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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 The Gambling Control Act [19800 - 19987] (*Chapter 5 repealed and added by Stats. 1997, Ch. 867, Sec. 3.*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 3. Regulations [19840 - 19846] (*Article 3 repealed (in Sec. 3) and added by Stats. 1997, Ch. 867, Sec. 17.*)

19840. The commission may adopt regulations for the administration and enforcement of this chapter. To the extent appropriate, regulations of the commission and the department shall take into consideration the operational differences of large and small establishments.

(Amended by Stats. 2007, Ch. 176, Sec. 15. Effective August 24, 2007.)

19841. The regulations adopted by the commission shall do all of the following:

(a) With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(1) Prescribe the method and manner of application and registration.

(2) Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(3) Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.

(4) Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.

(5) Prescribe the manner and method of collection and payment of fees and issuance of licenses.

(b) Provide for the approval of game rules and equipment by the department to ensure fairness to the public and compliance with state laws.

(c) Implement the provisions of this chapter relating to licensing and other approvals.

(d) Require owner licensees to report and keep records of transactions, including transactions as determined by the department, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the department reports similar to those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(e) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the gambling establishment or future gambling establishment.

(f) Provide for the disapproval of advertising by licensed gambling establishments that is determined by the department to be deceptive to the public. Regulations adopted by the commission for advertising by licensed gambling establishments shall be consistent with the advertising regulations adopted by the California Horse Racing Board and the Lottery Commission. Advertisement that appeals to children or adolescents or that offers gambling as a means of becoming wealthy is presumptively deceptive.

(g) Govern all of the following:

(1) The extension of credit.

(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The verification of identification in monetary transactions.

(h) Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:

(1) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(2) Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.

(3) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the department.

(i) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, "internal audit" means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).

(j) Require periodic financial reports from each owner licensee.

(k) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(l) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(m) Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the department.

(n) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the department's authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(o) Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

(p) Define and limit the area, games, hours of operation, number of tables, wagering limits, and equipment permitted, or the method of operation of games and equipment, if the commission, upon the recommendation of, or in consultation with, the department, determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.

(q) Prohibit gambling enterprises from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. However, a gambling enterprise shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

(r) Provide for standards, specifications, and procedures governing the manufacture, distribution, including the sale and leasing, inspection, testing, location, operation, repair, and storage of gambling equipment, and for the licensing of persons engaged in the business of manufacturing, distributing, including the sale and leasing, inspection, testing, repair, and storage of gambling equipment.

(s) By December 31, 2011, provide procedures, criteria, and timelines for the processing and approval of applications for the licensing, temporary or interim licensing, or findings of suitability for receivers, trustees, beneficiaries, executors, administrators, conservators, successors in interest, or security interest holders for a gambling enterprise so that gambling enterprises may operate continuously in cases including, but not limited to, the death, insolvency, foreclosure, receivership, or incapacity of a licensee.

(Amended by Stats. 2013, Ch. 353, Sec. 3. (SB 820) Effective September 26, 2013. Operative July 1, 2013, by Sec. 129 of Ch. 353.)

19842. (a) The commission shall not prohibit, on a statewide basis, the play of any game or restrict the manner in which any game is played, unless the commission, in a proceeding pursuant to this article, finds that the game, or the manner in which the game is played, violates a law of the United States, a law of this state, or a local ordinance.

(b) Nothing in this section shall be construed to limit the powers of the commission in a proceeding against a licensee pursuant to Article 10 (commencing with Section 19930).

(c) No regulation prohibiting a game or the manner in which a game is played shall be deemed to be an emergency regulation.

(Added by renumbering Section 19834.5A by Stats. 2002, Ch. 738, Sec. 30. Effective January 1, 2003.)

19843. The commission shall not prohibit, on a statewide basis, the placing of a wager on a controlled game by a person at a gaming table, if the person is present at the table and actively participating in the hand with a single-seated player upon whose hand

the wagers are placed.

(Added by renumbering Section 19834.6A by Stats. 2002, Ch. 738, Sec. 31. Effective January 1, 2003.)

19844. (a) The commission shall, by regulation, provide for the formulation of a list of persons who are to be excluded or ejected from any gambling establishment. The list may include any person whose presence in the establishment is determined by the commission to pose a threat to the interests of this state or to controlled gambling, or both.

(b) In making the determination described in subdivision (a), the commission may consider, but is not limited to considering, any of the following:

(1) Prior conviction of a crime that is a felony in this state or under the laws of the United States, a crime involving moral turpitude, or a violation of the gambling laws of this or any other state.

(2) The violation of, or conspiracy to violate, the provisions of this chapter relating to the failure to disclose an interest in a gambling establishment for which the person is required to obtain a license, or the willful evasion of fees.

(3) A notorious or unsavory reputation that would adversely affect public confidence and trust that the gambling industry is free from criminal or corruptive elements.

(4) An order of exclusion or ejection from a racing enclosure issued by the California Horse Racing Board.

(c) The commission shall distribute the list of persons who are to be excluded or ejected from any gambling establishment to all owner licensees and shall provide notice to any persons included on the list.

(d) The commission shall adopt regulations establishing procedures for hearing of petitions by persons who are ejected or excluded from licensed premises pursuant to this section or pursuant to Section 19845.

(e) The commission may revoke, limit, condition, or suspend the license of an owner, or fine an owner licensee, if that licensee knowingly fails to exclude or eject from the gambling establishment of that licensee any person included on the list of persons to be excluded or ejected.

(Added by renumbering Section 19835A by Stats. 2002, Ch. 738, Sec. 32. Effective January 1, 2003.)

19845. (a) A licensee may remove from his or her licensed premises any person who, while on the premises:

(1) Is a disorderly person, as defined by Section 647 of the Penal Code.

(2) Interferes with a lawful gambling operation.

(3) Solicits or engages in any act of prostitution.

(4) Beggars, is boisterous, or is otherwise offensive to other persons.

(5) Commits any public offense.

(6) Is intoxicated.

(7) Is a person who the commission, pursuant to regulation, has determined should be excluded from licensed gambling establishments in the public interest.

(b) Nothing in this section shall be deemed, expressly or impliedly, to preclude a licensee from exercising the right to deny access to or to remove any person from its premises or property for any reason the licensee deems appropriate.

(Added by renumbering Section 19835.5A by Stats. 2002, Ch. 738, Sec. 33. Effective January 1, 2003.)

19846. (a) Notwithstanding any other provision of law and except as provided in subdivision (b), a gambling enterprise that ejects or excludes an individual based upon Section 19844 or 19845 is not subject to civil liability for a mistake as to the grounds for ejecting or excluding a person if the ejection or exclusion was based upon a reasonable and good faith belief, after a reasonable investigation, that these sections applied to the individual in question.

(b) Notwithstanding subdivision (a), a gambling enterprise may not be relieved from liability for any damages arising from the means of ejection or exclusion.

(Amended by Stats. 2009, Ch. 233, Sec. 5. (AB 293) Effective January 1, 2010.)

