided in the Act.

B&P Code section 19951 provides the holder of a provisional licensee shall pay an annual fee based on the number of tables as follows:

- For a license authorizing one to five tables, inclusive, at which games are played, \$300 for each table.
- For a license authorizing six to eight tables, inclusive, at which games are played, \$550 for each table.
- For a license authorizing 9 to 14 tables, inclusive, at which games are played, \$1,300 for each table.
- For a license authorizing 15 to 25 tables, inclusive, at which games are played, \$2,700 for each table.
- For a license authorizing 26 to 70 tables, inclusive, at which games are played, \$4,000 for each table.
- For a license authorizing 71 or more tables at which games are played, \$4,700 for each table.

Additionally, Section 19951 provides without regard to the number of tables at which games may be played pursuant to a gambling license, if, at any time of any license renewal, or when a licensee is required to pay the fee described in subparagraph (C) of paragraph (2) of subdivision (b) it is determined that the gross revenues of an owner licensee during the licensee's previous fiscal year fell within the following ranges, the annual fee shall be as follows:

- For a gross revenue of \$200,000 to \$499,999, inclusive, the amount specified by the Bureau pursuant to paragraph (2) of subdivision (c).
- For a gross revenue of \$500,000 to \$1,999,999, inclusive, the amount specified by the Bureau pursuant to paragraph (3) of subdivision (c).
- For a gross revenue of \$2,000,000 to \$9,999,999, inclusive, the amount specified by the Bureau pursuant to paragraph (4) of subdivision (c).
- For a gross revenue of \$10,000,000 to \$29,999,999, inclusive the amount specified by the Bureau pursuant to paragraph (5) of subdivision (c).

- For a gross revenue of \$30,000,000 or more, the amount specified by the Bureau pursuant to paragraph (6) of subdivision (c).
- The Bureau may provide for payment of the annual gambling license fee on an annual or installment basis.
- For the purposes of this section, each table at which a game is played constitutes a single game table.
- It is the intent of the Legislature that the fees paid pursuant to this section are sufficient to enable the Bureau and the Commission to fully carry out their duties and responsibilities under this chapter.

B&P Code section 19984 (see *Statutes of Authority* section above)

POLICY STATEMENT OVERVIEW

Since March of 2020, gambling establishments in California have been subject to recurrent state and locally mandated closures due to health and safety risks resulting from the COVID-19 pandemic. Further, during periods of being allowed to remain open to the public, such establishments have been required to operate at reduced capacities pursuant to directives from the Governor, CDPH, and the State Public Health Officer. As a result, gambling establishments have endured significant financial hardship.

The Act requires that all gambling establishments in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The Act also provides the Commission jurisdiction over the operation and concentration, and supervision over gambling establishments and over all persons or things having to do with the operations of gambling establishments.

Commission regulations require certain cardroom business licensees and TPPPS business licensees to submit annual financial statements with an independent auditor or accountant's report no later than 120 calendar days following the end of the fiscal year covered by the financial statements. The cardroom business licensees and TPPPS business licensee submittal requirements are outlined in Section 12313 of the California Code of Regulations Title 4, Division 18, Chapter 5, Article 1. Generally accepted audit standards necessitate audits be conducted on-site, which presents a risk to public health during the current viral pandemic. To align with state directives, it is necessary for the Commission to adopt regulations on an emergency basis that extend the period a licensee is required to submit the auditor or accountant's report to the Bureau and Commission. The additional time will allow on-site audits to be conducted during periods when it is safe to do so while still requiring licensees to submit their annual financial statements to the Bureau and Commission in accordance with the existing 120-calendar day deadline.

Additionally, the Act requires cardroom business licensees to pay table fees annually based on the number of gaming tables it is licensed to operate and revenues as specified. Commission regulations provide licensees the ability to apply for a reduction in the number of tables operating on a permanent basis. However, the regulations do not contemplate the ability for a licensee to apply for a temporary reduction in permanent tables when the licensee is mandated to operate at a reduced capacity or close entirely pursuant to a state of emergency or other order

that is associated with a virus and includes an isolation, stay-at-home, telework, teleconferencing, or physical distancing order(s). Currently, these licensees must continue to pay annual table fees despite not being able to operate at full capacity, if at all. As such, the Commission finds it necessary to adopt regulations on an emergency basis that provide a process by which a cardroom business licensee can apply to have a temporary reduction in permanent tables. Providing this ability ensures licensees are not further financially burdened in paying fees for permanent tables they do not intend or have the ability to operate until state health orders are lifted.

Pursuant to its authority in B&P Code sections 19811, 19823, 19824, 19826, 19840, 19841 and 19984, the Commission finds that as a result of these unprecedented times, the adoption of the aforementioned regulations on an emergency basis is necessary to avoid serious health hazards and financial hardship and for the immediate preservation of the public health, safety, and general welfare.

INFORMATIVE DIGEST

Extending Deadlines for Required Annual Financial Statement Reports (as applicable)

Section 12313(c) is proposed for amendment to extend the period a cardroom business licensee or TPPPS business licensee has to submit copies of an independent auditor or accountant's report from 120 calendar days to 270 calendar days following the end of the fiscal year covered by the licensee's annual financial statements.

Existing Commission regulations require Group I licensees to engage an independent accountant licensed by the California Board of Accountancy (CBA) to audit the Group I licensees' annual financial statements in accordance with generally accepted auditing standards. Existing regulations also require Group II licensees to engage an independent accountant licensed by CBA to, at a minimum, review the Group II licensee's annual financial statements in accordance with standards for accounting and review services or with currently applicable professional accounting standards. Additionally, the Bureau may require a Group II, III, or IV licensee to engage an independent accountant licensed by CBA to compile or review the licensee's financial statements in accordance with standards for accounting and review services, or to audit the financial statements in accordance with generally accepted auditing standards, if there are concerns about the licensee's operation or financial reporting (as specified).

Such financial statement audits involve on-site fieldwork revolving around documentation gathering, interviews and observations. On-site fieldwork has always been a major component in reducing audit risk, providing the evidence in rendering an audit opinion, and making any necessary disclosures. For example, it is standard practice for auditors to conduct chip counts and evaluate cages, count rooms (etc.) within a gambling establishment as part of the audit evidence gathering process to reduce audit risk. However, as previously discussed, the CDC has identified COVID-19 as a disease that can spread between people who are in close contact with one another through respiratory droplets produced when an infected person coughs or sneezes or by coming in contact with contaminated surfaces or objects. People who are physically near (within six feet) a person with COVID-19 or have direct contact with that person are at greatest risk of infection. This is problematic because many gambling establishments in California have small-

enclosed spaces that need to be accessed by the person performing the audit (e.g., count rooms, cages, etc.), which provides limited opportunities to allow adequate physical distancing measures to be undertaken, moreover there are routine practices such as chip counts of the gambling establishments entire chip inventory which also increase risks of exposure by contact and airborne contaminants. When this sort of contact is unavoidable, it creates a serious risk to the health and safety of those who conduct the on-site audit, cardroom or TPPPS personnel the auditor comes within close contact, and patrons who touch chips, cards, common surface areas, and access common areas within the gambling establishment.

The adoption of emergency regulations is necessary to address the aforementioned limitation if alternative methods to an on-site audit are not available or practical when a state of emergency or other order is associated with a virus and requires physical distancing. These proposed regulations are necessary to implement requirements and recommendations provided by CDC, OSHA, CDPH and the Governor in mitigating the spread of COVID-19 and to protect the health, safety, and welfare of the public. In order to protect both employees and the public, it is necessary to allow gambling enterprises to engage in business practices that are consistent with Federal and State guidelines. Providing additional time to submit a required report concerning annual financial statements will allow in-person audits to be conducted once at a time wherein the risk is mitigated (e.g. when the rate of infection is lower and more ICU beds are available) while still requiring licensees to submit their annual financial statements to the Bureau and Commission in accordance with the existing 120-calendar day deadline. The regulations will help protect the health and safety of licensees, employees, and auditors while maintaining compliance with Commission requirements.

Allowing a Temporary Reduction in Permanent Tables

Sections 12470, 12472, and 12474 contain nonsubstantive updates to reference a revised version of an existing form entitled Cardroom Business License: Gaming Tables, CGCC-CH7-07. This form is being proposed for amendment to allow a cardroom business licensee to apply for a temporary reduction in the number of gaming tables operating on a permanent basis, which is discussed in further detail below.

New Section 12474.1 is proposed to be added. The proposed regulations provide that a cardroom business licensee may apply for a temporary reduction in permanent tables if the licensee is subject to a state of emergency or other order and that state of emergency or other order is associated with a virus and includes an isolation, stay-at-home, telework, teleconferencing, or physical distancing order(s). As part of the application process, the provision requires the licensee to submit a completed and signed application using the form entitled Gambling Establishment: Gaming Tables, CGCC-CH7-07 (Rev. 02/21), which has been incorporated as Appendix A in the proposed regulation text. Using this form, the applicant may request for a reduction in tables for up to 270 days, until the end of the declared state of emergency, or until notification from the cardroom business licensee to the Bureau and Commission that the licensee elects to return to licensure of all permanent tables, whichever occurs first. The request for a temporary reduction is to be effective upon submittal and any decrease in permanent tables does not provide for any refund of fees already paid, unless specified. The proposed regulations also require the Bureau to notify the Commission in writing within five calendar days of the receipt of the application and specify that a new cardroom business license will be issued to the licensee

within three calendar days of notification from the Bureau. Further, once the temporary reduction in permanent tables expires pursuant to any of the qualifying events in section 12474.1(a)(2), the Commission is required to notify the applicant of the required annual fees due within three calendar days. The applicant must then pay the required annual table fees due within 10 calendar days of when the additional tables were placed back into operation in accordance with the adjusted fee calculations specified in subsection (f). The fee schedule determines the appropriate amount of fees owed by the licensee based on the time period the temporarily reduced permanent table(s) were allowed to operate for that given year.

The proposed regulations are necessary due to the unique and unprecedented circumstances that have occurred as a result of the COVID-19 pandemic. Since the current state of emergency was declared on March 4, 2020, gambling establishments in California have been required to cease all nonessential operations and close their doors to the public multiple times. Even during periods when gambling establishments have been allowed to remain open, state and locally mandated orders have imposed restrictions such as requiring these establishments to operate at reduced capacities and follow strict social distancing protocols. As a result, cardroom business licensees have been enduring significant financial hardships due to a substantial decline in business yet, pursuant to existing law and regulations, must continue paying annual table fees based on the total number of permanent tables the license is authorize to operate (not the number of tables actually in operation). As such, these regulations are being proposed on an emergency basis in order to protect the financial welfare of the cardroom industry. The regulations establish a formal documented process for these licensees to temporarily reduce the number of permanent tables in operation; in turn, providing some much-needed financial relief with the greatest amount of equity possible. The proposed regulations contain requirements concerning time-sensitive deadlines, fee adjustments, and qualifying events for the licensee, Bureau, and Commission, which are necessary to ensure promptness, efficiency, fairness, and accountability for all parties involved.

FISCAL IMPACT ESTIMATES:

MANDATE IMPOSED ON 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 STATE OR LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:
None.

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE: The Commission has determined that this regulatory proposal may have a significant fiscal impact on state agencies.

DOCUMENTS RELIED UPON:

State of California – Office of Governor Gavin Newsom

State of Emergency Proclamation – March 4, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>

Executive Order N-33-20 – March 19, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>

California’s Roadmap to Modify the Stay-at-Home Order – Six Critical Indicators – April 14, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/04/California-Roadmap-to-Modify-the-Stay-at-Home-Order.pdf>

Update on California’s Pandemic Roadmap – Four Resilience Roadmap Stages – April 28, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/04/Update-on-California-Pandemic-Roadmap.pdf>

COVID-19 INDUSTRY GUIDANCE: Cardrooms, Satellite Wagering Facilities, and Racetracks – Initially Published on June 5, 2020 and Updated on July 2, 2020 and July 28, 2020

<https://covid19.ca.gov/pdf/guidance-cardrooms-racetracks.pdf>

California Department of Public Health – State Public Health Officer

Essential Critical Infrastructure Workers List – Released March 28, 2020; Updated April 28, 2020

<https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>

California’s Blueprint for a Safer Economy (as of January 5, 2021) – Released August 28, 2020

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/COVID19CountyMonitoringOverview.aspx>

Statewide Public Health Officer Order – August 28, 2020

https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/8-28-20_Order-Plan-Reducing-COVID19-Adjusting-Permitted-Sectors-Signed.pdf

Regional Stay at Home Order – December 3, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/12/12.3.20-Stay-at-Home-Order-ICU-Scenario.pdf>

United States Centers for Disease Control and Prevention

How COVID-19 Spreads – Updated October 28, 2020

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html#>

Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19) – Updated January 4, 2021

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

Prepare Your Small Business and Employees for the Effects of COVID-19 – October 2, 2020

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-small-business.pdf>

United States Occupational Safety and Health Administration

OSHA 3990-03 2020, Guidance for Preparing Workplaces for COVID-19
<https://www.osha.gov/Publications/OSHA3990.pdf>

Lancet Microbe 2020 Study

Stability of SARS-CoV-2 in Different Environmental Conditions

Supplementary Appendix to: Chin A W H, Chu J T S, Perera M R A, et al. Stability of SARS-CoV-2 in different environmental conditions. *Lancet Microbe* 2020; published April 2, 2020.