

### **3.015 Applications for restricted licenses.**

1. An application for a restricted license may only be granted if the operation of slot machines is incidental to the primary business conducted at the location and the board and commission determine the location is suitable for the conduct of gaming and the applicant meets the requirements of this Section.

2. Except as required in subsection (h), in recommending and determining whether the applicant's proposed restricted location is suitable for the conduct of gaming and meets the requirements of this Section, the board and commission may consider some or all of the following factors:

(a) The amount of floor space used for the slot machines, which space shall include the area occupied by the slot machines, including slot machine seating and circulation, as compared to the floor space used for the primary business;

(b) The amount of investment in the operation of the slot machines as compared to the amount of investment in the primary business;

(c) The amount of time required to manage or operate the slot machines as compared to the amount of time required to manage or operate the primary business;

(d) The revenue generated by the slot machines as compared to the revenue generated by the primary business;

(e) Whether a substantial portion of the financing for the creation of the business has been provided in exchange for the right to operate slot machines on the premises;

(f) Other factors, including but not limited to the establishment's name, the establishment's marketing practices, the public's perception of the business, and the relationship of the slot machines to the primary business;

(g) What other amenities the applicant offers to its customers; and

(h) When a location is a bar, tavern, saloon or other similar location licensed to sell alcoholic beverages by the drink, for on-premises consumption, the location must:

(1) contain a permanent physical bar, subject to standards established by the board, wherein individual seating is available for at least nine (9) customers at all times to consume beverages and/or food items on the side opposite from where the alcoholic liquor is kept, where the sale and service of beverages are by the drink across such structure and which the permanent bar satisfies all applicable health and building code standards;

(2) contain a minimum of two thousand (2,000) square feet of space available for use by patrons and seating capacity for at least twenty (20) persons not related to or associated with gaming positions if the establishment intends to operate more than four (4) slot machines;

(3) establish and maintain a contract or service agreement with a licensed liquor distributor; and

(4) contain a restaurant as defined herein.

3. Except as provided by subsection 6, only the establishments listed below are suitable for the conduct of gaming pursuant to a restricted license:

(a) Bar, tavern, saloon or other similar location licensed to sell alcoholic beverages for on-premises consumption, other than just beer and wine, by the drink;

(b) Convenience store;

(c) Grocery store;

(d) Drug store; and

(e) Liquor store.

Unless the commission determines otherwise, there shall be a limit of no more than 7 slot machines operated at a convenience store, and a limit of no more than 4 slot machines operated at a liquor store.

4. If the commission deems an application for a restricted license to be based on exceptional circumstances, the commission may waive subsection 3 upon a finding that the waiver is consistent with Regulation 3.010 and the public policy of the State of Nevada.

5. Subsection 3 shall not apply to any type of business approved by the commission as suitable for the operation of slot machines pursuant to subsection 6.

6. Any person may apply for a preliminary determination that a type of establishment not listed in subsection 3 is suitable for the conduct of gaming by filing an application with the board together with all applicable fees per Regulation 4.070. The application shall contain (a) a definition of the type of establishment and (b) a demonstration that the operation of slot machines in such a type of establishment is consistent with Regulation 3.010 and the public policy of the State of Nevada. The application shall be considered by the commission, upon recommendation by the board. Public comment shall be accepted when the application is heard by the board and commission.

7. Slot machines exposed for play in grocery stores and drug stores shall be located within a separate gaming area or alcove having not fewer than 3 sides formed by contiguous walls or partial walls. For the purposes of Regulation 3.015, "partial wall" or "wall" may include, without limitation, 1 or more gaming devices, if the gaming devices are configured together or in conjunction with other structures to create a barrier that is similar to a partial wall or wall.

8. In grocery stores or drug stores, automated teller machines shall not be placed within a designated gaming area or alcove and, at all other restricted locations, automated teller machines shall not be placed adjacent to slot machines.

9. The requirements of this Regulation shall apply to all restricted licensees except as provided herein:

(a) Subsections 2(h), 3 and 7 do not apply to an establishment for which a restricted license was granted by the commission by February 1, 2000, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased;

(b) Subsections 2(h)(2) and 2(h)(4) do not apply to any Subsection 3(a) establishment for which a restricted license was granted by the commission on or before August 25, 2011, provided that the establishment does not cease gaming operations for a period of more than 12 months or, upon the administrative approval of the chairman of the board, for a period of not more than 24 months, that the nature and quality of the primary business of the establishment has not materially changed, and that the number of slot machines operated at the establishment has not been increased; and;

(c) For those Subsection 3(a) establishments granted a restricted license from February 2, 2000 through August 25, 2011, they shall have until August 25, 2013 in which to demonstrate compliance with Subsection 2(h)(1) and 2(h)(3) of this Regulation to the board's satisfaction.

This Subsection 9(c) and the requirements of Subsection 2(h)(1) may be waived in whole or in part at the discretion of the Commission upon the filing of an application and a showing by the licensee that the establishment's physical limitations effectively prevent compliance herewith.

10. The requirements of subsection 2(h) may be waived in whole or in part at the sole and absolute discretion of the Commission upon the filing of an application and a showing of circumstances consistent with the public policy of the state.

11. Regardless of whether subsection 9 applies, it shall be an unsuitable method of operation for any subsection 3(a) establishment that is in compliance with subsection 2(h), or any portions thereof on August 25, 2011, to thereafter fail to maintain such compliance or partial compliance, including but not limited to removing a permanent physical bar, reducing the number of bar seats from its current number of nine or less than nine, eliminating a restaurant, or reducing restaurant seating capacity from its current number of seats if 20 or less than 20.

12. It is an unsuitable method of operation to materially change the nature and quality of the primary business after the commission has granted a restricted gaming license to conduct gaming at an establishment, without the prior administrative approval of the board chairman or his designee. A material change in the nature and quality of the primary business is presumed to occur if any of the requirements of Section 2(h) have not been maintained, a zoning change is required, or a new business license, special use permit, or any other license, permit or approval must be obtained from the applicable county, city, or township licensing, zoning or approval authority, in order to change or operate the primary business in a manner that is different from what was being conducted at the time the gaming license was granted.

13. Nothing in this subsection shall be construed to limit or otherwise encumber the ability of any restricted gaming licensee to transfer, sell, or convey the business pursuant to the provisions of NRS chapter 463 and Regulation 8.

14. For purposes of this Regulation 3.015, the term "restaurant" shall mean a space kept, used, maintained, advertised and held out to the public as a place where hot meals are prepared and served on premises, providing a seating capacity of at least twenty (20) persons not related to or associated with gaming positions. The kitchen must be operated no less than fifty percent of the hours per day that the location is open for business.

(Adopted: 10/24/90. Amended: 7/99; 7/05; 11/08, 08/11.)