

## REGULATION 5: OPERATION OF GAMING ESTABLISHMENTS

### PROPOSED AMENDMENTS TO REGULATION 5

**PURPOSE:** In accordance with NRS 463.150 and S.B. 218 passed during the 2011 Legislative Session, to amend Regulation 5 to add provisions pertaining to service providers including, but not limited, to provide definitions; to provide service provider license classifications; to provide that licensees may only use licensed service providers; to provide that a licensee continues to have an obligation to ensure, and remains responsible for, compliance with all gaming laws; to provide licensing standards and fees; to provide for service providers to be liable for their proportionate share of fees and taxes; to provide that certain service provider employees are gaming employees; to provide that provisions of Regulation 5A specifically applicable to interactive gaming service providers shall control; to provide for grounds for disciplinary action; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

(Draft Date December 22, 2011)

#### **5.240 Service Providers.**

1. Findings. The commission hereby finds that service providers are secure and reliable, that service providers do not pose a threat to the integrity of gaming, and that service providers are consistent with the public policy of this State pursuant to NRS 463.0129.

2. Definitions.

(a) "Chairman" means the chairman of the board or his designee.

(b) "Information technology service provider" means a person who, on behalf of another licensee, provides management, support, security, or disaster recovery services for board regulated hardware or software.

(c) "Marketing affiliate" is a type of interactive gaming service provider and is:

(i) A person who provides information regarding persons to an operator of interactive gaming via a database or customer list; or

(ii) A person who provides the trademarks, trade names, service marks or similar intellectual property under which an operator of interactive gaming identifies its interactive gaming system to patrons.

(d) "Service provider" means a person who:

(i) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;

(ii) Is an interactive gaming service provider as defined pursuant to Regulation 5A.020;

(iii) Is a cash access and wagering instrument service provider;

(iv) Is an information technology service provider; or

(v) Acts on behalf of another licensed person who conducts nonrestricted gaming operations where the services provided include those functions that fall within the definition of "gaming employee" pursuant to NRS 463.0157.

→ A service provider granted a license by the commission is a licensee.

3. Service provider license classifications. A service provider license shall be classified to represent the significance of the activities provided on behalf of a licensee and regulatory risk of the service provider, which in turn guides the level of investigation conducted by the board. The classifications are as follows:

(a) Except as provided in subsection 3(c), a class 1 service provider is the following:

(i) Any interactive gaming service provider;

(ii) Any service provider who receives payments based on earnings or profits from any gambling game; or

(iii) Any other applicant for a service provider license who, upon a determination of the chairman, should be a class 1 service provider. Such determination shall be based on the policy set forth in NRS 463.0129 and this subsection.

(b) A class 2 service provider is any person who is a service provider other than a class 1 or class 3 service provider.

(c) A class 3 service provider is a probationary licensee who is acting on behalf of an operator of interactive gaming as a marketing affiliate.

4. A licensee may only use a service provider that is licensed as such by the commission.

5. A licensee continues to have an obligation to ensure, and remains responsible for, compliance with this regulation, the Gaming Control Act and all other regulations of the commission regardless of its use of a service provider.

6. A person may act as a service provider only if that person holds a license authorizing the person to act as a service provider within the applicable class and subject to any further conditions, limitations and restrictions imposed by the commission. Once licensed, a service provider may act on behalf of one or more gaming licensees.

7. Licensing.

(a) Applications for a class 1 service provider license shall be made, processed, and determined in the same manner as applications for nonrestricted gaming licenses, using such forms as the chairman may require or approve.

(b) Applications for a class 2 service provider license shall be made, processed, and determined in the same manner as applications for restricted gaming licenses, using such forms as the chairman may require or approve.

(c) Applications for a class 3 service provider license shall be made, processed, and determined using such forms as the chairman may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required. Unless the chairman or his designee determines that an expanded investigation is necessary, the board shall conduct a cursory investigation of the applicant as determined by the chairman. Applications shall include the following:

- (i) Completion of form 1 for an application for a class 1 service provider license, to be activated only in accordance with the provisions of this section;
- (ii) Fully executed waivers and authorizations as determined necessary by the chairman or his designee to conduct a background investigation of the applicant;
- (iii) An affirmative statement that the applicant submits to the jurisdiction of the board;
- (iv) An affirmative statement that the applicant consents to the authority of the chairman to activate the applicant's application for a class 1 service provider license in accordance with the provisions of this section;
- (v) All necessary fingerprints;
- (vi) A waiver of all rights available under the provisions of NRS 463.310 through NRS 463.318 while a probationary licensee; and
- (vii) An application fee in the amount of \$150.00 and an investigative fee in the amount of \$2,500.00. These fees do not include the application fee or investigation costs should the chairman activate the applicant's application for a class 1 service provider license as provided in this section.
- (d) Before receiving a license, a service provider must meet the qualifications for licensing pursuant to NRS 463.170.
- (e) Nothing in this Regulation shall be construed to limit or prevent the board from conducting such supplementary or expanded investigations of any applicant for a service provider license as determined necessary by the chairman or his designee. The board may require an applicant for a service provider license to pay any supplementary investigative fees and costs in accordance with Regulation 4.070.
- (f) In order to further the policies set forth in NRS 463.0129, the chairman may, at any time after a class 3 service provider probationary license has been granted, do one of the following:
- (i) Activate such class 3 service provider's application for a class 1 service provider license. Upon the commission acting on the application for a class 1 service provider license, the class 3 service provider probationary license shall be terminated.
- (ii) Terminate the class 3 probationary license with 30 days written notice to the licensee at the address on file with the board.
- A termination of a class 3 probationary license shall not be construed as a revocation of the license.
- (g) A class 3 service provider probationary licensee shall have no right to review the termination of its license. Nothing in this section shall be construed to prohibit the board from initiating disciplinary proceedings, and the commission from imposing discipline, to limit, condition, suspend, revoke or fine a class 3 service provider probationary licensee in accordance with the provisions of NRS 463.310 et. seq.
8. An applicant for a service provider's license shall have the burden of showing that its operations are secure and reliable.
9. Except as otherwise provided for class 3 service provider applicants, applications for a service provider license shall be subject to the application and investigative fees established pursuant to Regulation 4.070.

10. The premises on which a service provider conducts its operations is subject to the power and authority of the board and commission pursuant to NRS 463.140. It shall be an unsuitable method of operation for a service provider holding a license issued by the commission to deny any board or commission member or agent, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of their operations.

11. A service provider shall be liable to the licensee on whose behalf the service provider acts for the service provider's proportionate share of the fees and taxes paid by the licensee.

12. Employees of Service Provider. Any employee of a service provider who is connected directly with the operations of the service provider or who, on behalf of a licensee or on behalf of the service provider, performs the duties of a gaming employee as provided pursuant to NRS 463.0157 is a gaming employee subject to the provisions of NRS 463.335 and 463.337 and Regulations 5.100 through 5.109.

13. Any provisions of Regulation 5A specifically applicable to interactive gaming service providers shall control over this regulation

14. Grounds for Disciplinary Action.

(a) Failure to comply with the provisions of this regulation shall be an unsuitable method of operation and grounds for disciplinary action.

(b) The commission may limit, condition, suspend, revoke or fine any license, registration, finding of suitability or approval given or granted under this regulation on the same grounds as it may take such action with respect to any other license, registration, finding of suitability or approval.