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KIM KAUFMAN, EXECUTIVE DIRECTOR
LESLIE A. LEWIS JOHNSON, CHIEF COUNSEL

PHONE: (717) 783-5417
FAX: (717) 783-2664
irrc@irrc.state.pa.us
<http://www.irrc.state.pa.us>

INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

June 25, 2009

Frank Donaghue, Acting Executive Director
Pennsylvania Gaming Control Board
Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106-9060

Re: Regulation #125-102 (IRRC #2757)
Pennsylvania Gaming Control Board
Key Employees and Complimentary Services or Items

Dear Mr. Donaghue:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Jane M. Earl, Chair, Senate Community, Economic and Recreational
Development Committee
Honorable Wayne D. Fontana, Chair, Senate Community, Economic and Recreational
Development Committee
Honorable Dante Santoni, Jr., Chair, House Gaming Oversight
Honorable Curt Schroder, Chair, House Gaming Oversight

Comments of the Independent Regulatory Review Commission



Pennsylvania Gaming Control Board

Regulation #125-102 (IRRC #2757)

Key Employees and Complimentary Services or Items

June 25, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the April 25, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. Section 401a.3. Definitions – Need; Economic impact.

The Board states it has amended the definition of “key employee” to expand the list of positions that require a key employee license. Several licensees have commented that this amendment is unnecessary and costly. The licensees state they are not aware of any problems that the amendment is designed to address.

It is our understanding that the key employee license requires a significantly more detailed background and financial review of an employee compared to a gaming license. The Board should provide the following to justify its proposed amendment:

- Explain the specific problem or problems the amendment addresses.
- Explain the difference between the requirements for a gaming employee and a key employee license, including the difference in costs.
- Explain how the benefits derived from the amendment justify the cost imposed.

2. Section 465a.7. Complimentary services or items. – Need; Economic impact; Clarity.

Submit internal controls for complimentary services to the Board for approval

The existing regulation in Subsection (a) requires licensees to maintain a written record of internal controls, but specifically does not require Board approval of them. The amendment to Subsection (a) would now require Board approval of internal controls for complimentary services and items. Commentators believe the existing regulation is sufficient and oppose the amendment because they believe it is unnecessary. The commentators believe this provision would curtail operating flexibility and would lead to frivolous compliance issues. The Board should provide further justification for the need to approve these internal controls and explain the economic impact of the amendment.

Clarity of approval process

The Board is amending Subsection (a) to require slot machine licensees to “submit internal controls for complimentary services and items to the Board for approval under § 465a.2 (relating to internal control systems and audit protocols).” The cross-reference to “approval under § 465a.2” is not clear because Section 465a.2 contains two approval processes. Under Section 465a.2, Subsection (a) is an approval process for initial internal controls and Subsection (f) is an approval process for amendments to internal controls. Since licensees under existing regulation already have approved internal controls, but did not have to obtain approval of internal controls for complimentary services, will the Board consider the filings pursuant to this rulemaking to be an initial filing or an amendment? The Board should clarify the approval process that will be used, the information required for submittal of internal controls for complimentary services and the cross-reference to “approval under § 465a.2.”