

REGULATION 3.015

PURPOSE OF THE AMENDMENT: To establish that it will be an unsuitable method of operation to materially change the nature and quality of the primary business conducted at an establishment after the restricted gaming license has been granted by the Commission without the prior administrative approval of the Gaming Control Board Chairman or his designee; to establish that a material change in the nature and quality of the primary business is presumed to occur if 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 city, county, 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; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

LICENSING: QUALIFICATIONS

(Draft date 03/29/07)

3.015 Applications for restricted licenses.

1. An application for a restricted license may not be granted if the operation of slot machines is not incidental to the primary business conducted at the location.
2. In recommending and determining whether the applicant's proposed operation of slot machines is incidental to the primary business at a particular location, the board and commission may consider some or all of the following factors:
 - (a) The amount of floor space used for the slot machines 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; and
 - (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.
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 the like licensed to sell alcoholic beverages, 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, the operation of slot machines at any of the establishments listed above is presumed to be incidental to the primary business, provided that no more than 7 slot machines are operated at a convenience store, and no more than 4 slot machines are 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. Subsections 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.

10. It is an unsuitable method of operation to materially change the nature and quality of the primary business conducted at an establishment after the commission has granted a restricted gaming license to conduct gaming at that 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 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.

[10.] 11. 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.

[11.] 12. This regulation shall become effective on February 1, 2000.

(Effective date _____).