

# CALIFORNIA GAMBLING CONTROL COMMISSION

CALIFORNIA CODE OF REGULATIONS  
TITLE 4. BUSINESS REGULATIONS  
DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION

## CORRECTION FOR EXPIRING EMERGENCY REGULATIONS CGCC-GCA-2024-02-N

### SECTION 100. CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)(3), of the California Code of Regulations (CCR), the California Gambling Control Commission (Commission) hereby submits this written statement explaining why the proposed changes to CCR Title 4, Division 18, Section 12290,<sup>1</sup> have no regulatory effect.

#### CHANGES TO TEXT

Section 12290, subsection (c), is amended “TPPPS business licensee” instead of “cardroom business licensee.”

#### SPECIFIC FINDINGS

With respect to the foregoing, the Commission finds as follows:

##### NECESSITY:

The Commission’s rulemaking action titled “Licensing,” OAL Matter Number 2020-1013-02, reorganized the Commission’s licensing procedures and provided new definitions for the Commission’s regulations. Prior to this rulemaking action, the Commission licensed three categories of businesses and their employees:

- (1) Gambling Enterprise: A business that conducts controlled gambling within the gambling establishment. Prior to “Licensing” the licensing regulations for this industry were in Chapter 2 (work permits) and Chapter 6 (owners and key employees). Operational regulations were in Chapter 7. In “Licensing,” the gambling enterprise was defined as “cardroom business licensees.”
- (2) Third-Party Providers of Proposition Player Service (TPPPS): A business that hires employees to participate in the play of controlled games as a player. The TPPPS operates only in gambling establishments if the TPPPS and the gambling enterprise have a TPPPS contract to provide services. Prior to “Licensing,” the licensing regulations for this industry were in Chapter 2.1. Operational regulations were in Chapter 2.1 and Chapter 3. In “Licensing,” TPPPS was defined as “TPPPS business licensees.”

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<sup>1</sup> All references to the California Code of Regulations hereinafter refer to Division 18 of Title 4, unless otherwise specified.

- (3) Gambling Business: A business that hires employees to participate in the play of a controlled game as a player. A gambling business was prohibited from having any relationship with a gambling enterprise and did not have a contract with the gambling enterprise. Prior to “Licensing” the licensing regulations for this industry were in Chapter 2.2. Operational Regulations were in Chapter 2.2 and Chapter 3. Gambling businesses were repealed as part of “Licensing” and do not exist in current Commission regulations.
- (4) Gambling Establishment: A gambling establishment is the physical location where gambling occurs and is not itself a licensed person.

Prior to the repeal of gambling businesses, TPPPS business licensees and gambling businesses operated in a similar manner, with the distinction that TPPPS business licenses operated in a gambling establishment under a contract with the cardroom business licensee and a gambling business was prohibited from contracting with the cardroom and thus could not benefit from the various items allowed through a contract, such as a designated seat at tables and shared advertising. Both TPPPS business licensees and gambling businesses hired employees to play in controlled games on behalf of the company, where the company’s money would be at risk and any losses or winnings would be the companies. As part of its rulemaking authority, the Commission previously developed various oversight requirements, one of which required each company to develop and maintain an electronic playing book system, a system through which a TPPPS business licensee or gambling business monitored the monetary activities of its employees.

The “Licensing” rulemaking action made significant changes to the Commission’s regulations. Most of Chapters 2, 2.1, and 6 were repealed, reconstituting all licensing processes into a single process within a new Chapter 2. The entirety of Chapter 2.2 was repealed. Prior to “Licensing,” Chapter 2.1 contained all regulations unique to TPPPS, Chapter 2.2 contained all regulations unique to gambling businesses, and Chapter 3 contained all regulations common between TPPPS business licensees and gambling businesses. With the repeal of gambling businesses, any operational regulations from Chapter 2.1 that were not repealed were moved to Chapter 3, which became a wholly TPPPS chapter.

In addition to the restructuring of the Commission’s regulations, changes were also made to the defined terms being used. It is important to note that despite the word “business” being used in these titles, a cardroom business license, TPPPS business license, and gambling business were all distinct types of businesses. The gambling business category, repealed with “Licensing” was not retitled with the overhaul of the other definitions, but had it been, it could have been called “gambling business business license” as the naming pattern was [business type] [ownership level] with business type being cardroom or third-party and ownership level being business or endorsee.

Section 12290, the section proposed to be amended can be found in Chapter 3, and just like the rest of the Chapter applied to both TPPPS and gambling businesses prior to “Licensing” and afterwards only applies to TPPPS. Section 12290, subsection (c),

provided if there was a specified issue with an electronic playing book device, system, or database, the responsible licensee (referring to a TPPPS business licensee or gambling business) was required to notify the Bureau of Gambling Control, within the Department of Justice (Bureau). An electronic playing book system, provided in Article 2 of Chapter 3, is an electronic system whereby an employee of a TPPPS business licensee or gambling business was able to maintain an accurate, complete, and up-to-date playing book digitally instead of using a paper form. The playing book form tracks, in part, an individual employee's beginning and ending balance for each session of play, including win and loss balances and an itemization of all fills and credits during that session. A gambling enterprise is not required to maintain playing book forms and is prohibited by law from participating in the play of the games they conduct.

With the repeal of gambling businesses from the Commission's regulations, all joint requirements were amended to apply only to TPPPS business licensees; however, it appears that one term was inadvertently changed to refer to cardroom business licensees. Since this section does not deal with cardroom business licensees and the requirements apply to TPPPS licenses, this error needs to be corrected.

**CONSISTENCY:**

Without correcting the reference TPPPS business licensee, the provision is inconstant with the statement provided in the Initial Statement of Reasons, which stated:

Section 12290 provides requirements a TPPPS business licensee and its employees must follow. This section is amended to reflect other changes to defined terms and the repeal of Chapter 2.2 related to gambling businesses. These changes in this section are non-substantive changes for consistency and are without regulatory effect. [emphasis added]

As described above, only TPPPS business licensees are required to maintain playing books. Moreover, a cardroom business licensee is prohibited from participating in the play of a controlled game, and beyond that is prohibited in having an interest in who wins or loses a controlled game. A playing book form tracks the results of a TPPPS participation in a controlled game. Linking a cardroom business licensee to the play of a controlled game by requiring them to participate in an electronic playing book system connects the cardroom business licensee to the results of the games they provided, which is illegal.

Prior to "Licensing" a TPPPS business licensee had the designated duty under the regulations to report any issues with their system and only by maintaining the regulation burden on the TPPPS business licensee would it be consistent with maintaining proper separation between the electronic playing book system and the conducting of controlled gambling. The only legally tenable way to interpret the requirements of an electronic playing book system is for the requirement to apply solely to TPPPS business licensees. The regulated entities (cardroom business licensees and TPPPS business licensees)

understand the legal requirements of separating the cardroom business licensee from the play of the controlled game and will not be surprised by this proposed action.

Finally, even if the cardroom business licensee could participate in an electronic playing book system, the regulation is insufficiently specific to actually implement in that way. A TPPPS business licensee is not limited to operating within a single cardroom and the use of their electronic playing book system is companywide, meaning that at any given time, the system might be in use in multiple gambling establishments at the same time. Additionally, the systems would not be housed at a specific gambling establishment, but instead would be housed at a central location, such as the TPPPS business licensee's office. The regulation therefore lacks everything necessary for implantation, as currently written, including actually requiring a TPPPS business licensee to report issues to a cardroom business licensee, clearly showing that the regulation can only be interpreted to require the TPPPS business licensee to self-report to the Bureau on their own system.

**THE PROPOSED ACTION HAS NO REGULATORY EFFECT**

The proposed changes will not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.