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Nevada Gaming Commission Provides More Flexibility in Considering Gaming Applicants

The Nevada Gaming Control Act (Act) requires an applicant for a gaming license or other approval to appear first before the Nevada Gaming Control Board (Board) on the application. The applicant has the burden of proof and must affirmatively seek the Board's support and its recommendation to the Nevada Gaming Commission (Commission). The Board can recommend (i) approval of the application, (ii) denial of the application, or (iii) a limited approval, which could be limited in duration and/or include conditions.

Prior to Assembly Bill 75 (2017) (AB 75), which was signed by Governor Sandoval on May 23, 2017, if the Board recommended denial of the application, the Commission's only options would be to (i) deny the application by a majority vote, (ii) remand the matter to the Board for further investigation and reconsideration, or (iii) overturn the Board's recommendation and approve the application, by unanimous vote of the commissioners present at the meeting.

This process applies to all applications, registrations, findings of suitability, and approvals made or requested under the Act for either a natural person or business entity.

AB 75 amended this process to provide the Commission with more discretion in processing an application for which the Board has recommended a denial. Specifically, in addition to the above options, the Commission now may "reject" the application. A rejection of the application would not constitute a determination of the suitability of the applicant and it would not be considered a denial of the application.

Tony Alamo, M.D., Chairman of the Commission, was the proponent of this legislative change to the application process. In testimony before the Senate Committee on Judiciary, Chairman Alamo noted that a denial of an application has severe consequences to the individual or entity. For example, a denied applicant would not be able to conduct any sort of business with a gaming licensee and would be *de facto* barred in the Nevada gaming industry. Such denial may also impact the individual or entity in other gaming jurisdictions.

The new application “rejection” option provides the Commission additional flexibility to halt an application from moving forward if, after consideration and hearing on the application, the Commission determines that a denial of the application is too severe or otherwise inappropriate. In such a situation, the Commission can now reject the application. This provides the Commission an additional option to consider when evaluating a particular applicant’s situation. As Chairman Alamo noted before the Senate Committee on Judiciary, “It is simply another option, the key to which is not to be on that [denial] list.”

AB 75 also amended the Act’s definition of what constitutes the “manufacture” of gaming devices. Details of such amendment are available [here](#).

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