

## REGULATION 5

### OPERATION OF GAMING ESTABLISHMENTS

#### PROPOSED AMENDMENTS TO REGULATION 5

**PURPOSE:** In accordance with NRS 463.145, NRS 463.150, and S.B. 9 passed during the 2015 Legislative Session: to amend regulation 5 to create a comprehensive framework for wagering accounts for all forms of wagering, including without limitation: 1) removing references in Regulation 5.220 to wagering accounts that are specific to mobile gaming systems; 2) creating definitions; 3) establishing the scope of use of wagering accounts; 4) creating provisions that allow a licensed cash access and wagering instrument service provider or licensed manufacturer to operate and maintain wagering accounts on behalf of a licensee; 5) establishing the requirements for the creating, accessing, and use of wagering accounts; 6) provisions pertaining to the protection of wagering accounts from unauthorized access; 7) provisions requiring patrons to personally appear before an employee of the licensee at the licensed gaming establishment of the licensee or its affiliate to present an identification credential before the patron is allowed to make any wager using the wagering account; 8) establishing the requirements for making deposits, withdrawals, credits, and debits; 9) provisions requiring the suspension of a wagering account if there has been no wagers for 16 consecutive months; 10) establish requirements for record keeping; 11) provisions pertaining to responsible gambling options; 12) provisions pertaining to comprehensive rules governing wagering account transactions; 13) establishing reserve requirements; 14) provisions allowing the chairman to waive, for good cause, one or more of the reserve requirements and impose alternative requirements; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

(Draft Date: May 8, 2017)

[~~Deleted~~]/~~Added~~ Language

~~Deleted~~/~~Added~~ Language to March 30, 2017 Draft

## **5.220 Operation of a mobile gaming system**

1. Definitions. As used in this section:

(a) “Chairman” means the chairman of the board or the chairman’s designee.

(b) “Communications technology” means any method used and the components employed by a licensed gaming establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. The term does not include the Internet.

(c) “Equipment associated with mobile gaming” means associated equipment as defined within NRS 463.0136, that will be approved as associated equipment.

(d) “Licensed gaming establishment” means the establishment of a licensee, which includes all land, together with all buildings and improvements located thereon.

(e) “Licensee” means a person or entity licensed to conduct nonrestricted gaming operations, who at all times exposes to the public for play, 100 or more slot machines and at least one table game, within its licensed gaming establishment. The term does not include a person or entity licensed as a holder of a security or other ownership interest in the licensee, or as an officer, director or key employee of the licensee, or due to any other relationship or involvement with the licensee or gaming operation.

(f) “Mobile communications device” means a device which displays information relating to the game to a participant in the game as part of a system.

(g) “Mobile gaming system” or “system” means a system that allows for the conduct of games through mobile communications devices operated solely within the licensed gaming establishment by the use of communications technology that allows a patron to bet or wager, and corresponding information related to the display of the game, gaming outcomes or other similar information.

(h) “Operator of a mobile gaming system” or “operator” means a licensee who has been licensed to operate a mobile gaming system, or a person or entity, who, under any agreement whereby consideration is

paid or payable for the right to place a mobile gaming system, engages in the business of placing and operating a mobile gaming system within a licensed gaming establishment and who is authorized to share in the revenue from the mobile gaming system without having been individually licensed to conduct gaming at the establishment.

~~[(i) “Wagering account” means an electronic ledger wherein the following types of transactions relative to a mobile gaming system are recorded:~~

- ~~(1) Deposits;~~
- ~~(2) Withdrawals;~~
- ~~(3) Amounts wagered;~~
- ~~(4) Amounts paid on winning wagers;~~
- ~~(5) Service or other transaction-related charges authorized by the patron; and~~

~~(6) Adjustments to the account.]~~

- 2. No change.
- 3. No change.
- 4. No change.
- 5. No change.
- 6. No change.

~~[7. Before a wager may be made on a system, the patron must personally appear at the licensee’s establishment to open a wagering account. An employee of the licensee must examine, in the presence of the patron, and record the patron’s:~~

- ~~(a) Driver’s license;~~
- ~~(b) Passport;~~
- ~~(c) Non-resident alien identification card;~~
- ~~(d) Other reliable government-issued identification credential; or~~
- ~~(e) Other picture identification credential normally acceptable as a means of identification when cashing checks.]~~

7. Before a wager may be made on a system, a wagering account must be established in accordance with Regulation 5.225.

### **5.225 Wagering accounts.**

1. Definitions. As used in this section:

- (a) “Chairman” means the chairman of the board or his designee.
- (b) “Licensee” means any person to whom a valid gaming license has been issued.

(c) “Secure personal identification” means a method of uniquely identifying a patron through which the licensee may verify access to, or use of, a wagering account.

(d) “Wagering account” means an electronic ledger operated and maintained by a licensee for a patron in connection with the patron’s use and play of any or all authorized games and gaming devices, including, but not limited to, race books, sports pools, mobile gaming systems, and interactive gaming, wherein information relative to such use and play is recorded on behalf of the patron including, but not limited to, the following types of transactions:

- (1) Deposits;
- (2) Withdrawals;
- (3) Debits;
- (4) Credits;
- (5) Service or other transaction-related charges authorized by the patron; and
- (6) Adjustments to the wagering account.

2. Except as otherwise specified in Regulations 5A, 22, and 26C, as applicable, a licensee shall comply with the provisions of this section for the creation and use of wagering accounts for all forms of wagering.

### 3. Scope of use of wagering accounts.

(a) Subject to paragraph (b) of this subsection, a licensee may establish and allow the use of wagering accounts for patrons’ gaming activity with any licensed gaming establishment of the licensee and with any affiliate of the licensee ~~that also qualifies as a licensee as defined herein.~~

(b) Before a licensee allows its wagering accounts to be used by patrons in connection with their use and play of games and gaming devices with any other gaming establishment of the licensee or with any affiliate of the licensee, the licensee must:

- (1) Submit to the chairman a written proposal for implementation of such wagering accounts that addresses the following:
  - (i) The proper reporting of revenue;
  - (ii) How minimum bankroll requirements will be satisfied;
  - (iii) How the reserve requirements of this section will be satisfied;

(iv) Compliance with the board's minimum internal control procedures adopted pursuant to Regulation 6.090; and

(v) Any additional items or information as the chairman may require.

(2) Obtain the written administrative approval from the chairman subject to such conditions or limitations that the chairman may impose.

4. Operation and maintenance of wagering accounts by third-parties.

(a) A licensee may use a licensed cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on behalf of the licensee provided such wagering accounts are within the State of Nevada.

(b) A licensed cash access and wagering instrument service provider or a licensed manufacturer that acts on behalf of a licensee to operate and maintain wagering accounts shall be subject to the provisions of this section applicable to such services to the same extent as the licensee.

(c) A licensee continues to have an obligation to ensure, and remains responsible for compliance with, this regulation, the Gaming Control Act and all other regulations of the commission regardless of its use of a licensed cash access and wagering instrument service provider or a licensed manufacturer to operate and maintain wagering accounts on its behalf.

(d) A licensed cash access and wagering instrument service provider or a licensed manufacturer acting on behalf of a licensee, and with the consent of the licensee and the patron, may use a patron's personal identification information to administer all other wagering accounts created for that patron on behalf of additional licensees.

5. To the extent not otherwise inconsistent with NRS 463.245(3), a licensee may create a wagering account for a patron only after it has registered the patron, either remotely or in person, as follows:

(a) Obtained, recorded, and verified:

(1) The identity of the patron;

(2) The patron's date of birth;

(3) The patron's physical address; and

(4) The patron's social security number, if a United States resident.

(b) Have the patron affirm:

(1) That the information provided by the patron to the licensee to open the wagering account is accurate;

(2) That the patron has reviewed and acknowledged the rules and procedures established by the licensee for use of the wagering account;

(3) That the patron has been informed of and acknowledged that they are prohibited from allowing any other person not assigned to the wagering account access to or use of their wagering account; and

(4) That the patron consents to the monitoring and recording by the licensee and the board of the use of the wagering account.

(c) Determined that the patron is not on the list of excluded persons established pursuant to NRS 463.151 and Regulation 28.

↪A licensee may assign more than one patron to a single wagering account provided that each additional patron is registered as provided herein.

6. Once a wagering account is created ~~for a patron~~, a secure personal identification for each patron authorized to use the wagering account shall be implemented by the licensee that is reasonably designed to prevent the unauthorized access to, or use of, the wagering account by any person other than the patron or patrons for whom the wagering account is established.

7. A licensee shall not allow a patron to make any wagers using the wagering account until the patron personally appears before an employee of the licensee at its licensed gaming establishment or at the licensed gaming establishment of its affiliate where the patron presents a government issued picture identification credential confirming the patron's identity.

8. A licensee shall not allow a wagering account to be created anonymously or in a fictitious name. Patrons may, while using or playing a game or gaming device, represent themselves using a name other than their actual name or may remain anonymous.

9. Funds may be deposited by a patron into their wagering account as follows:

(a) Cash deposits made directly with the licensee;

(b) Personal checks, cashier's checks, wire transfer and money order deposits made directly or mailed to the licensee;

(c) Transfers from a patron's safekeeping or front money accounts otherwise held by the licensee;

(d) Debits from the patron's debit instrument, [prepaid access instrument](#), or credit card;

(e) Transfers from another account verified to be controlled by the patron through the automated clearing house or another mechanism designed to facilitate electronic commerce transactions;

(f) Funds derived from the extension of credit to the patron by the licensee; or

(g) Any other means approved by the chairman.

10. Funds may be withdrawn by a patron from their wagering account as follows:

(a) Issuance of cash directly to the patron by the licensee;

(b) Issuance of a personal check, cashier's check, money order, or wire transfer by the licensee made payable to the patron and issued directly or mailed to the patron;

(c) Transfers to the patron's safekeeping or front money accounts held by the licensee;

(d) Credits to the patron's debit instrument, [prepaid access instrument](#), or credit card;

(e) Transfers to another account verified to be controlled by the patron through the automated clearing house or another mechanism designed to facilitate electronic commerce transactions;

(f) As repayment of outstanding credit owed by the patron to the licensee; or

(g) Any other means approved by the chairman.

11. Credits to a wagering account may be made by the following means:

(a) Deposits;

(b) Amounts won by the patron;

(c) Transfers from a game or gaming device;

(d) Promotional credits, or bonus credits provided by the licensee and subject to the terms of use established by the licensee and as long as such credits are clearly identified as such;

(e) Adjustments made by the licensee following the resolution of a dispute; or

(f) Any other means approved by the chairman.

12. Debits to a wagering account may be made by the following means:

(a) Withdrawals;

(b) Amounts wagered by the patron;

(c) Transfers to a game or gaming device;

(d) Adjustments made by the licensee following the resolution of a dispute;

(e) Service or other transaction-related charges authorized by the patron; or

(f) Any other means approved by the chairman.

13. Unless there is a pending unresolved player dispute or investigation, a licensee shall comply with a request for a withdrawal of funds by a patron from their wagering account in accordance with the terms of the wagering account agreement between the licensee and its patron.

14. A licensee shall not allow a patron to electronically transfer funds from their wagering account to any other patron's wagering account.

15. A licensee shall not allow a wagering account to be overdrawn unless caused by payment processing issues outside the control of the licensee.

16. A licensee shall suspend a wagering account if the wagering account has not been used to make any wagers for a consecutive 16-month period. The licensee may re-activate a suspended wagering account only after re-verifying the information required by subsection 5(a) of this regulation and upon the patron presenting a current government issued picture identification credential.

17. A licensee shall record and maintain, for a period of at least 5 years after creation, the following in relation to a wagering account:



(a) All information used by the licensee to register a patron and create the wagering account pursuant to subsection 5 of this regulation;

(b) The method used to verify the information provided by a patron to establish the wagering account, including a description of the identification credential provided by a patron to confirm their identity and its date of expiration;

(c) The date and time the wagering account is opened and terminated;

(d) The date and time the wagering account is accessed by any person, including the patron or the licensee;

(e) All deposits, withdrawals, credits and debits; and

(f) The patron's account number.

#### 18. Responsible Gambling.

a. Licensees shall ensure that, within one year following the effective date of this regulation, its patrons have the ability to select responsible gambling options associated with their wagering account that include deposit limits establishing the amount of total deposits a patron can make to their wagering account within a specified period of time.

b. Licensees shall conspicuously display and make available to patrons, upon access to their wagering account, the following responsible gambling message:

[Licensee's name] encourages you to gamble responsibly. For problem gambling information and assistance, call the 24-hour confidential Problem Gamblers HelpLine at 1-800-522-4700, or visit [www.WhenTheFunStops.org](http://www.WhenTheFunStops.org).

➤If either the helpline number or website address changes, the chairman may administratively approve the use of an alternative helpline number or website address.

19. Each licensee that offers wagering accounts shall adopt, conspicuously display, make available, and adhere to written, comprehensive rules governing wagering account transactions. Such rules must include, at a minimum, the following:

(a) That the licensee's house rules apply to wagering accounts, as applicable.

(b) That the licensee shall provide each patron, upon reasonable request and consistent with its internal control policies, with a statement of account showing each wagering account deposit, withdrawal, credit, and debit made during the time period reported by the account statement. The patron may dispute any transaction in accordance with Regulation 7A.

(c) That for all wagers, the licensee is required to make a voice, print, electronic or other approved record of the entire transaction and shall not accept any such wager if the recording system is inoperable. The licensee's record of a patron's confirmation of all wagers shall be deemed to be the transaction of record. Such records are made available to the board upon request.

(d) That the licensee has the right to:

(1) Refuse to establish a wagering account for what it deems good and sufficient reason;

(2) Refuse deposits to wagering accounts for what it deems good and sufficient reason;

(3) Refuse to accept all or part of any wager for what it deems good and sufficient reason;

(4) Declare that any or all wagers will no longer be received; and

(5) Unless there is a pending board investigation or patron dispute, suspend or close any wagering account at any time pursuant to the terms of the agreement between the licensee and the patron, provided, however, when a wagering account is closed, the licensee shall immediately return the balance of the wagering account at the time of said action, subject to compliance with these regulations, the licensee's house rules, and federal and state laws and regulations, by sending a check to the patron's address of record or as otherwise provided pursuant to the terms of the wagering account agreement; and

(e) That the licensee shall keep confidential, except from the board, except from financial institutions participating in a program established in accordance with Section 314(b) of the USA Patriot Act, except as required by state or federal law, or except as otherwise authorized by the patron, the following:

(1) The amount of money credited to, debited from, or present in any particular patron's wagering account;

(2) The amount of money wagered by a particular patron on any game or gaming device;

(3) The account number and secure personal identification method that identifies the patron;

(4) The identities of particular entries on which a patron is wagering or has wagered; and

(5) The name, address, and other information in the possession of the licensee that would identify the patron to anyone other than the board or the licensee.

(f) That the licensee shall disclose its policy regarding the acceptance of personal checks, cashier's checks, wire transfers, money orders, debit instruments, credit cards and electronic transfers of money to the patron.

→Prior to adopting or amending such wagering account rules, a licensee shall submit them to the chairman for approval.

## 20. Reserve requirements for licensees.

(a) A licensee shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof for the benefit and protection of patrons' funds held in wagering accounts. The reserve may be maintained by a licensee's holding company and may be combined as a single amount for all patrons' funds held in wagering accounts maintained by the licensee and its affiliate licensees.

(b) The amount of the reserve shall be not less than the greater of \$25,000 or the sum of all patrons' funds held in the wagering accounts. Amounts available to patrons for play that are not redeemable for cash may be excluded from the reserve requirement. In calculating the sum of all patrons' funds held in wagering accounts when such wagering accounts are used for multiple types of wagering, this subsection, and Regulations 5A, 22, and 26C, as applicable, shall not be construed to require the tallying of such patrons' funds more than once.

(c) If a reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued, as applicable, by a federally-insured financial institution. If the reserve is maintained in the form of a bond, it must be written by a bona fide insurance carrier. The reserve must be established pursuant to a written agreement between the licensee and the financial institution or insurance carrier, but the licensee may engage an intermediary company or agent acceptable to the chairman to deal with the financial

institution or insurance carrier, in which event the reserve may be established pursuant to written agreements between the licensee and the intermediary and between the intermediary and the financial institution or insurance carrier.

(d) The agreements described in paragraph (c) of this subsection must reasonably protect the reserve against claims of the licensee's creditors other than the patrons for whose benefit and protection the reserve is established, and must provide that:

(1) The reserve is established and held in trust for the benefit and protection of patrons to the extent the licensee holds money in wagering accounts for such patrons;

(2) The reserve must not be released, in whole or in part, except to the board on the written demand of the chairman or to the licensee on the written instruction of the chairman. The reserve must be available within 60 days of the written demand or written notice. The licensee may receive income accruing on the reserve unless the chairman instructs otherwise pursuant to paragraph (k) of this subsection;

(3) The licensee has no interest in or title to the reserve or income accruing on the reserve except to the extent expressly allowed in this subsection;

(4) Nevada law and this subsection govern the agreements and the licensee's interest in the reserve and income accruing on the reserve;

(5) The agreements are not effective until the chairman's approval has been obtained pursuant to paragraph (e) of this subsection; and

(6) The agreements may be amended only with the prior, written approval of the chairman.

(e) Each licensee shall submit to the chairman all information and copies of all documents relating to its proposed reserve arrangement, including copies of the agreements described in paragraphs (c) and (d) of this subsection, and must obtain the chairman's approval of the agreements and of the reserve arrangements generally. The chairman shall determine whether the agreements and arrangements satisfy the purposes and requirements of this subsection, may require appropriate changes or withhold approval if they do not, and shall notify the licensee of the determination. Amendments to reserve agreements or arrangements must be approved in the same manner.

(f) A licensee must calculate its reserve requirements each day. In the event a licensee determines that its reserve is not sufficient to cover the

calculated requirement, the licensee must, within 24 hours, notify the chairman of this fact in writing and must also indicate the steps the licensee has taken to remedy the deficiency.

(g) Each licensee must engage an independent certified public accountant to examine the pertinent records relating to the reserve each month and determine the reserve amounts required by this subsection for each day of the previous month and the reserve amounts actually maintained by the licensee on the corresponding days. The licensee shall make available to the accountant whatever records are necessary to make this determination. The accountant shall report the findings with respect to each day of the month under review in writing to the board and the licensee no later than the tenth day of the next month. The report shall include the licensee's statement addressing each day of noncompliance and the corrective measures taken.

(h) The report described in paragraph (g) of this subsection may be prepared by an employee of the licensee that is independent of the gaming operations if written approval has been received from the chairman. The report must contain the signature of an employee attesting to the accuracy of the submitted information.

(i) If the chairman is notified pursuant to paragraph (f) of this subsection, or the report described in paragraph (g) of this subsection indicates that at any time during the month under review the amount of the reserve did not meet the requirements of this section, the chairman may instruct the book to either increase the reserve accordingly or cease accepting wagers and money for the account of patrons until such time as the reserve meets the requirements of this subsection and is confirmed to the chairman's satisfaction. The chairman may demand that this reserve be increased to correct any deficiency or for good cause to protect patrons.

(j) If the reserve exceeds the requirements of this subsection, the chairman shall, upon the licensee's written request, authorize the release of the excess.

(k) When a licensee ceases operating and its license lapses, is surrendered, or is revoked, the chairman may demand payment of the reserve, any income accruing on the reserve after operations cease, and, if instructions from the chairman that income accruing on the reserve not be paid to the licensee are in effect when operations cease, any income accruing since the instructions took effect. The board may

interplead the funds in state district court for distribution to the patrons for whose protection and benefit the reserve was established and to such other persons as the court determines are entitled thereto, or shall take such other steps as are necessary to effect the proper distribution of the funds, or may do both.

(l) As used in this subsection, “month” means a calendar month unless the chairman requires or approves a different monthly period to be used for purposes of this subsection, in which case “month” means the monthly period so required or approved.

21. Upon written request and good cause shown, the chairman may waive one or more of the requirements of subsection 20 of this Regulation. If a waiver is granted, the chairman may impose alternative requirements.