

## PROPOSED AMENDMENTS AND NEW SECTION TO REGULATION 25

**PURPOSE:** To add the definitions “chairman” and “customer incentive;” to correct the definition “independent agent;” to delete the definition “preferred guest;” to revise which independent agents are required to register; to require certain items be evidenced in the written agreement between a licensee and an independent agent; to set out when an independent agent must register and when the independent agent must renew its registration; to prohibit an independent agent providing services prior to notification from the board of the independent agent’s registration; to modify the requirements of an independent agent registration filing or renewal thereof; to create an objection and appeal process for an independent host registration; to require independent agents to update their registrations and authorize the board chairman to require a new registration based on any updates; to explicitly restate statutory prohibitions on the compensation of independent agents based on a percentage of gaming revenue; to set out the effects of an independent agent not filing an application for suitability within a certain amount of time of being called forward; to update and modify licensee required reports and record keeping; to update and modify independent agent reporting requirements; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

### REGULATION 25 INDEPENDENT AGENTS (Draft Date May 8, 2017)

*New*  
~~{Deleted}~~

#### 25.010 Definitions.

1. *“Chairman” means the chairman of the board or his designee.*
2. *“Customer Incentive” means any inducement extended by a licensee to a person to gamble at the licensee’s establishment including, but not limited to, discounts, airfare, money, gifts of personal property, negotiable chips, promotional chips, or any representative of value.*
3. “Independent agent” has ~~{that}~~ the meaning ~~{prescribed}~~ ascribed to it in Nevada Revised Statute 463.0164.
- ~~{2}~~4. “Registered independent agent” means an independent agent who registers with the board pursuant to Regulation 25.020(1).
- ~~3. “Preferred guest” means any person, 21 years of age or older, who receives complimentary transportation, food, lodging, or other consideration with a retail price over \$1,000 in any 7-day period from a licensed establishment as an inducement to gamble.~~
- ~~{4}~~5. “Secondary representative” means any person other than clerical personnel or ticket takers not otherwise exempt under Nevada Revised Statute 463.0164(2) who receives any form of compensation from a registered independent agent for assisting a registered independent agent.

#### 25.020 Registration.

1. An independent agent who;

(a) Has authority from a licensee to offer customer incentives with a cumulative value exceeding \$10,000 in a calendar year to any patron; ~~arranges transportation or lodging for preferred guests or~~

(b) Receives compensation from a licensee; or

(c) ~~Approves or grants the extension of gaming credit on behalf of a state gaming licensee or collects a debt evidenced by a credit instrument;~~

~~must be registered with the board and shall have a written agreement with the licensee evidencing such authority or compensation.~~

2. An independent agent required to register by this section must register with the board for each licensee where the person acts as an independent agent. The registrations must be renewed every five years from the first registration of the independent agent.

3. ~~Except as provided in subsection 5, a licensee shall not compensate a~~ An independent agent who must register pursuant to subsection 1 ~~for~~ shall not provide services to a licensee ~~rendered~~ until the board chairman notifies the licensee in writing that the independent agent ~~submitted the information required by and in compliance with regulation~~ is registered with the board.

~~4.~~ 4. A filing for registration, or renewal of registration, as a registered independent agent must include the following:

(a) A fee set by the chairman; ~~The name, address, and type of organization of the independent agent.~~

(b) A copy of ~~any proposed~~ the final, executed agreement concerning compensation and authority between the licensee and the independent agent. ~~If the proposed agreement is not in writing, the filing shall include a detailed written description of proposed arrangements.~~

(c) Completed forms, information, and documents as required by the chairman ~~A personal financial questionnaire if the independent agent is to guarantee any payment due to a licensee from any preferred guest.~~

(d) ~~The designation of persons whom the independent agent may use as a secondary representative.~~

~~e.~~ A statement on a form furnished or approved by the board that the independent agent:

(1) Submits to the jurisdiction of the State of Nevada, the board, and the commission;

(2) Designates the Secretary of State as its representative upon whom service of process may be made; and

(3) Agrees to be governed and bound by the laws of the State of Nevada and the regulations of the commission;

e. One complete set of fingerprints from the independent agent and from each of the direct and beneficial owners thereof, if any (if a natural person); and

(f) Such additional information as the board or commission may request. ~~If the independent agent is not an individual, the board may designate the officers and principals of the independent agent that shall provide this information. The independent agent shall supply this information on forms furnished or approved by the board.~~

The chairman or designee may authorize a person who is registered as an independent agent for at least one licensee to register as an independent agent for additional licensees for such fees and requirements as he determines are appropriate.

~~5.~~ 5. The independent agent shall provide its filing to the licensee for transmittal to the board. The licensee shall transmit such filing to the board within 60 days of the licensee's receipt of the filing. The board may reject filings made directly by an independent agent.

6. The chairman may object to the registration of an independent agent for any cause he deems reasonable. If the chairman objects to the registration of an independent agent, the chairman shall send written notice of the decision to the independent agent and the submitting licensee.

(a) A chairman objection to the registration of an independent agent shall be considered an administrative decision, and therefore reviewable pursuant to the procedures set forth in Regulations 4.185, 4.190, and 4.195. If an objection is sustained under the procedures set forth in Regulations 4.185, 4.190, and 4.195, the objected to independent agent may file an application for finding of suitability. If the independent agent obtains commission approval of its application, it may commence providing the services set out in subsection 1 of this section.

(b) A licensee shall not transmit an independent agent's filing for registration to the board prior to the expiration of 1 year from the date of a notice of the chairman objecting to the registration of the independent agent. Such independent agent shall not commence providing any services set out in subsection 1 of this section prior to the chairman approving the registration.

7. A person registered, or a person who has a pending filing for registration, pursuant to this section shall report changes to the information required pursuant to subsection 3 to the board within 30 days of such change. The chairman may, in his sole and absolute discretion, require a new registration pursuant to subsection 1 of this section if there is a change in ownership.

~~5. A licensee may compensate a registered independent agent that is registered with the board pursuant to arrangements with another licensee, if the board chairman notifies the licensee in writing that the registered independent agent has:~~

~~(a) Submitted a copy of the proposed agreement between the licensee and the registered independent agent;~~

~~(b) A current registration with the board;~~

~~(c) Complied with Regulation 25.050; and~~

~~(d) Provided such additional information as the board or commission may request.]~~

#### **25.025 Independent agent compensation.**

A licensee shall not compensate an independent agent based on the earnings or profits from any gambling game played by a patron or patrons unless the independent agent has been found suitable by the commission to act as an independent agent.

#### **25.030 Determination of suitability.**

1. No Change.

2. If an independent agent does not file an application for a finding of suitability within 30 days following receipt of notice that the commission is requiring the independent agent to file an application for a finding of suitability, the board shall notify all licensees where such independent agent is registered pursuant to this regulation. Upon such notice, a licensee shall provide documentary evidence that the independent agent no longer acts as an independent agent for the licensee. Failure of the licensee to respond as required by this section shall constitute grounds for disciplinary action.

3. If the commission finds a registered independent agent to be unsuitable, the registration of such registered independent agent is thereupon cancelled. A licensee or independent agent shall, upon written notification of a finding of unsuitability, immediately terminate all relationship, direct or indirect, with such independent agent. Failure to terminate such relationship may be deemed to be an unsuitable method of operation. No determination of suitability of an independent agent shall preclude a later determination by the commission of unsuitability.

#### **25.040 Required reports and recordkeeping.**

1. Each licensee shall provide to the board within one month following each calendar quarter, separate lists of registered independent agents:

(a) Whose ~~relationship~~ agreement with the licensee terminated in that quarter~~[,]~~. This list shall include the total compensation paid in that quarter to each registered independent agent on the list and

(b) ~~Whose total compensation in that quarter either (1) exceeds \$1,000 and places them in the top 10 percent of all the licensee's registered independent agents ranked by compensation, or (2) exceeds \$20,000.] Whose agreement with the licensee is currently active.~~ This list shall include the total compensation paid in that quarter to ~~the~~ each registered independent agent~~s~~ on the list.

2. The licensee shall retain in its files for a 5-year period and make available for inspection by the board, upon request, the following information:

(a) The state or country of origin and dates of stays by ~~preferred guests~~ patrons arranged by a registered independent agent;

(b) The total amount of gaming credit extended to such ~~preferred guests~~ patrons that remains unpaid following their departure; and

(c) Such other information required by the ~~{board}~~ *chairman* regarding any business arrangement between the licensee and an independent agent.

3. A licensee shall report any changes to an agreement with a registered independent agent to the board and submit an updated, executed copy of any amended or new agreement with the registered agent within 30 days of execution.

**25.050 Mandatory requirements.** Every agreement, including any agreement of employment, between a licensee and a registered independent agent must contain the following conditions:

1. No Change.
2. The agreement is not effective and the registered independent agent *shall not provide any services and* is not entitled to and may not be paid any compensation until the licensee receives notice that the board chairman has registered the independent agent.

**25.060 Reporting requirements for registered independent agents.**

~~{1. Annually, on or before July 15, each registered independent agent shall file a list of all secondary representatives on a form furnished or approved by the board. Each licensee shall send a notice annually, on or before June 1, to each registered independent agent under contract with it, advising the registered independent agent of the requirements of this section.}~~

~~2.}~~ The registered independent agent shall report additions, deletions and changes to the following items to the board within 30 days thereof:

- ~~{(a)}~~ 1. The registered independent agent's address or telephone number;
- ~~{(b)}~~ 2. The officers, directors, shareholders or partners of the registered independent agent;
- ~~{(c)}~~ 3. ~~{The list of}~~ *Persons designated by the independent agent that it may use as* secondary representatives ~~{contained within the annual report or the initial submission required by Regulation 25.020(2)}.~~

**End – Regulation 25**