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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.92.2] (*Division 8 added by Stats. 1941, Ch. 44.*)

CHAPTER 5. The Gambling Control Act [19800 - 19987] (*Chapter 5 repealed and added by Stats. 1997, Ch. 867, Sec. 3.*

)

ARTICLE 10. Disciplinary Actions [19930 - 19932] (*Article 10 heading added by Stats. 2002, Ch. 738, Sec. 91.*)

19930. (a) The department shall make appropriate investigations as follows:

(1) Determine whether there has been any violation of this chapter or any regulations adopted thereunder.

(2) Determine any facts, conditions, practices, or matters that it may deem necessary or proper to aid in the enforcement of this chapter or any regulation adopted thereunder.

(3) To aid in adopting regulations.

(4) To secure information as a basis for recommending legislation relating to this chapter.

(b) If, after any investigation, the department is satisfied that a license, permit, finding of suitability, or approval should be suspended or revoked, it shall file an accusation with the commission in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) In addition to any action that the commission may take against a license, permit, finding of suitability, or approval, the commission may also require the payment of fines or penalties. However, no fine imposed shall exceed twenty thousand dollars (\$20,000) for each separate violation of any provision of this chapter or any regulation adopted thereunder.

(d) In any case in which the administrative law judge recommends that the commission revoke, suspend, or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee or applicant for a license to pay the department the reasonable costs of the investigation and prosecution of the case.

(1) The costs assessed pursuant to this subdivision shall be fixed by the administrative law judge and may not be increased by the commission. When the commission does not adopt a proposed decision and remands the case to the administrative law judge, the administrative law judge may not increase the amount of any costs assessed in the proposed decision.

(2) The department may enforce the order for payment in the superior court in the county in which the administrative hearing was held. The right of enforcement shall be in addition to any other rights that the department may have as to any licensee directed to pay costs.

(3) In any judicial action for the recovery of costs, proof of the commission's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the fines and penalties account, a special account described in subdivision (a) of Section 19950.

(f) For purposes of this section, "costs" include costs incurred for any of the following:

(1) The investigation of the case by the department.

(2) The preparation and prosecution of the case by the Office of the Attorney General.

(Amended by Stats. 2007, Ch. 176, Sec. 38. Effective August 24, 2007.)

19931. (a) The department may issue any emergency orders against an owner licensee, or any person involved in a transaction requiring prior approval, that the department deems reasonably necessary for the immediate preservation of the public peace, health, safety, or general welfare.

(b) The emergency order shall set forth the grounds upon which it is based, including a statement of facts constituting the alleged emergency necessitating the action.

(c) The emergency order is effective immediately upon issuance and service upon the owner licensee or any agent of the licensee registered with the department for receipt of service, or, in cases involving prior approval, upon issuance and service upon the person or entity involved, or upon an agent of that person or entity authorized to accept service of process in this state. The emergency order may suspend, limit, condition, or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees, registrants, or the licensed gambling establishment. The emergency order remains effective until further order of the commission at a meeting or final disposition of a proceeding conducted pursuant to subdivision (d).

(d) Within two calendar days after issuance of an emergency order, the department shall file an accusation with the commission against the person or entity involved. Thereafter, the person or entity against whom the emergency order has been issued and served is entitled to a hearing that, if so requested, shall commence within 10 business days of the date of the request if a gambling operation is closed by the order, and in all other cases, within 30 calendar days of the date of the request. On application of the department, and for good cause shown, a court may extend the time within which a hearing is required to be commenced, upon those terms and conditions that the court deems equitable.

(Amended by Stats. 2021, Ch. 553, Sec. 4. (SB 819) Effective January 1, 2022.)

19932. (a) Any person aggrieved by a final decision or order of the commission that limits, conditions, suspends, or revokes any previously granted license or approval, made after hearing by the commission, may petition the Superior Court for the County of Sacramento for judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and Section 11523 of the Government Code. Notwithstanding any other provision of law, the standard set forth in paragraph (1) of subdivision (h) of Section 1094.5 of the Code of Civil Procedure shall apply for obtaining a stay of the operation of a final decision or order of the commission. In every case where it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in light of the whole record.

(b) The court may summarily deny the petition, or the court may issue an alternative writ directing the commission to certify the whole record in the case to the court within a time specified. No new or additional evidence shall be introduced in the court, but, if an alternative writ issues, the cause shall be heard on the whole record as certified by the commission.

(c) In determining the cause following issuance of an alternative writ, the court shall enter judgment affirming, modifying, or reversing the order of the commission, or the court may remand the case for further proceedings before, or reconsideration by, the commission.

(d) Except as otherwise provided in Section 19870 and subdivision (e) in Section 19912, this section provides the exclusive means to review adjudicatory decisions of the commission.

(Amended by Stats. 2009, Ch. 233, Sec. 19. (AB 293) Effective January 1, 2010.)