



JIM GIBBONS  
*Governor*

STATE OF NEVADA  
**GAMING CONTROL BOARD**

1919 College Parkway, P.O. Box 8003, Carson City, Nevada 89702  
555 E. Washington Ave., Suite 2600, Las Vegas, Nevada 89101  
3650 South Pointe Cir., P.O. Box 31109, Laughlin, Nevada 89028  
557 W. Silver St., Suite 207, Elko, Nevada 89801  
6980 Sierra Center Parkway, Suite 120, Reno, Nevada 89511

DENNIS K. NEILANDER, *Chairman*  
MARK A. CLAYTON, *Member*  
RANDALL E. SAYRE, *Member*

March 27, 2007

Carson City  
(775) 684-7740  
Fax: (775) 687-8221

**TO: ALL RESTRICTED LICENSEES, SLOT ROUTE OPERATORS AND INTERESTED PARTIES**

**RE: DRUG PARAPHERNALIA SALES**

During the course of pre-licensing investigations and restricted licensee regulatory inspections, State Gaming Control Board (Board) agents have observed displays of objects, which by definition in NRS 453.554 are "drug paraphernalia."

The Board realizes that municipal and county codes vary across the State with regard to their treatment of the sale of drug paraphernalia. However, the Board defaults to State law which in NRS 453.560 states:

**...a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to...pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130.**

In assessing an applicant's qualifications for a license, finding of suitability or approval, the Board is mandated in NRS 463.170(1) to give "...due consideration for the proper protection of the health safety, morals, good order and general welfare of the inhabitants of the State of Nevada." Additionally, in subsection (2)(a) of the same NRS, an applicant may not be found suitable or a license granted unless "A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming...or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto." Subsection (c) adds, "In all other respects qualified to be licensed or found suitable consistently with the declared policy of the State."

The Board must also give consideration to a location's suitability and must deny an application if, "...the board deems that the place or location for which the license is sought is unsuitable for the conduct of gaming operations" (Nevada Gaming Commission (NGC) Regulation 3.010). One of the stated reasons given in subsection 3.010(7) that may result in a location being found unsuitable is, a "...premises where the conduct of gaming would be inconsistent with the public policy of the State of Nevada."

Additionally, with regard to current licensees and the sale of drug paraphernalia, NGC Regulation 5.011 states:

**The board and the commission deem any activity on the part of any licensee, his agents or employees, that is inimical to the public health, safety, morals, good order and general welfare of the people of the State of Nevada, or that would reflect or tend to reflect discredit upon the State of Nevada or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the board and the commission in accordance with the Nevada Gaming Control Act and the regulations of the board and the commission...**

Regulation 5.011 continues with a list of actions or omissions that may be determined to be unsuitable methods of operations, including subsection 8 which states:

**Failure to comply with or make provision for compliance with all federal, state and local laws and regulations pertaining to the operations of a licensed establishment...**

**The Nevada gaming commission in the exercise of its sound discretion can make its own determination of whether or not the licensee has failed to comply with the aforementioned, but any such determination shall make use of the established precedents in interpreting the language of the applicable statutes. Nothing in this section shall be deemed to affect any right to judicial review.**

State law makes the sale of drug paraphernalia illegal. The Board is obligated to make sure gaming is conducted consistent with the State's public policy and not in a way "...inimical to the public health, safety, good order and general welfare..." Additionally, the Board and Nevada Gaming Commission may consider certain acts, including a licensee's failure to comply with all federal, state and local laws, an unsuitable method of operation.

Considerable thought should be given to the decision to sell objects that meet the definition of drug paraphernalia (NRS 453.554 attached). If uncertain if an object meets the definition in NRS 453.554, NRS 453.556 (attached) provides a list of "Factors to assist in identifying an object as item of drug paraphernalia." NRS 453.556 concludes with the statement, "The innocence of an owner or of anyone in control of the object as to a direct violation of this chapter does not prevent a finding that the object is intended for use or designed for use as an item of drug paraphernalia."

**In conclusion, objects collectively displayed for sale by applicants and licensees that meet the definition of drug paraphernalia and are determined to be such by the Board, may be grounds for denial of an application, a finding of unsuitability of a location and, for licensees, deemed an unsuitable method of operation.**

Sincerely,

Randall E. Sayre  
Member

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cc: Dennis K. Neilander, Chairman  
Mark A. Clayton, Member  
Peter Bernhard, Chairman, Nevada Gaming Commission  
Jerry Markling, Chief, Enforcement Division  
Jim Martin, Chief, Investigations Division  
Steve Hixon, Chief, Tax and License Division  
Records and Research Services