

PROPOSED AMENDMENTS TO REGULATIONS 5.300 THROUGH 5.380

PURPOSE: To give the board chair additional discretion in determining which club venues require regulation as a club venue; to remove club venues which only qualify as club venues for a limited amount of time from regulation as club venues; to specifically delineate certain items constituting consideration; to streamline the definition of “hosting or VIP services;” to change the defined term “independent host or promoter” to “independent host;” to simplify the definition of “independent host;” to clarify requirements pertaining to club venue monitors; to add bartenders and bar backs to the list of club venue employees; to set out certain employees of independent hosts are required to register as gaming employees; to set out employees of independent hosts which process registrations of independent host employees as gaming employees must also register as gaming employees; to clarify the distinction between an independent host and a club venue employee; to clarify who is responsible for compliance with club venue employee requirements; to delete effective dates which have passed; to add training requirements for certain club venue employees concerning assisting emergency medical service providers; to clarify when the registration of an independent host is subject to renewal; to prohibit an independent host from providing services prior to notification of the independent host’s registration from the board; to modify the requirements of an independent host registration filing or renewal thereof; to create an objection and appeal process for an independent host registration; to create a cancellation and appeal process for an independent host registration; to suspend the registration of an independent host for failure to pay child support; to specify the commission has the power to call an independent host forward for a finding of suitability; to modify requirements pertaining to the use of an independent hosts’ services if the independent host fails to file an application upon being called forward; to modify the reporting requirements regarding independent hosts; to modify who is required to have policies and procedures for club venues; to modify the application of policies and procedures for club venues; to require club venue operators follow a licensee’s policies and procedures for club venues; to modify the factors by which the board and commission determine whether club venue operators and licensees have established appropriate policies and procedures for club venues; to grant the board chair discretion in determining the amount required of club venue revolving accounts; to clarify the revolving accounts are used to pay expenses of the board and commission in conducting undercover observations and operations at club venues; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

REGULATION 5 OPERATION OF GAMING ESTABLISHMENTS

(Draft Date February 14, 2018)

New

~~[Deleted]~~

5.300 Applicability.

1. No Change.
2. The chair ~~[man, or his designee,]~~ may, in ~~[his]~~ the chair’s sole and absolute discretion, designate additional club venues to which sections 5.300 through 5.380 shall apply.

3. The chair~~[man, or his designee,]~~ may, in ~~[his]~~ the chair's sole and absolute discretion, limit the application of sections 5.300 through 5.380 with regard to ~~[club venues]:~~

(a) ~~[C]~~ Club venues operating primarily as showrooms, theaters, concert venues, or interactive entertainment centers ~~[or];~~

(b) ~~[H]~~ Club venues hosting short-term events conducted by a licensee or club venue operator in conjunction with a convention, corporate, or charitable event; or

(c) Other club venues the chair finds are not venues which require regulation as a club venue.

4. Sections 5.300 through 5.380 shall not apply to venues which hold an event or events which would cause the venue to qualify as a club venue only during the event or events if the cumulative time period of such event or events does not exceed 4 days per year. If a venue holds an event or events which would cause the venue to qualify as a club venue only during the event or events and the cumulative time period of such event or events exceeds 4 days per year, the venue shall comply with sections 5.300 through 5.380 only while holding such event or events.

(a) For the purposes of this subsection, "day" means one period of 24 consecutive hours commencing at a time and date chosen by a licensee or club venue operator.

(b) For the purposes of this subsection, "year" means July 1st through June 30th.

5.305 Definitions.

As used for sections 5.300 through 5.380:

1. "Chair~~[man]~~" means the chair~~[man]~~ of the board or the chair~~[man]~~'s designee.

2. "Consideration" specifically includes but is not limited to:

(a) A waived entrance/admission fee, line pass, drink voucher, or any type of monetary compensation and

(b) A trade or credit that is only valid at the club venue where earned whether or not the trade or credit is transferable.

3. "Hosting or VIP services" means arranging access to or table service at a club venue~~[,]~~ and/or reserving tables at a club venue~~[, or providing patrons to a club venue. This subsection does not include: the conduct of convention, corporate, or charitable events at a club venue organized by an employee or contractor of the club venue operator or licensee].~~

~~{3}4. "Independent host ~~[or promoter]~~"~~

~~(a) Means~~;~~~~

~~(1) A~~ a person [and the employees or contractors of such person, if any,] who [are] is not directly employed by a licensee or club venue operator, who provides hosting or VIP services for a club venue for any form of consideration, and who has any in-person contact with the patrons of a club venue at the club venue or at the premises on which the club venue is located.

~~{(2) Third-party contractors not directly employed by a licensee or club venue operator who arrange for short-term use of a club venue to conduct an event at which there will be an admission fee or cover charge. This subsection does not include third-party contractors retained by licensees or club venue operators to conduct convention, corporate, or charitable events.}~~

~~(b) Does not mean:~~

~~(1) Hotel concierges, [Persons and the employees or contractors of such persons, if any, who provide hosting or VIP services but only have contact with the patrons of a club venue through an internet website and]~~

~~(2) Licensed ticket brokers, and employees of licensed ticket brokers, and~~

(3) Persons who would otherwise be considered an independent host under this subsection who the chair finds do not require regulation as independent hosts.

5.310 Employees designated to monitor club venues. A licensee shall designate at least one of its employees to monitor club venues at its establishment. Such employees shall be specifically designated as "club venue monitors" on employee reports submitted to the board pursuant to Regulation 3.100. If an employee designated as "club venue monitor" ceases to be employed in that capacity and no other employee is designated as a "club venue monitor" for a licensee, the licensee shall designate a new "club venue monitor" within 10 days.

5.320 Registration of club venue employees.

1. No Change.
2. ~~[All supervisors, managers, security and surveillance personnel, servers, server assistants, bussers, restroom attendants, and any person who provides hosting or VIP services employed or contracted to work at a club venue by a licensee or club venue operator]~~ The following individuals who are employed by a club venue or who perform services for or at a club venue pursuant to contract are club venue employees:

- (a) Any individual who provides hosting or VIP services;
- (b) Bartenders and bar backs;
- (c) Restroom attendants;
- (d) Security and surveillance personnel;
- (e) Servers, server assistants, and bussers; and
- (f) Supervisors and managers who supervise any individuals required to register pursuant to this section;

↳ These individuals shall register in the same manner as gaming employees and shall be considered gaming employees because such registration is necessary to promote the public policy set forth in Nevada Revised Statute 463.0129.

3. Independent hosts required to register pursuant to section 5.345 are not required to register in the same manner as gaming employees. Employees or contractors of an independent host which have in-person contact with club venue patrons shall register in the same manner as gaming employees and shall be considered gaming employees because such registration is necessary to promote the public policy set forth in Nevada Revised Statute 463.0129. A licensee or club venue operator shall not allow the employees and contractors of an independent host to represent the independent host in its club venue unless such employees or contractors are registered pursuant to this section.

4. Employees of a club venue operator or independent host who have access to the board's system of records for the purpose of processing the registrations required by this section shall register in the same manner as gaming employees and shall be considered gaming employees because such registration is necessary to promote the public policy set forth in Nevada Revised Statute 463.0129.

~~[4]5.~~ The licensee which operates a club venue or club venue operator ~~[which operates a club venue]~~ shall be responsible for compliance with the registered gaming employee requirements for persons employed or contracted to work at the club venue.

~~[5. This section shall have the following effective dates:~~

- ~~(a) April 1, 2016, for employees who have access to the board's system of records;~~
- ~~(b) May 1, 2016, for supervisors and managers;~~
- ~~(c) May 1, 2016, for any person who provides hosting or VIP services;~~
- ~~(d) July 1, 2016, for security and surveillance personnel;~~
- ~~(e) October 1, 2016, for servers, server assistants, and bussers; and~~
- ~~(f) November 1, 2016, for restroom attendants.~~

~~↳ Applications for registrations required pursuant to this section shall not be submitted to the board more than 60 days prior to the effective date applicable to the applications for registrations.]~~

5.335 Medical staffing requirements.

1. No Change.
2. No Change.
3. No Change.
4. Security personnel employed or contracted to work at a club venue shall receive annual awareness training on ~~[regarding]~~ how ~~[the employees can]~~ to best interact with and assist onsite or responding emergency medical service providers. Such training shall be performed by an instructor who has a current endorsement as an instructor in emergency medical services from the State of Nevada, Department of Health and Human Services, Division of Public and Behavioral Health or from the Southern Nevada Health District. It will be the responsibility of the licensee and club venue operators to document the completion of said training for each employee on an annual basis.

5.340 Independent host ~~[or promoter]~~ written agreements. A licensee or club venue operator shall have a written agreement with an independent host ~~[or promoter]~~ for the club venues owned or operated by the licensee or club venue operator at which the independent host ~~[or promoter]~~ provides hosting or VIP services.

5.345 Registration of independent hosts ~~[or promoters].~~

1. An independent host ~~[or promoter]~~ must register with the board ~~[pursuant to this section for each club venue where the person will act as an independent host or promoter].~~ The registration must be renewed every five years.

2. ~~[A licensee or club venue operator shall not provide any consideration to an independent host or promoter who must register pursuant to this section for services rendered for a club venue until the chairman notifies the licensee or club venue operator in writing that the board has registered the independent host or promoter at the club venue.]~~ An independent host shall not provide hosting or VIP services until the chair notifies the independent host in writing that the board has registered the independent host. A licensee or club venue operator shall not allow an independent host to provide hosting or VIP services in its club venue unless the independent host is registered with the board pursuant to this section. The board shall make a list of registered independent hosts available to licensees and club venue operators.

3. A filing for registration or renewal pursuant to this section must include the following:

(a) A fee set by the chair~~[man]~~ not to exceed the fee charged for registering as an independent agent;

(b) Completed forms, information, and documents as required by the chair ~~[The name and address of the club venue(s) with which the person will be affiliated];~~

(c) ~~[The name and address of the person registering;~~

~~-(d) A list of all felony, drug-related, or prostitution-related arrests and convictions;~~

~~-(e) A signed statement from the person registering in which the person agrees the person is governed and bound by the laws of the State of Nevada and the regulations of the commission,~~ the person provided complete and accurate information to the board, and the person will cooperate with all requests, inquiries, and investigations of the board or commission;

~~-(f) A copy of the written agreement between the club venue(s) and the independent host or promoter;]~~

~~-(g) One complete set of fingerprints~~ from the person registering and from each of the direct and beneficial owners thereof, if any (if a natural person);

~~-(h) [The results of a drug performed by a facility licensed as a medical laboratory in the State of Nevada (if a natural person)]~~ Signed statements from the person registering and each of the direct and beneficial owners thereof, if any, agreeing to comply with any drug testing ordered by the chair; and

~~-(i) Such additional information as the chair[man] may require.~~

~~[The chairman or designee may authorize a person who is registered as an independent host or promoter for at least one club venue to register as an independent host or promoter for additional club venues for such fees and requirements as he determines are appropriate.]~~

4. ~~[The independent host or promoter shall provide its filing to the licensee or club venue operator for transmittal to the board. The board may reject filings made directly by an independent host or promoter.]~~ The chair may object to the registration of an independent host for any cause he deems reasonable. If the chair objects to the registration of an independent host, the chair shall send written notice of the decision to the independent host.

(a) A chair objection to the registration of an independent host shall be considered an administrative decision and shall be reviewable upon appeal by the objected to independent host pursuant to the procedures set forth in Regulations 4.185, 4.190, and 4.195.

(b) An independent host may not file for registration with the board prior to the expiration of 1 year from the date of a notice of the chair objecting to the registration of the independent host. Such independent host shall not commence providing hosting or VIP services prior to the chair approving the registration.

5. 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 chair may, in the chair's sole and absolute discretion, require a new registration pursuant to subsection 1 of this section if there is a change in ownership.

6. The registration of an independent host shall be cancelled if the independent host or direct or beneficial owner thereof holding a direct or beneficial interest of 50 percent or more:

(a) Is convicted of a felony for a drug related offense;

(b) Is convicted for illegal activity occurring on the premises of a licensee.

→The effective date of cancellation pursuant to this subsection shall be 5 days after the board deposits notice of cancellation to the independent host's last known address with the United States Postal Service

with the postage thereon prepaid. The board shall notify all licensees which operate a club venue and club venue operators of such cancellation and the effective date thereof.

7. The cancellation of the registration of an independent host shall be considered an administrative decision and shall be reviewable upon appeal by the independent host pursuant to the procedures set forth in Regulations 4.185, 4.190, and 4.195. An independent host may not file for registration with the board prior to the expiration of 1 year from the date of the later of notice of the cancellation or the final decision on any appeal of such cancellation.

8. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is registered as an independent host:

(a) The Board shall deem the registration of that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the independent host by the district attorney or other public agency pursuant to NRS 425.550 stating that the independent host has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(b) The Board shall reinstate the registration as an independent host of a person that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(c) The board shall notify all licensees which operate a club venue and club venue operators of such suspension or reinstatement and the effective dates thereof.

9. The ~~[chairman]~~ commission may require a person registered pursuant to this section to file an application for a finding of suitability at any time ~~[in the chairman's sole and absolute discretion]~~ by sending notice to the person through the United States Postal Service to the person's address on file with the board. A person called forward pursuant to this subsection shall apply for a finding of suitability as required by the ~~[chairman]~~ commission within 30 days of the person's receipt of notice. The notice shall be deemed to have been received by the person 5 days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

~~[7]~~10. If a person registered pursuant to this section does not file an application for a finding of suitability within 30 days following receipt of notice that the ~~[chairman]~~ commission is requiring a person registered pursuant to this section to file an application for a finding of suitability, the board shall notify all licensees which operate a club venue and club venue operators ~~[which operate a club venue where such person is registered pursuant to this section]. [Upon such notice, a licensee or club venue operator shall provide documentary evidence that the person no longer acts as an independent host or promoter for the club venue. Failure of the licensee or club venue operator to respond as required by this section]~~ A licensee or club venue operator shall not allow an independent host which has failed to file an application for finding of suitability pursuant to this section to provide services in a club venue. A licensee or club venue operator allowing such independent host to provide services in a club venue shall constitute grounds for disciplinary action.

~~[8]~~11. If the commission finds a registered independent host ~~[or promoter]~~ to be unsuitable, the registration of such registered independent host ~~[or promoter]~~ is thereupon cancelled. A licensee, club venue operator, or independent host ~~[or promoter]~~ shall, upon written notification of a finding of unsuitability, immediately terminate all relationship, direct or indirect, with such independent host ~~[or promoter]~~. Failure to terminate such relationship may be deemed to be an unsuitable method of operation. No determination of suitability of an independent host ~~[or promoter]~~ shall preclude a later determination by the commission of unsuitability.

~~[9]~~12. Upon the ~~[chairman]~~ commission requiring a person who is required to be registered by this section to apply for a finding of suitability, the person does not have any right to the granting of the application. Any finding of suitability hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder. Judicial review is not available for decisions of the board and commission made or entered under the provisions of this section.

~~[10]~~13. A licensee or club venue operator shall provide ~~[a monthly report]~~ to the board within 15 days following each calendar month, separate reports listing all independent hosts: ~~[or promoter w]~~

(a) With which the licensee or club venue operator has an active agreement and

(b) With which the licensee or club venue operator ~~[has]~~ terminated its business relationship during ~~[the time period covered by such report]~~ that month. Such reports shall include truthful statements of the reason(s) for each termination of business relationship and any additional information regarding the terminations requested by the chair~~[man]~~.

5.360 Required policies and procedures.

1. Licensees which operate at least one club venue and club venue operators shall have written policies and procedures for club venues that seek to foster the public health, safety, morals, good order, and general welfare of the patrons.

2. In order to determine whether a licensee or club venue operator has established appropriate policies and procedures to monitor, control and regulate club venues, the board and commission may consider some or all of the following factors:

(a) What procedures are in place to demonstrate compliance with these regulations;

(b) The extent of background investigations conducted by the licensee or club venue operator prior to hiring club venue security, employees, independent host ~~[or promoter]~~, vendors and entertainers;

(c) The extent to which the licensee or club venue operator provides every club venue employee, or independent host ~~[or promoter]~~ with a written policy detailing the standard of conduct for club venue operations, and the extent to which the licensee or club venue operator informs the club venue employees, and independent host ~~[or promoter]~~ of the club venue policy and receives their agreement to follow it;

(d) The extent to which the licensee or club venue operator conducts regular meetings with club venue employees, independent host ~~[or promoter]~~, on-site and relevant vendors, and entertainment talent and their staff to discuss club venue policies and daily operating, security and safety concerns;

(e) The extent of the training and work experience of security management and staff responsible for enforcing the licensee's or club venue operator's club venue policy;

(f) The extent to which a program is in place to conduct undercover "shop" operations at the club venue to determine if employees are engaging in, or otherwise permitting, illegal or inappropriate behavior, the type of background or training the individuals involved in the undercover "shop" program have, and records detailing the results of the undercover "shop" program;

(g) The extent to which the licensee's or club venue operator's management is actively involved in the oversight of club venue policies and procedures including management's participation in initial and continued training of club venue security and employees and management's active participation in monitoring club venue activities;

(h) The extent to which the licensee's or club venue operator's management interacts with law enforcement agencies and other licensees to develop and implement best practices regarding club venue operations and the extent to which management solicits the assistance of, and training by, law enforcement agencies or reputable private industry firms to reduce incidents of illegal or inappropriate behavior by employees, independent host ~~[or promoter]~~, and patrons;

(i) The extent to which the licensee or club venue operator engages in pro-active and cooperative support of law enforcement agencies in their efforts to help regulate, monitor and protect the licensee, the club venue operator, if applicable, and the club venue operations;

(j) The extent to which the licensee conducts meetings with the club venue operator, as necessary, to discuss issues related to club venue operations;

(k) The extent to which club venue management, employees and security staff are trained to detect the use of false or misused identification. Such training should include similar detection techniques for foreign identifications and passports and other forms of identification not readily encountered in the U.S.;

(l) The extent to which club venue management, employees and security staff receive training with regard to ensuring the safety of all employees and quests. Such training topics should include, but not be limited to, sexual assault, illegal drug use, gangs, and active shooter;

(m) The extent to which the club venue will deter excessive consumption of alcohol by patrons, will require employees to notify club venue management of individuals showing significant signs of intoxication or drug impairment, and will regularly assess the need for medical response services, so that patrons exhibiting signs of excessive inebriation or drug impairment can be treated or transported to a medical facility, as determined by trained emergency medical personnel;

(n)~~(m)~~ The extent to which club venues maintain procedures for confiscation and disposal of suspected illegal controlled substances or other suspected illegal contraband;

~~(o)(n)~~ The criteria for trespassing patrons or referring patrons to law enforcement because of suspected illegal conduct;

~~(p)(e)~~ The extent to which club venues maintain procedures for termination of employees and exclusion of independent host ~~[or promoter]~~ who are involved in illegal or inappropriate conduct and the extent to which the licensee or club venue operator maintains records detailing terminations and exclusions;

~~(q)(p)~~ How the licensee or club venue operator will control its restrooms. Such policy shall address, but not be limited to, security and restroom attendants;

~~(r)(e)~~ The extent to which the licensee or club venue operator maintains records showing the number of individuals trespassed from club venues or referred to law enforcement because of illegal or inappropriate behavior;

~~(s)(r)~~ The extent to which drug testing of club venue employees occurs; and

~~(t)(e)~~ The extent to which any other policies or procedures implemented by the licensee or club venue operator exhibit commitment to promoting the public health, safety, morals, good order and general welfare of patrons and employees at club venues.

3. Licensees which operate at least one club venue and club venue operators shall submit such policies and procedures to the chair~~[man or his designee]~~ for approval at least annually and shall submit material changes to such policies and procedures within 60 days of such changes. If the chair~~[man]~~ does not disapprove the submitted policies and procedures within 60 working days of receipt of them, the policies and procedures will be deemed approved. From time to time, the board or commission may publish topics believed to impact the public health, safety, morals, good order and general welfare of patrons and employees of club venues and request that the club venue policies and procedures be updated to address such topics.

4. Whether licensees and club venue operators are operating in accordance with the policies and procedures approved by the chair~~[man]~~ shall be considered by the board in deciding whether or not to file any disciplinary action related to a club venue and by the commission in determining whether discipline is appropriate.

5.370 Access to club venue and production of records.

1. No Change.

2. No Change.

3. A licensee with one or more club venues at its establishment ~~[on or after January 1, 2016]~~, shall establish a revolving account with the board in ~~[the]~~ an amount determined by the chair which shall not exceed ~~[of]~~ \$10,000 20,000 ~~[unless a lower amount is approved by the chairman,]~~ which shall be used to pay the expenses ~~[of agents]~~ of the board and commission conducting undercover observations and operations at club venues. In lieu of each licensee establishing such revolving account, a single revolving account may be established with the board by affiliated licensees in an amount determined by the chair which shall not exceed \$50,000. With a request from the board that additional funds be transferred into a revolving account established pursuant to this subsection, the board shall provide the total amount of expenditures from the account for each club venue covered by the account.

4. No Change.

5. No Change.

5.380 Unsuitable methods of operation.

1. It may be deemed an unsuitable method of operation where a licensee fails to take immediate appropriate action if it knew or should have known an employee of the licensee, an employee of a club venue operator, or an independent host ~~[or promoter]~~ was engaging in or facilitating illegal activity at the licensee's establishment.

2. No Change.

3. No Change.

4. No Change.

The amendments to sections 5.320(2)(b) and 5.370(3) are effective May 1, 2018. All other amendments are effective upon adoption and approval.