

PROPOSED AMENDMENTS TO REGULATION 5

PURPOSE: In accordance with NRS 463.145, 463.150, 463.673, 463.677, and 463.750 and in conjunction with creating a comprehensive and unified framework for the registration of independent agents, independent hosts, manufacturers and distributors of associated equipment, and service providers in regulation 4, to amend regulations 5.240 and 5.345 regarding the registration of service providers and independent hosts, including without limitation: 1) making necessary deletions and changes to conform with the creation of a new section in regulation 4, which will contain the requirements regarding the registration of service providers and independent hosts; 2) creating registration requirements for those persons having significant control over the operations of a service provider; 3) to clarify that an independent host, once registered, may act on behalf of one or more licensees or club venue operators; and to take such additional action as may be necessary and proper to effectuate these stated purposes.

REGULATION 5

OPERATION OF GAMING ESTABLISHMENTS

(As Adopted: July 28, 2022)

New
~~[Deleted]~~

5.240 Service Providers.

1. Findings. The Commission hereby finds that service providers are secure and reliable, that service providers do not pose a threat to the integrity of gaming, and that service providers are consistent with the public policy of this State as set forth in NRS 463.0129.

2. Definitions.

(a) “Chair” means the Chair of the Nevada Gaming Control Board or the Chair’s designee.

(b) “Cloud computing services”:

(1) Consist of the following as defined by the National Institute of Standards and Technology in NIST SP 800-145 and as further explained in NIST SP 500-292:

- (I) Software as a Service;
- (II) Platform as a Service; or
- (III) Infrastructure as a Service.

(2) The services described in subparagraph (1) do not include the performance of any service, action, transaction, or operation that would otherwise require a gaming license or registration pursuant to Chapter 463 of NRS or these regulations, other than a registration as a cloud computing service provider.

(c) “Cloud computing service provider”:

(1) Means a person who, on behalf of a licensee, provides cloud computing services by acquiring and maintaining the computing infrastructure and software necessary to provide cloud computing services for associated equipment, cashless wagering systems, games, gaming devices, race book operations, or sports pool operations, in whole or in part, and otherwise in accordance with paragraph (4) of section 5.225 and section 5.242.

(2) The services described in subparagraph (1) do not include the performance of any service, action, transaction, or operation that would otherwise require a gaming license or other registration pursuant to Chapter 463 of NRS or these regulations.

(d) “Information technology service provider” means a person who, on behalf of a licensee, provides management, support, security, or disaster recovery services for games, gaming devices, or associated equipment.

(e) “Service provider” means a person who:

(1) Is a cash access and wagering instrument service provider as defined in NRS 463.01395;

- (2) Is an information technology service provider; or
- (3) Is a cloud computing service provider.

3. Except as otherwise provided in this subsection, a licensee may only use a service provider that is registered as such with the Board. A licensee may use a person holding a manufacturer's license issued by the Commission pursuant to NRS 463.650 or registered with the Board as a manufacturer of associated equipment pursuant to section 14.020 of these regulations as a service provider to the extent the licensed manufacturer or registered manufacturer of associated equipment is supporting or providing cloud computing services for gaming products manufactured by the licensed manufacturer or registered manufacturer of associated equipment. ~~[The Board shall make a list available of all registered service providers.]~~

4. A licensee continues to have an obligation to ensure, and remains responsible for, compliance with this regulation, the Nevada Gaming Control Act and all other regulations of the Commission regardless of its use of a service provider.

5. Except as otherwise provided in this subsection, a person may act as a service provider only if that person is registered with the Board ~~[pursuant to this section]~~. Once registered, a service provider may act on behalf of one or more gaming licensees. Any person holding a manufacturer's license issued by the Commission pursuant to NRS 463.650 or registered with the Board as a manufacturer of associated equipment pursuant to section 14.020 of these regulations may perform the services of a service provider without registering pursuant to this section only if such services are limited to supporting or providing cloud computing services for gaming products manufactured by the licensed manufacturer or registered manufacturer of associated equipment. Any licensed manufacturer or registered manufacturer of associated equipment that functions as a service provider pursuant to this subsection shall notify the Board of performing such services within 30 days of commencing such function.

6. Service providers, including ~~[each direct or beneficial owner of 10% or more of the service provider and]~~ any person having significant control over the operations of the service provider, as determined by the Chair, ~~[including]~~ that may include without limitation, controlling shareholders, officers, directors, or other principals, must register with the Board~~[. A registration issued by the Board pursuant to this section expires five years after the Chair sends notice to the service provider that the service provider is registered with the Board, and every five years thereafter if a completed application for renewal of registration is received by the Board prior to the expiration of the registration. A completed application for renewal of registration must be submitted to the Board not less than 60 days prior to the expiration of the registration]~~ and shall be subject to the provisions of this section and Regulation 4.200.

7. A service provider required to register pursuant to this section shall not provide services as a service provider until the Chair notifies the service provider in writing that the service provider is registered with the Board.

8. ~~[Applications for registration, or renewal of registration, as a service provider must include:~~

~~—(a) Completed forms as furnished by the Board, information, and documents as required by the Chair;~~

~~—(b) A written statement, signed under penalty of perjury on a form furnished or approved by the Board,~~

~~affirming that the service provider, including each person otherwise required to be registered pursuant to subsection 6:~~

~~—(1) Submits to the jurisdiction of the State of Nevada, the Board, and the Commission;~~

~~—(2) Agrees to be governed and bound by the laws of the State of Nevada and the regulations of the Commission;~~

~~—(3) Provided complete and accurate information to the Board; and~~

~~—(4) Will cooperate with all requests, inquiries, and investigations of the Board or Commission;~~

~~—(e) If a natural person, one complete set of fingerprints from the service provider, and from each person otherwise required to be registered pursuant to subsection 6;~~

~~—(d) A registration and investigation fee, as determined by the Chair, not to exceed \$10,000; and~~

~~—(e) Any additional information requested by the Chair.~~

~~—9.] A service provider must not be registered with the Board unless the Chair is satisfied~~[, based on the information provided pursuant to this subsection,]~~ that the service provider meets the standards set forth in NRS 463.170.~~

~~{10.} 9.~~ A service provider shall have the burden of showing that its operations are secure and reliable.

~~{11. A person who has a pending application for registration as a service provider shall report any changes to the information required pursuant to subsection 8 within 30 days of such change.}~~

~~{12. A person registered as a service provider shall report any changes in who owns 10% or more of the direct or beneficial ownership of the service provider and any changes in the service provider's principals within 30 days of such changes. The Chair may, in the Chair's sole and absolute discretion, require additional information or a new registration as a service provider if there is such a change in ownership.}~~

~~—13. At any time prior to notifying the service provider in writing that the service provider is registered with the Board or that the service provider's registration with the Board is renewed, the Chair may object to the registration of a service provider for any cause deemed reasonable by the Chair and such service provider shall not be registered.~~

~~—14. At any time after registration, the Chair may cancel the registration of a service provider if the service provider, including any of those persons required to register pursuant to subsection 6, is convicted of a felony. The effective date of cancellation of a registration as a service provider issued pursuant to this section shall be 5 days after the Board deposits notice of cancellation to the service provider's last known address with the United States Postal Service with postage thereon prepaid. The Board shall notify licensees of such cancellation and the effective date thereof.~~

~~—15. The objection to or cancellation of the registration of a service provider shall be considered an administrative decision subject to review upon appeal by the service provider pursuant to the procedures set forth in sections 4.185, 4.190 and 4.195 of these regulations. A service provider is prohibited from applying for registration as a service provider to the Board for 1 year from the date of notice of the objection to or cancellation of the registration of a service provider, or the final decision on any appeal of such objection or cancellation, whichever occurs later.]~~

~~[16.]~~ 10. The premises on which a service provider conducts its operations is subject to the power and authority of the Board and Commission pursuant to NRS 463.140, in accordance with this section and section 5.242.

~~[17.]~~ 11. To the extent required in Chapter 463 of NRS, a service provider shall be liable to the licensee on whose behalf the service provider acts for the service provider's proportionate share of the fees and taxes paid by the licensee.

~~[18.]~~ 12. The Commission may, upon a recommendation from the Board, require any person owning, operating, or having a significant involvement with a service provider to file an application for a finding of suitability at any time by providing written notice to the person. A person required to file an application for a finding of suitability pursuant to this subsection shall apply within 30 days of the person's receipt of written notice. Failure to timely submit an application for a

finding of suitability shall constitute grounds for a finding of unsuitability.

~~{19.}~~ 13. A person required to file an application for a finding of suitability pursuant subsection ~~{18.}~~ 11 does not have any right to the granting of the application. Any finding of suitability hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder. Judicial review is not available for decisions of the Board and Commission made or entered under this section.

~~{20.}~~ 14. If the Commission finds any person owning, operating, or having a significant involvement with a service provider to be unsuitable under this section, the registered service provider and gaming licensees shall, upon written notification from the Board, terminate any existing relationship, direct or indirect, with such person. Failure to terminate such relationship may be deemed to be an unsuitable method of operation.

~~{21.}~~ 15. No determination of suitability of a person owning, operating, or having a significant involvement with a service provider shall preclude a later determination by the Commission of unsuitability.

~~{22.}~~ 16. All service provider licenses issued by the Commission prior to July 1, 2019 shall remain valid until such licenses expire on December 31, 2019. Any service provider, as defined pursuant to this section, holding a service provider license issued by the Commission as of December 31, 2019, shall be deemed registered as a service provider with the Board as follows:

(a) Until March 2, 2020 if the service provider license was initially issued prior to January 1, 2015; or

(b) For five years following the date of the initial issuance of the service provider license if the service provider license was initially issued on or after January 1, 2015.

5.345 Registration *and Determination of Suitability* of Independent Hosts.

1. ~~[An-] Independent hosts,~~ must register with the Board *and shall be subject to the provisions of this section and Regulation 4.200.* ~~[The registration must be renewed every five years.]~~

2. An independent host shall not provide hosting or VIP services until the Chair notifies the independent host in writing that the Board has registered the independent host. A licensee or club venue operator shall not allow an independent host to provide hosting or VIP services in its club venue unless the independent host is registered with the Board ~~[pursuant to this section. The Board shall make a list of registered independent hosts available to licensees and club venue operators].~~ *An independent host, once registered, may act on behalf of one or more licensees or club venue operators.*

3. ~~[An application for registration or renewal pursuant to this section must include the following:~~

~~—(a) Completed forms, information, and documents as required by the Chair;~~

~~—(b) A written statement, signed under penalty of perjury on a form furnished or approved by the Board, that the independent host:~~

~~—(1) Submits to the jurisdiction of the State of Nevada, the Board, and the Commission;~~

~~—(2) Designates the Secretary of State as its representative upon whom service of process may be made;~~

~~—(3) Agrees to be governed and bound by the laws of the State of Nevada and the regulations of the Commission;~~

~~—(4) Provided complete and accurate information to the Board; and~~

~~—(5) Will cooperate with all requests, inquiries, and investigations of the Board or Commission;~~

~~—(e) One complete set of fingerprints from the person registering and from each of the direct and beneficial owners thereof, if any (if a natural person);~~

~~—(d) Signed statements from the person registering and each of the direct and beneficial owners thereof, if any, agreeing to comply with any drug testing ordered by the Chair;~~

~~—(e) A fee set by the Chair not to exceed the fee charged for registering as an independent agent; and~~

~~—(f) Any additional information requested by the Chair.~~

~~—4. The Chair may object to the registration of an independent host for any cause the Chair deems reasonable. If the Chair objects to the registration of an independent host, the Chair shall send written notice of the decision to the independent host.~~

~~—(a) Objection by the Chair to the registration of an independent host shall be considered an administrative decision and shall be reviewable upon appeal by the objected to independent host pursuant to the procedures set forth in Regulations 4.185, 4.190, and 4.195.~~

~~—(b) An independent host may not file for registration with the Board prior to the expiration of 1 year from the date of a notice of the Chair objecting to the registration of the independent host. Such independent host shall not commence providing hosting or VIP services prior to the Chair approving the registration.~~

~~—5. A person registered, or a person who has a pending filing for registration, pursuant to this section shall report changes to the information required pursuant to subsection 3 to the Board within 30 days of such change. The Chair may, in the Chair's sole and absolute discretion, require a new registration pursuant to subsection 1 of this section if there is a change in ownership.~~

~~—6. The Chair may cancel the registration of an independent host if the independent host or direct or beneficial owner thereof:~~

~~—(a) Is convicted of a felony;~~

~~—(b) Is convicted for illegal activity occurring on the premises of a licensee; or~~

~~—(c) Fails to comply with any drug testing ordered by the Chair or a drug test ordered by the Chair shows a positive result for a controlled substance.~~

~~↪The effective date of cancellation pursuant to this subsection shall be 5 days after the Board deposits notice of cancellation to the independent host's last known address with the United States Postal Service with the postage thereon prepaid. The Board shall notify all licensees which operate a club venue and club venue operators of such cancellation and the effective date thereof. The Board shall also send notice of the cancellation to the Secretary of State as designated representative of the independent agent upon whom service of process may be made.~~

~~—7. The cancellation of the registration of an independent host shall be considered an administrative decision and shall be reviewable upon appeal by the independent host pursuant to the procedures set forth in Regulations 4.185, 4.190, and 4.195. An independent host may not file for registration with the Board prior to the expiration of 1 year from the date of the later of notice of the cancellation or the final decision on any appeal of such cancellation.~~

~~—8. If the Board receives a copy of a court order related to child support issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is registered as an independent host:~~

~~—(a) The Board shall deem the registration of that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the independent host by the district attorney or other public agency pursuant to NRS 425.550 stating that the independent host has~~

~~complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~—(b) The Board shall reinstate the registration as an independent host of a person that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~—(c) The Board shall notify all licensees which operate a club venue and club venue operators of such suspension or reinstatement and the effective dates thereof.~~

—~~9.~~ 9. The Commission may require a person registered pursuant to this section to file an application for a finding of suitability at any time by sending notice to the person through the United States Postal Service to the person's address on file with the Board. A person called forward pursuant to this subsection shall apply for a finding of suitability as required by the Commission within 30 days of the person's receipt of notice. The notice shall be deemed to have been received by the person 5 days after such notice is deposited with the United States Postal Service with the postage thereon prepaid.

~~{10.}~~ 4. If a person registered pursuant to this section does not file an application for a finding of suitability within 30 days following receipt of notice that the Commission is requiring a person registered pursuant to this section to file an application for a finding of suitability, the Board shall notify all licensees which operate a club venue and club venue operators. A licensee or club venue operator shall not allow an independent host which has failed to file an application for finding of suitability pursuant to this section to provide services in a club venue. A licensee or club venue operator allowing such independent host to provide services in a club venue shall constitute grounds for disciplinary action.

~~{11.}~~ 5. If the Commission finds a registered independent host to be unsuitable, the registration of such registered independent host is thereupon cancelled. A licensee, club venue operator, or independent host shall, upon written notification of a finding of unsuitability, immediately terminate all relationship, direct or indirect, with such independent host. Failure to terminate such relationship may be deemed to be an unsuitable method of operation. No determination of suitability of an independent host shall preclude a later determination by the Commission of unsuitability.

~~{12.}~~ 6. Upon the Commission requiring a person who is required to be registered by this section to apply for a finding of suitability, the person does not have any right to the granting of the application. Any finding of suitability hereunder is a revocable privilege, and no holder acquires any vested right therein or thereunder. Judicial review is not available for decisions of the Board and Commission made or entered under the provisions of this section.