

**TITLE 4.**  
**CALIFORNIA GAMBLING CONTROL COMMISSION**  
**NOTICE OF PROPOSED REGULATORY ACTION**  
**Incident Reporting**  
**CGCC-GCA-2022-04-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. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on November 1, 2022. 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.** 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.

**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 19801(g), 19826(b), 19840, 19841, 19857, 19924, and 19984 of the Business and Professions Code; and to implement, interpret or make specific sections 19826, 19841, 19857, 19920, 19922, 19924, and 19984 of the Business and Professions Code, the Commission is proposing to adopt the following changes to Chapter 1 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 proposing regulations that would modify the Commission's incident reporting requirements. These regulations would implement various aspects of the Gambling Control Act (Act)<sup>1</sup> and provide guidance to the procedures required to submit incident reports. The proposed regulations would apply the requirements to both cardroom business licensees and third-party providers of proposition player services (TPPPS) business licensees.

### **EXISTING LAW:**

Business and Professions Code section 19801, subdivision (g), provides that the California Legislature finds that the public trust that gambling will not endanger the public health, safety, or welfare requires comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements.

Business and Professions Code section 19826, in pertinent part, assigns the Bureau with the responsibility to investigate suspected violations of the Act; to investigate complaints against licensees; to initiate appropriate disciplinary actions; and, to approve the play of any controlled game, as specified.

Business and Professions Code section 19857 provides that no gambling license will be issued unless the Commission is satisfied that an applicant is a person of good character, honesty, and integrity, does not have a background that includes any prior activities, criminal record, reputation, habits, or associates that pose a threat to the effective regulation of controlled gambling, and that a person in all other respects is qualified to be licensed.

Business and Professions Code sections 19840, and 19841 provide the authority and ability for the Commission to promulgate regulations regarding the application process within the controlled gambling industry.

Business and Professions Code section 19920 provides that it is the policy of the State of California that all locations where gambling is conducted is operated in a manner suitable to protect the public health, safety, and general welfare, and that it is the responsibility of operator

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<sup>1</sup> Business and Professions Code, Division 8, Chapter 5, Section 19800, *et seq.*

to employ and maintain of suitable methods of operation and that failure to do so will constitute grounds for disciplinary action.

Business and Professions Code section 19922 provides that an operator in must operate in a manner consistent with the Act and those regulations adopted under the Act.

Business and Professions Code section 19924 requires operators to maintain security controls over the gambling premises and all operators conducted within, and that those controls are subject to the approval of the Commission.

Business and Professions Code section 19984 provides the Commission the authority to provide regulations to provide for the licensure of TPPPS, and provides the Department of Justice the authority to conduct background checks, financial audits, and other investigatory services as necessary to assist the Commission in regulating TPPPS.

**EFFECT OF REGULATORY ACTION:**

This proposed action is drafted to streamline the incident reporting requirements and to effectively identify the types of violations that should be reported. This regulation provides clear direction to cardroom business licensees and TPPPS business licensees by adopting specific requirements for submitting reports.

**ANTICIPATED BENEFITS OF PROPOSED REGULATION:**

These proposed regulations have the benefit of providing specific procedures that must be followed when filing an incident report. These revised procedures will provide employees of a cardroom business licensee with an understanding of what types of violations must be reported without requiring them to make legal judgements that are best left to law enforcement officials. By ensuring the Bureau is able to receive the required information, the Bureau's role in monitoring compliance and protecting the public welfare can be more effective.

**SPECIFIC PROPOSAL:**

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

CHAPTER 3. CONDITIONS OF OPERATIONS TPPPS BUSINESSES

ARTICLE 1. SECURITY AND USE OF PLAYER'S BANKS

**Adopt Section 12282. Incident Reports.**

Section 12282 provides incident reporting requirements for TPPPS business licensees. The reporting of incident reports by TPPPS business licensees utilizes the same form as cardroom business licensees, the Incident Report Form.

Subsection (a) provides that a TPPPS business licensee must submit an incident report after obtaining evidence that a reasonably suspected incident, as specified, occurred within any space owned, managed, controlled, or rented by the TPPPS business license and involves a TPPPS

category licensee, non-licensed employee, or a subcontractor or independent contractor hired by the TPPPS business licensee. The notification requirement is limited to incidents for which a cardroom is not required to submit an incident report and to just those employees, subcontractors, or independent contractors whose duties are directly related to the underlying business purposes or required administrative processes of the TPPPS business licensee. The specific incidents requiring reporting are the same as required by cardroom business licensees, pursuant to Section 12395(a)(3). Unlike the requirements provided in Section 12395, Section 12282 contains limitations to a TPPPS business licensee's requirement to report an incident:

Subsection (b) provides that a TPPPS business licensee must submit an incident report when any of its employees or owners have a local city, county, or city and county license, permit, or authorization to work in a gambling establishment approved with conditions, denied, suspended, or revoked.

Subsection (c) provides that a TPPPS business licensee must submit an incident report if any of its associated TPPPS endorsee licensees or TPPPS employee type licensees are arrested.

#### CHAPTER 7. CONDITIONS OF OPERATIONS FOR GAMBLING ESTABLISHMENTS

#### ARTICLE 3. MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR CARDROOM BUSINESS LICENSEES

#### **Amend Section 12395. Security.**

Subsection (a) provides the minimum security standards that must be included in the gambling enterprise's policies and procedures.

- Paragraph (1) provides that access to restricted areas of the gambling establishment, including cages, count rooms, and security offices is limited to authorized personnel.
  - Subparagraph (A) is amended to provide clarity to the access of non-public areas of the gambling establishment. The areas covered by this provision are limited to those with access to currency or unsecured gambling equipment, other than gaming tables. These areas, as provided, include but are not limited to cages, count rooms, vaults, and security offices.

A new category of persons has been added to those allowed access to non-public spaces. Specifically, these are individuals who have been historically excluded from the term "authorized personnel." These "other persons" will be allowed access to these non-public spaces only if escorted and observed at all times by an authorized cardroom employee (cardroom category licensee or holder of a local work permit) either in person or observed through a continuous live surveillance system.

- Subparagraph (B) is added to create a separate category of rooms for the media storage for the surveillance system. This type of space had previously followed the same rules as the other non-public spaces; however, its separation is necessary

to acknowledge the unique security concerns of these spaces. If the media storage space does not include any currency or unsecured gambling equipment, access is limited to authorized cardroom employees or other persons if escorted and observed at all times by an authorized cardroom employee, like the other spaces, or if observed or reviewed by a cardroom employee using a continuous surveillance system.

- Subparagraph (C) is added to clarify that this does not interfere with the third-party proposition contract regulations.
- Paragraph (3) provides that cardroom business licensees must file an incident report with the Bureau’s Criminal Intelligence Unit within five business days of specific events occurring. Paragraph (3) is amended to require cardroom business licensees to submit the form “Incident Report Form.”

Paragraph (3) is further amended to require incident reports for violations occurring “within the gambling establishment or in any adjacent spaces owned, managed, controlled, rented, or utilized by the cardroom business licensee for or in connection with the gambling operation.” Additionally, incidents in locations within the gambling establishment or adjacent spaces owned, managed, or rented by the cardroom but are solely utilized by a TPPPS business licensee under the terms of a TPPPS contract need not be reported by the cardroom business licensee.

- Subparagraph (A) of paragraph (3) provides a list of areas of violation that must be reported; including, violations of the Gambling Control Act, the Commission and Bureau’s regulations, and specified provisions of the Civil Code, Health and Safety Code, and Penal Code. Subparagraph (A) has been amended and expanded to subparagraphs (A) through (K).
- Existing subparagraph (B) of paragraph (3) provides an additional reporting standard of an owner or key employee obtaining knowledge or notice of any reasonably suspected violation of the provisions identified in subparagraph (A). Subparagraph (B) is repealed.
- Existing paragraph (4) is repealed.
- Paragraph (5) provides that when a gambling enterprise submits a Title 31 Suspicious Activity Report with the Financial Crimes Enforcement Network (FinCEN), the licensee must submit an Incident Report Form to the Bureau and provide a copy of the report along with any transactions or documents upon which the report was based.
- Paragraph (6) provides that when a forfeiture of any unredeemed jackpot or prize is made consistent with the gambling establishment’s policies and procedures for either the Self-Restriction or Self-Exclusion Program, the gambling enterprise must provide notification to the Bureau.

- Paragraph (7) provides that the cardroom business licensee must submit an incident report within five business days of determining that any associated work permittee or licensee was arrested.
- Paragraph (8) provides that a cardroom must submit an incident report within five business days of any of its employees or owners having a local city, county, or city and county license, permit, or authorization to work in a gambling establishment approved with conditions, denied, suspended, or revoked.

**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 proposed action modifying an existing reporting requirement of cardroom business licenses and creates a new reporting requirement for TPPPS business licenses, and is neither inconsistent or incompatible with either the Commission’s regulations or any other existing state regulations pertaining to the petition or adoption of 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:**

While there will be a reduction of incident reports submitted by cardroom business licenses it is mostly offset by the new requirement for incident reports by TPPPS business licenses. As such, the work requirements of the California Gambling Control Commission and Bureau of Gambling Control will remain unchanged and will not result in either additional costs or savings. Additionally, there will no costs or savings with regard to 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:

It is estimated that there will be an industry wide savings for cardrooms and an industry wide cost for TPPPS. Specifically, it is anticipated that there will be an annual savings of \$515,262 for cardrooms and a cost of \$83,028 for TPPPS for a total of savings of \$432,234 per year. These costs and savings will not inhibit a California business from competing with business in other states as the gambling industry does not cross state lines and the amounts involved are not significant enough to effect industry competitiveness.

**COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:**

The Commission has determined that this regulatory proposal amends an existing reporting requirement for cardroom business licenses, which is currently conducted by employees and managers who have other work tasks that they are of a higher priority. The Commission is estimating an annual savings of \$8,310 for an average cardroom. Additionally, the new reporting requirement of TPPPS business licensees will likely not be sufficient to require the hiring of additional staff. The Commission estimates an annual cost of \$4,370 for an average TPPPS.

**EFFECT ON SMALL BUSINESS:**

The Commission has made a determination that the proposed regulatory action would have similar impact on small businesses as it would on a representative business, as noted above. For this purpose, the definition of a small business as defined by the federal Small Business Administration was utilized.

**BUSINESS REPORT:**

The Commission finds that it is necessary for the health, safety, or welfare of the people of the state that the regulation require businesses to submit the required reports.

The basis for this determination is that by providing the Bureau with prompt reporting of the identified incidents will allow the Bureau to respond or coordinate with local law enforcement, as necessary, to ensure the continued safety of controlled gambling within the State of California.

**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 amends an existing reporting

requirement for cardroom business licenses, which is currently conducted by employees and managers who have other work tasks that they are of a higher priority. Additionally, the new reporting requirement of TPPPS business licensees will not be sufficient to require the hiring of additional staff.

**BENEFITS OF PROPOSED REGULATION:**

These proposed regulations have the benefit of providing specific procedures that must be followed when filing an incident report. These revised procedures will provide employees of a cardroom business licensee with an understanding of what types of violations must be reported without requiring them to make legal judgements that are best left to law enforcement officials. By ensuring the Bureau is able to receive the required information, the Bureau's role in monitoring compliance and protecting the public welfare can be more effective.

**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.

**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 Website 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](mailto: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](mailto:ahunter@cgcc.ca.gov)

### **WEBSITE ACCESS**

Materials regarding this proposed action are also available on the Commission's website at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).