

**CALIFORNIA GAMBLING CONTROL COMMISSION**  
2399 GATEWAY OAKS DRIVE, SUITE 100  
SACRAMENTO, CA 95833  
(916) 263-0700 FAX (916) 263-0499  
[www.cgcc.ca.gov](http://www.cgcc.ca.gov)

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**MINUTES OF OCTOBER 29, 2009  
COMMISSION MEETING**

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**OPEN SESSION**

1. Call to Order and Pledge of Allegiance.

Chairman Dean Shelton called the meeting to order at 10:01 a.m., and asked everyone to stand for the Pledge of Allegiance.

2. Roll Call of Commissioners.

Roll Call of Commissioners was taken with Chairman Shelton and Commissioners Shimazu and Vuksich present.

3. Commission Review and Consideration of, and Approval for Commencement of the Formal APA Rulemaking Process for, Regulations Concerning Portable Personal Key Employee Licenses (Adopt Title 4, CCR Sections 12350, 12351, 12352, 12353, 12354, and 12355; Amend Title 4, CCR, Sections 12008, 12335, 12340, 12342, 12343, 12344, 12345, 12346 and 12347)

- Initial Licenses; Required Forms; Processing Times
- License Renewals; Required Forms; Processing Times
- Employment Status Notification; Replacement License; Required Forms; Processing Times
- License Content; License Display and Presentation
- Interim Key Employee Licenses; Processing Times
- Mandatory and Discretionary Grounds for Denial of Application for a Key Employee License

Kelly Schmidt, Regulatory Actions Analyst, indicated that staff recommended that the Commission approve the initiation of the formal rulemaking process for this proposed regulatory action including the non-substantive revisions that have been identified by staff to establish a personal portable key employee license program in regulation in accordance with provision of SB 730. Upon motion of Chairman Shelton, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton and

Commissioners Shimazu and Vuksich voting yes, the Commission approved the staff recommendation.

4. Commission Review and Consideration of, and Approval for Commencement of the Formal APA Rulemaking Process for, Regulations Concerning the Reactivation of Expired State Gambling Licenses (Adopt Title 4, CCR, Section 12349; Amend Title 4, CCR, Section 12002)

- State Gambling License; Surrender; Abandonment; Reactivation

Shannon George, Regulatory Actions Analyst, indicated that staff recommended that the Commission approve initiation of the formal rulemaking process and authorize the recommended conceptual changes and any other non-substantive changes to be made prior to filing with the Office of Administrative Law (OAL).

Herb Bolz, Senior Legal Counsel, provided an overview of the Commission's authority to adopt regulations concerning reactivation of expired or surrendered licenses.

The Commission decided to go through each section of the regulation text by hearing staff's proposed changes, to the text, if any, and then hearing comments from the public on the section of the regulation being discussed.

Shannon George indicated that staff proposed no changes to Section 12002(j).

There were no comments from the public concerning Section 12002(j).

Shannon George indicated that staff recommended the following changes be made prior to filing the regulation with OAL:

*(1) Section 12349, subsection (a)*

- Amend the text to read as follows:

"(a) An owner-licensee may propose to surrender a state gambling license. In order to propose a surrender, the owner-licensee must notify the Commission in writing of the request to surrender the license."

Alan Titus, Artichoke Joes, commented on Sections 12349 (a) and (b) of the regulation text, questioning the Commission authority to refuse a request to surrender a license.

Shannon George indicated that staff recommended the following changes be made prior to filing the regulation with OAL:

*(2) Section 12349, subsection (c)*

- Clarify that this subsection applies to license surrenders or expirations that occur after the effective date of the section.
- Delete the phrase "by operation of law."

Marty Horan, Bureau of Gambling Control, commented on Section 12349(c) of the regulation text specifically the 12-month reactivation provision.

David Fried, Attorney, commented on Section 12349(c) of the regulation text indicating that an expired license and a surrendered license could be treated differently.

The Commission directed staff to amend this section of the regulation text to clarify that a surrendered license would be considered abandoned and to reduce the time in which a license may be reactivated to 60 or 90 days.

Alan Titus, Artichoke Joe's, commented on Section 12349(c) of the regulation text indicating that he does not believe that the Gambling Control Act requires a grace period.

Shannon George indicated that staff proposed no changes to Section 12349(d).

Reverend James Butler, California Coalition Against Gambling Expansion, commented on Section 12349(d) indicating that it creates a legal right and or interest in a license that was previously abandoned. He also asked for clarification in this section to indicate that reactivation of a license could only be done by the last license holder.

Robert Tabor, Attorney, commented on Section 12349(d) indicating that his position is that anyone should be able to apply for a license with the local jurisdiction in which there is a license that falls under the criteria of Section 19963 of the Business and Profession Code.

Ronald Werner, Bay 101, commented on Section 12349(d) indicating that Bay 101 formally adopts the position written in the October 28, 2009 letter from Falk & Sharp that any surrendered or expired license to operate a gambling establishment is deemed abandoned at the time of surrender or expiration and precludes any such license from being reactivated at any time.

Russ Shore, Kings and Queens Poker Room, presented comments concerning his attempt to open a card room in San Luis Obispo County.

Robert Tabor commented on Section 12349(f) (1) – (8) requesting that the 90-day provision be extended to 180 days.

The Commission indicated that they would take no action on the item at this time. Staff was directed to draft new text, taking into account the discussion at the workshop.

## **ADJOURNMENT**

Commissioner Shimazu moved to adjourn the meeting. Chairman Shelton seconded the motion, which was unanimously carried with Chairman Shelton and Commissions Shimazu and Vuksich voting yes. The Commission adjourned at 11:25 a.m.