

Advertising: Staff's Suggested Changes to the January 31, 2024 Draft Modified Text

Date: April 12, 2024

Commission staff is providing the following suggested changes to the January 31, 2024 Draft Modified Text for the Commission's Consideration, which are indicated in single green underline and ~~strikeout~~:

Amend Section 12097, subsection (e), paragraph (5).

§ 12097. Advertising Content and Dissemination.

...

(e) An advertisement must not be deceptive to the public. The Bureau must consider the following criteria in determining whether an advertisement is deceptive if it does any of the following:

...

(5) The advertisement depicts, ~~Depicts,~~ illustrates, portrays, or refers to a game, group of games, or gaming activity that ~~has not been~~ is not currently approved by the Bureau for the cardroom advertised and is prohibited by Penal Code section 330 ~~prohibited by Penal Code section 330.~~

Amend Section 12099, subsection (b), paragraph (5).

§ 12099. Disapproval of Advertising.

(a) If the Bureau determines an advertisement is deceptive in accordance ~~not compliant~~ with this article, the Bureau may issue a notice of disapproval to the owner category licensee. The notice of disapproval must include, at minimum, the following:

(1) A legal citation of the violation;

(2) A description of each part of the advertisement that is not compliant with this article; ~~and,~~

(3) A specified deadline that provides at least 30 calendar days from the date of issuance of the notice of disapproval to correct the advertisement; ~~and,~~

(4) An explanation of the owner category licensee's right to submit written support to rebut the notice of disapproval, consistent with subsection (b).

(b)(1) An owner category licensee may submit written support to the Bureau to rebut the notice of disapproval within ~~seven~~ 14 calendar days following the Bureau's issuance of the notice of disapproval.

(2) The notice of disapproval will be stayed until the Bureau issues its final determination in response to the timely written support submitted to rebut the notice of disapproval.

(3) Within 30 calendar days ~~following receipt of the~~ timely written support submitted to rebut the notice of disapproval, the Bureau must respond to the owner category licensee in writing with its final determination. ~~‡~~The Bureau will consider the information provided and will notify the owner category licensee of one of the following:

~~(1)~~(A) The Bureau's final determination to uphold the notice of disapproval, including ~~the an~~ updated deadline to correct the advertisement specified in the notice of disapproval. The updated deadline specified in the Bureau's final determination must provide a minimum of 30 calendar days from the date of issuance to correct the advertisement;

~~(2) The Bureau's determination to uphold the notice of disapproval, and to grant an extension to the deadline to correct the advertisement; or,~~

~~(B)~~ The Bureau's determination to rescind the notice of disapproval.

~~(c)~~ If either a notice of disapproval is issued in accordance with subsection (a) or a final determination is issued in accordance with subsection (b), and the noncompliant advertisement is not corrected by the deadline specified by the Bureau, the Bureau may take additional disciplinary action as it deems appropriate.

~~(d)~~ Any notice of disapproval and failure to correct the advertisement pursuant to subsection (a), any final determination and failure to correct the advertisement pursuant to subsection (b), instances of

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repeated violations of this article, and any subsequent action by the owner category licensee and/or ~~and or~~ Bureau, must be included in the Bureau report for consideration during an owner category licensee's initial or renewal license application and may be considered a factor in determining suitability for licensure.

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