

PROPOSED AMENDMENTS AND NEW SECTION TO REGULATION 25

PURPOSE: To add the definitions “Chair,” “customer incentive,” and “theoretical earning potential;” 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 modify the requirements of an independent agent registration filing or renewal thereof; to create an objection and appeal process for an independent agent registration; to create a cancellation and appeal process for an independent agent registration; to suspend the registration of an independent agents for failure to pay child support; to require independent agents to update their registrations and authorize the Board Chair to require a new registration based on any updates; to specify certain methods by which an independent agent may and may not be compensated; 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, modify, and/or delete 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 March 13, 2018)

New
~~[Deleted]~~

25.010 Definitions.

1. “Chair” means the Chair of the Board or the Chair’s 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 ~~[b]B~~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.
6. “Theoretical earning potential” means the average bet of a patron multiplied by hours played by the patron multiplied by decisions per hour of the patron multiplied by house advantage for the game played by the patron. (Theoretical earning potential = (average bet) * (hours played) * (decisions per hour) * (house advantage)).

25.020 Registration.

1. An independent agent who:

(a) Has authority from a licensee to authorize 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 for his or her services as an independent agent; 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. The registration must be renewed every five years.

3. ~~Except as provided in subsection 5, a~~ A licensee shall not compensate an independent agent who must register pursuant to subsection 1 for services 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.~~ A filing for registration, or renewal of registration, as a registered independent agent must include the following:

(a) Completed forms, information, and documents as required by the Chair; ~~The name, address, and type of organization of the independent agent.~~

(b) ~~A copy of any proposed agreement 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) 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 written statement, signed under penalty of perjury on a form furnished or approved by the ~~board~~ Board, that the independent agent:

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

(4) Provided complete and accurate information to the Board; and

(5) Will cooperate with all requests, inquiries, and investigations of the Board or Commission;

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

(d) A fee set by the Chair; and

~~(f) Any additional information requested by 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.~~

~~5.~~ The independent agent shall provide its filing to the licensee for transmittal to the ~~board~~ Board. The licensee shall transmit such filing to the Board within 90 days of the licensee's receipt of the complete filing. The ~~board~~ Board may reject filings made directly by an independent agent.

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

(a) A Chair 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.

(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 Chair 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 Chair 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 4 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.

8. The Chair may cancel the registration of an independent agent if the independent agent or direct or beneficial owner thereof:

(a) Is convicted of a felony;

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

(c) Fails to comply with any drug testing ordered by the Chair or a drug test ordered by the Chair shows a positive result for a controlled substance.

↳ The effective date of cancellation pursuant to this subsection shall be 5 days after the Board deposits notice of cancellation to the independent agent's last known address with the United States Postal Service with the postage thereon prepaid. The Board shall notify all licensees which have agreements with the independent agent of such cancellation and the effective date thereof. The Board shall also send notice of the cancellation to the Secretary of State as designated representative of the independent agent upon whom service of process may be made.

9. The cancellation of the registration of an independent agent shall be considered an administrative decision and shall be reviewable upon appeal by the independent agent pursuant to the procedures set forth in Regulations 4.185, 4.190, and 4.195. 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 the later of notice of the cancellation or the final decision on any appeal of such cancellation.

10. If the Board receives a copy of a court order related to child support 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 agent:

(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 agent by the district attorney or other public agency pursuant to NRS 425.550 stating that the independent agent 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 agent 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 have agreements with the independent agent of such suspension or reinstatement and the effective dates thereof.

~~[-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 actual 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. A licensee may compensate an independent agent based on theoretical earning potential.

25.030 Determination of suitability.

1. The ~~{e}~~Commission may require a finding of suitability of an independent agent at any time. The ~~{e}~~Commission shall give written notice to the independent agent and any licensee having an agreement with the independent agent on file with the ~~{b}~~Board that the independent agent must file an application for finding of suitability. The ~~{e}~~Commission retains jurisdiction to determine the suitability of an independent agent even if the licensee terminates its relationship with the independent agent or the independent agent is otherwise no longer functioning as an independent agent.

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 with which such independent agent has an active agreement. 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 ~~{e}~~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 ~~{e}~~Commission of unsuitability.

4. *Upon the 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.*

25.040 Required reports and recordkeeping.

1. Each licensee shall provide to the ~~{b}~~Board within ~~{one-month}~~ 15 days following each calendar ~~{quarter}~~ month, separate lists of registered independent agents:

(a) Whose ~~{relationship}~~ agreement with the licensee terminated in that month~~{quarter}~~. This list shall include:

(i) The total compensation paid in that month to each registered independent agent on the list;

(ii) Truthful statements of the reason(s) for each termination; and

(iii) Any additional information regarding the terminations requested by the Chair 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}~~ month 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 ~~{b}~~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}~~ Any other information required by the ~~{board}~~ Chair regarding any business arrangement between the licensee and an independent agent.

3. The licensee shall submit a copy of its standard controlling agreement with independent agents to the Board each calendar year on or before the thirty-first day of January. The licensee shall report any change to its standard controlling agreement with independent agents and submit a new copy of the agreement within 30 days of such change. The licensee shall submit a copy of any agreement for the services of an independent agent which deviates from the standard controlling agreement within 30 days of the execution of such agreement.

25.050 Mandatory requirements. Every agreement, including any agreement of employment, between a licensee and an ~~an~~ ~~registered~~ independent agent who is required to register pursuant to section 25.020(1) must contain the following conditions:

1. If the ~~the~~ ~~Commission~~ determines the registered independent agent is unsuitable, the agreement shall thereupon terminate unless the ~~the~~ ~~Commission~~ orders otherwise.

2. The agreement is not effective and the ~~the~~ ~~registered~~ independent agent who is required to register pursuant to section 25.020(1) is not entitled to and may not be paid any compensation until the licensee receives notice that the ~~the~~ ~~Board~~ ~~Chair~~~~man~~ has registered the independent agent. An independent agent who is required to register pursuant to section 25.020(1) is not entitled to any compensation for services listed in section 25.020(1) if the Chair objects to the registration and, if review of the objection is requested, such objection is sustained.

~~**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) The registered independent agent's address or telephone number;~~

~~(b) The officers, directors, shareholders or partners of the registered independent agent;~~

~~(c) The list of secondary representatives contained within the annual report or the initial submission required by Regulation 25.020(2).]~~

These amendments shall be effective May 1, 2018.