

OPERATION OF GAMING ESTABLISHMENTS

REGULATION 5

ADOPTION OF REGULATION 5.210:

AUTHORIZING GAMING LICENSEE TO CHARGE A FEE FOR ADMISSION TO AREA IN WHICH GAMING IS CONDUCTED

PURPOSE: To adopt a new regulation that will establish the requirements, circumstances and procedures whereby a gaming licensee may be authorized to charge a fee for admission to an area in which gaming is conducted; to take such additional action as may be necessary and proper to effectuate these stated purposes.

(Draft date: 02/23/06)

5.210 Authorizing the imposition of a fee for admission to an area in which gaming is conducted.

1. As used in this section:

- (a) "Area" means any portion of an establishment where any gaming is conducted, to which a fee is charged for admission.
- (b) "Chairman" means the Chairman of the Board or his designee.
- (c) "Fee" means any charge, money, or monetary equivalent, paid, or payable, to a licensee, or any person, to enter, or remain in an area.
- (d) "Licensee" means a person who has been granted a nonrestricted gaming license.

2. A licensee may not, directly or indirectly, restrict access to any portion of an establishment wherein gaming is conducted, through the assessment or imposition of a fee, except upon receiving prior written administrative approval from the Chairman, consistent with policies of the Commission, or as approved pursuant to NRS 463.408.

3. A request for an approval pursuant to subsection 2, shall be made on forms approved by the Chairman, and shall include the following information:

- (a) The size of the area;
- (b) The amount of gaming that occurs, or will occur within the area;
- (c) The types and quantity of gaming offered, or to be offered by the licensee within the area, as well as outside the area;
- (d) The business purpose of the area;
- (e) What other amenities will be offered within the area;
- (f) The amount of costs and expenses incurred by the licensee in creating the area;
- (g) The benefit to the State of Nevada in having gaming conducted within the area;

(h) The maximum amount of the fee that will be charged to enter or remain in the area, as well as whether the fee to be charged is reasonable as compared to the prevailing practice within the industry;

(i) Whether the area should more appropriately be treated as a gaming salon;

(j) Whether, if applicable, the licensee's minimum internal control standards or minimum internal control procedures applicable to the area have been updated and approved by the Board;

(k) Whether, if applicable, all current surveillance requirements applicable to the area have been approved by the Board;

(l) A clear and legible diagram that depicts the number of games, slot machines and other gaming devices to be exposed for play as well as their location within the area of the establishment to which access will be restricted through the imposition of a fee; and

(m) Such additional or supplemental information as the Chairman may require.

4. The Chairman may refer a request for approval to the Board and Commission for consideration, or grant, deny, limit, restrict or condition a request made pursuant to this section for any cause he deems reasonable. A licensee aggrieved by a decision of the Chairman may submit the matter for review by the Board and Commission pursuant to NGC Regulations 4.185 through 4.195, inclusive.

5. The Chairman is hereby granted the authority to issue an interlocutory order, revoking or suspending any administrative approval granted pursuant to this section for any cause deemed reasonable. An interlocutory order shall be deemed delivered and effective when personally served upon the licensee, or if personal service is impossible or impractical, when deposited, postage prepaid, in the United States mail, to the licensee at the address of the establishment as shown in the records of the Commission. If an interlocutory order revoking or suspending the administrative approval is issued, the effected licensee may request that the order be reviewed by the Board and Commission pursuant to NGC Regulation 4.185 through 4.195, inclusive.

6. A licensee who is allowed to charge a fee for a patron to enter or remain in an area pursuant to this section shall:

(a) Deposit with the Board and thereafter maintain a revolving fund in an amount of \$5,000 unless a lower amount is approved by the Chairman, which shall be used to pay the expenses of agents of the Board and Commission to enter the area. Upon a licensee's termination of the admission fee, and upon its request, the Board shall refund the balance remaining in the licensee's revolving fund.

(b) Arrange for immediate access by agents of the Board and Commission to the area, and

(c) At all times that a fee is charged for admission to an area within an establishment for which a nonrestricted gaming license has been issued, provide for the public at least the same number of gaming devices and games in a different area for which no fee is charged for admission.

7. A licensee who is allowed to charge a fee to enter or remain in an area pursuant to this section, shall not:

(a) Use a fee charged for admission to create a private gaming area that is not operated in association or conjunction with a non-gaming activity, attraction or facility, or

(b) Restrict admission to the area for which a fee for admission is charged to a patron on the grounds of race, color, religion, national origin, or disability of the patron. Whenever a licensee and a patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves an admission fee of:

(1) At least \$500, the licensee shall immediately notify the Board, or

(2) Less than \$500, the licensee shall inform the patron of his right to request that the Board conduct an investigation.

Disputes must be resolved pursuant to the provisions and requirements of NRS 463.362 through 463.366, inclusive.

8. If a gaming licensee who holds a nonrestricted license charges a fee pursuant to this section, unless the area for which a fee for admission is charged is otherwise subject to the excise tax on admission to any facility in this State where live entertainment is provided pursuant to chapter 368A of NRS, the determination of the amount of the liability of the gaming licensee for that tax:

(a) Includes the fees charged for admission pursuant to this section; and

(b) Does not include charges for food, refreshments and merchandise collected in the area for which admission is charged.

9. Once approval has been granted pursuant to this section to charge a fee, the amount of the fee may not be increased, nor may the number or location of the games or devices be changed without the prior administrative approval of the Chairman. Requests to change the number or location of any games or devices shall be accompanied by a diagram depicting the new location, and number of games and devices to be exposed within the area to which a fee is being charged.

10. Notwithstanding the foregoing, a fee may be charged for admission to an establishment, or any area thereof, for which a restricted gaming license has been issued, provided, that there be posted a sign of a suitable size, which shall be placed near the entrance to the establishment, that provides notice to patrons that they do not need to pay a fee to engage in gaming within the establishment.

(Effective: 03/23/06.)