



GAMING & HOSPITALITY LEGAL NEWS

The Gaming and Hospitality Group at Dickinson Wright stands in solidarity with our friends, colleagues, and clients, who are all facing unprecedented challenges in light of the COVID-19 pandemic. We hope that you are all staying healthy and safe during this uncertain time.

ALL QUIET ON THE LAS VEGAS STRIP: COMPLIANCE CONSIDERATIONS FOR THE COVID-19 SHUTDOWN IN NEVADA

by Jeff Silver, Jennifer Gaynor, Greg Gemignani, and Kate Lowenhar-Fisher

On March 13, 2020, Nevada Governor Steve Sisolak declared a State of Emergency in connection with the COVID-19 virus pandemic and declared that the Nevada Health Response Team would be leading the fight against the virus. On that date, the Nevada Gaming Control Board (“the Board”) sent a notice to all licensees that it expected them to use their best efforts to comply with the COVID-19 rules as promulgated by the Occupational Safety and Health Administration and to consistently monitor the CDC’s website for updates. At that time, the CDC asked businesses and employers to perform routine environmental cleaning, actively encourage sick employees to stay home, and to emphasize respiratory etiquette and hand hygiene. Licensees were instructed to have an Infectious Disease Outbreak Response Plan as one of their “best practices.”

On Sunday, March 15, 2020, the Governor issued a directive closing all K-12 schools for three weeks and urged all employees who could work from home to do so. All public gathering spaces, presumably including casinos and their showrooms, were asked to reduce the capacity to 50% of what was allowed by the Fire Marshal. The Governor concluded his statement by making the comment that “as we all know, gaming is the lifeblood of Nevada’s economy, and a source of financial support for so many of our citizens and their families. But to protect the public health and safety of Nevadans and visitors, I strongly support any of our properties that make the difficult decision to close to the public.” The Governor encouraged these licensees to do their best to protect the pay and benefits of their workforce during this difficult time. Later that evening, the State had its first COVID-19 related death.

Notwithstanding the plea, the Governor stated that properties that elected to stay open had to comply with restrictions requiring no more than three chairs at table games, cleaning of

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all gaming machines at least every two hours and that buffets could only be served by employees touching the utensils. On March 16, 2020, a second bulletin was sent out by the Board that included the Governor's directions from the previous day. Although several casino companies elected to immediately close their facilities, others implemented the Governor's guidelines and waited for further developments. The wait was a short one. On March 17, 2020, the Board, referencing the Governor's Risk Mitigation initiatives, stated they would be enforcing a temporary suspension of licensee operations:

All gaming devices, machines, tables, games, and any equipment related to gaming activity must be shut down by 11:59 pm on March 17, 2020.

The above restriction remains in effect for thirty days (through April 17, 2020).

A "policy memorandum" accompanied the Board's notice providing for procedures for Casino Closures and Changeovers. A changeover/closure plan should be established and forwarded to the Board's Audit Division. Normally, these plans would be submitted at least 10 days prior to the closure, however, when the temporary closure occurs suddenly, as by an order from the Board, the closure plan should be submitted within 24 hours prior to or as soon as possible, thereafter.

The closure plan should provide the following information:

1. Contact information for the person coordinating the closure.
2. A schedule for certain procedures for the closure of the games, including drop, booth, kiosks and vault closures, and the name of the responsible person performing these functions.
3. Plans for security over pit and other funds during the closure.
4. Chip and token inventories which must be counted and verified.
5. In the event the casino does not intend to reopen, for whatever reason, plans for the disposal of progressive jackpot amounts and the method for handling inter-linked jackpot sums. Normally, progressive jackpot disposal plans require the Board's administrative approval, however, in these emergency circumstances, written requests for extensions would likely be granted.
6. There are specific procedures required for turning in a gaming license under Regulation 9, however, these would be applicable in the case where a new operator would be

licensed. Notwithstanding, a communication requesting "temporary closure" based upon the Governor's Order, should be sent to the Board as a matter of notice, and if the closure would be longer than the 30 days, regardless of permission by the Governor to reopen, the additional closure time must be also requested to avoid the loss of the license.

7. Information must be provided regarding the disposition of credit instruments. This would be only applicable to a changeover, rather than a temporary suspension.
8. The licensee would be required to submit plans for a final audit. Again, only applicable to a changeover, not a temporary suspension.
9. If the licensee is making periodic payments pursuant to a structure jackpot, the licensee must provide assurances that the regularly scheduled payments will be made during the temporary closure.
10. The licensee must communicate with the Audit Division regarding its Sports Book reserve requirements and may even request a release of the reserve once the obligations against the reserve have been satisfied.
11. Notwithstanding a temporary closing, the licensee must continue filing monthly tax returns and the expired slot vouchers/payoff receipts reflected in those returns.
12. During a temporary closure, the plan should address how patrons may access their safe deposit boxes, or how the boxes will be secured until the property reopens.
13. For temporary closures, the normal bankroll requirements will be temporarily waived. However, the licensee must maintain sufficient funds that can be used to pay expected chip and token redemptions, payout receipts, and front money deposits.

Finally, although the need for a temporary closure may occur suddenly, licensees are reminded that they are expected to remain in continued compliance with Minimum Internal Control Standards or Procedures, depending on whether the licensee is Group 1 or Group 2, and compliance with standard procedures for safeguarding of assets. Questions should be directed to the Board's Audit or Enforcement Divisions.