

California Gambling Control Commission

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**MINUTES OF NOVEMBER 1, 2012
REGULATION HEARING**

OPEN SESSION

1. Call to Order and Pledge of Allegiance.

Chairperson Stephanie Shimazu called the hearing to order at 10:00 a.m., and asked everyone to stand for the Pledge of Allegiance.

2. Roll Call of Commissioners.

Roll Call of Commissioners was taken, with Chairperson Stephanie Shimazu and Commissioners Lauren Hammond and Richard Schuetz present. Chairperson Shimazu stated that Commissioner Tiffany Conklin was absent due to illness.

3. Receipt and Consideration of Public Comments Concerning Regulations Addressing Notification of Changes in Licensee's Contact Information and of Relocation of Gambling Establishments (Amend Title 4, CCR, Section 12004; Adopt Title 4, CCR, Section 12364)

- Notification of Contact Information Change (§ 12004)
- Relocation of a Gambling Establishment (§ 12364)

Section 12004 is amended to clarify that any change of contact information must be reported to the Commission within 10 days of that change. The relevant form (CGCC-032) with which to notify the Commission of such changes is updated accordingly. Additionally, amendments are made to clarify that this section does not apply to the physical relocation of a gambling establishment.

Section 12364 is adopted to establish a process by which a gambling enterprise shall notify the Bureau of Gambling Control (Bureau) of a planned physical relocation of a gambling establishment.

The Commission, pursuant to Government Code section 11346.8 (a), received and considered public comments, both oral and written, concerning the proposed regulations.

Comments Received From:

Alan Titus, Artichoke Joe's

James Parker, Department of Justice, Bureau of Gambling Control

Martin J. Horan IV, Department of Justice, Bureau of Gambling Control (written)

Keith Sharp, Hawaiian Gardens Casino

Jeffrey Sinsheimer, Bay 101

During the ensuing discussions, the Commissioners considered staff's October 19, 2012 recommended changes in the proposed text of Section 12364 that respond to many of the written comments received during the 45-day written comment period that ended October 1, 2012. As a result of the discussion and additional comments at this hearing, the Commission accepted changes to staff's recommendation, as follows:

- Subsection (b) of Section 12364 was modified to read:

“(b) An owner-licensee shall notify the Bureau of a planned relocation of a gambling establishment at least 90 days in advance of the intended commencement of gambling operations at the new location on the form entitled “Notice of Relocation,” CGCC-050 (New 06/12), which is attached in Appendix A to this Chapter. A draft floor plan of the proposed gambling establishment depicting, at a minimum, the location of the main cage, the count room, the surveillance room, and the gaming area(s) shall accompany the notice to the Bureau.”

- Paragraph (1) of subsection (b) was modified to read:

“(1) If the new location is more than 1,000 feet from any boundary line of its governing local jurisdiction, the owner-licensee shall, ~~except as otherwise provided,~~ submit to the Bureau all of the following information and documents, of which the information and documents specified in subparagraphs (A) through ~~(D)~~ (C), inclusive, are to be submitted no later than 30 days prior to ~~either the commencement of gambling operations or~~ the Bureau's site visit conducted pursuant to subsection (d), ~~whichever first occurs.~~”

- Subparagraph (D) of paragraph (2) of subsection (b) was modified to read:

“(D) Documentary evidence of the issuance to the licensee of all required approvals, licenses and permits by any applicable local jurisdictional entity concerning the new location; e.g., business licenses, occupancy permits, conditional use permits, zoning variances, local gaming licenses, etc. These documents, if available, shall be submitted at the same time as the documents specified in subparagraphs (A) through (C), inclusive, or if not available shall be submitted upon availability and prior to the commencement of gambling operations.”

- Paragraphs (1) and (2) of subsection (d), were modified to read:

“(d)(1) The Bureau shall schedule and conduct a site visit prior to the commencement of gambling operations at the new location ~~or within 30 days after the commencement of gambling operations.~~ A written report of the findings of the site visit shall be provided to the Commission, as well as any follow-up reports. The Bureau’s site visit report shall include determinations regarding compliance with, at a minimum, the following internal control requirements of Article 3 of Chapter 7:

(A) Drop and drop collection, pursuant to Section 12384;

(B) Count and count room functions, pursuant to Section 12385;

(C) Cage functions, pursuant to Section 12386;

(D) Security, pursuant to Section 12395; and,

(E) Surveillance, pursuant to Section 12396.

(2) If the Bureau notes any deficiency in compliance with laws or regulations, including but not limited to, a deficiency in the internal controls listed in paragraph (1), it shall issue a notice to the owner-licensee to correct the deficiency. The notice shall describe each deficiency and specify a reasonable time in which the deficiency is to be corrected. The commencement of gambling operations shall not be delayed ~~nor the operation suspended~~ unless the deficiency prevents substantial compliance with laws or regulations and materially threatens public safety or the integrity of the gambling operation, and the deficiency cannot be corrected or mitigated within a reasonable time. ~~Any action to suspend gambling operations under this section shall be taken pursuant to Business and Professions Code section 19931.~~ Failure to correct or otherwise mitigate the deficiency may be considered during the license renewal process and may result in disciplinary action under Chapter 10 of this division.”

Commissioners also directed that conforming changes be made in the proposed form, “Notice of Relocation,” CGCC-050 (New 06/12), which is referenced in subsection (b) of Section 12364.

RULEMAKING PUBLIC COMMENT PERIOD WAS CLOSED.

4. Consideration of Final Adoption of, and Approval for Filing with the Office of Administrative Law, Regulations Concerning Notification of Changes in Licensee’s Contact Information and of Relocation of Gambling Establishments (Amend Title 4, CCR, Section 12004; Adopt Title 4, CCR, Section 12364)

All public comment periods mandated under the rulemaking provisions of the Administrative Procedure Act (APA) having ended, the Commission proceeded with deliberations on the final adoption of the proposed regulations.

Action:

Commissioner Hammond moved to approve Section 12364, with staff’s recommended modifications, including Option 4 with the agreed to modifications and conforming changes; to adopt and approve for filing with the Office of Administrative

Law (OAL), the regulations as modified, subject to the receipt of no substantive comments during the 15-day written comment period required pursuant to Government Code section 11346.8(c); and to delegate to the Chair and the Executive Director the authority to determine whether any 15-day comment is substantive. The motion was seconded by Chairperson Shimazu and unanimously passed on a roll call vote with Chairperson Shimazu and Commissioners Hammond and Schuetz voting yes.

PUBLIC COMMENT

None

ADJOURNMENT

Chairperson Shimazu adjourned the hearing at 11:46 a.m.