

RULES AND REGULATIONS

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH 441]

Response to Public Comment

SUBPART C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.22. Notice of employee misconduct and offenses.

*Comment:*

We believe that subsection (a) requiring the casinos to notify the Board within 72 hours of "any information surrounding the termination of an employee that could be cause for suspension or revocation of the employee's license" should be deleted. This regulation places a burden on the casino licensee to make a determination as to whether information related to an employment termination is of a nature that should be reported to the Board. It provides both a trap for the employer and also sets up the employer for potential defamation suits as well as wrongful termination suits based on information provided to the PGCB. Examples: If an employee is routinely late for work, must such information be submitted to the Board, if an employee is suspected of theft (the employer is not certain but has sufficient information to not "chance it" and therefore makes an

employment decision) must the Board be advised? The later example would subject the licensee to potential lawsuits.

*Response:*

The Board declines to accept this comment. The duty of the operator is simply to provide notice of conduct-related termination. The Bureau of Investigations and Enforcement will conduct investigations associated with the notice to determine whether suspension or revocation is appropriate.

*Comment:*

We believe that the driving under the influence of alcohol should be deleted (Subsection (c)).

*Response:*

The Board declines to accept this comment. As way of further response, the Board has revised this portion of the regulation to be consistent with the offenses listed in section 1518 of the act.

*Comment:*

Section 441.22 provides that the licensee is under a continuing obligation to notify the Board within 72 hours of the termination of any employee and of the information surrounding the termination that could be cause for suspension or revocation of the employee's license, permit or registration. The 72 hour

time frame in which terminations must be reported may, in some circumstances, be an insufficient amount of time to provide full and complete disclosure of the termination and the circumstances surrounding it. For example, certain key personnel which are crucial to the termination decision could be absent from the worksite at or near the timeframe of the termination in question. This would make it difficult to fully and adequately inform the Board of the full circumstances of the termination. It is therefore respectfully suggested that a longer notification time frame be adopted, specifically, 14 days.

*Response:*

The Board concurs that 72 hours may be too restrictive. However, terminations that may involve conduct that could result in the revocation of an employee's license, permit or registration require prompt reporting. Accordingly, the notification time has been changed to within five days, not the 14 days requested.