

September 23, 2016

**INFORMATIONAL STATEMENT
REGARDING LCB FILE NO. R104-15
(NRS 233B.066)**

Pursuant to NRS 233B.066, the Nevada Gaming Commission (Commission or NGC) hereby submits the following Informational Statement regarding its adopted regulation identified in LCB File No. R104-15:

a. Clear and concise explanation of the need for the adopted regulation.

The need and purpose of the proposed permanent regulations identified in LCB File No. R104-15 are to add new provisions and revise, clarify, update, and remove existing provisions relating to the application and administration of Nevada's Live Entertainment Tax (LET) on live entertainment provided within facilities located on the premises of licensed gaming establishments. These changes to NAC Chapter 368A were prompted by the NGC's mandatory review of the existing regulations performed pursuant to NRS 233B.050(1)(e) and changes made to Chapter 368A of the Nevada Revised Statutes (NRS) pursuant to Senate Bill No. 266, which was enacted during the 78th (2015) Session of the Nevada Legislature.

b. Description of how public comment was solicited, a summary of the public response, and an explanation of how other interested persons may obtain a copy of the summary.

The Nevada Gaming Control Board (Board), on behalf of the Commission, solicited written and oral public comment by distributing the various drafts of the proposed regulation, including, but not limited to LCB File No. R104-15, to its interested party list by serving and posting the information on its webpage. This included notice to affected businesses. In each of the notices of workshop or meeting, and on the respective agendas, including the Notice of Hearing for the Adoption of Permanent Regulations, the Board also notified the public of the opportunity to offer public comment. In total, the Board held five workshops and the Commission held one workshop. At each of the workshops the public was encouraged to speak.

After starting the process to amend the LET regulations through the adoption of permanent regulations, the Nevada Legislature made major revisions to the LET statutes through Senate Bill 266 (SB 266). Prior to the adoption of SB 266, the public response to the proposed permanent regulations included the following comments relating to: the proposed definitions of "immediate area" and "occasional activity"; the proposed procedure relating to the over-collection of LET from patrons; the time periods of entertainment status; clarification of package programs; ambient live entertainment and live entertainment in restaurants; exemption procedure pursuant to NRS 368A.200(5)(q) (pre-SB 266 (2015)); definition of "employee"; definition of "incidental"; exemptions under NRS 368A.090(b) (pre-SB 266 (2015)); taxpayer appeals of administrative decisions; patrons competing for prizes; definition of "recorded music"; and timing of adoption until after 2015 session of the Nevada Legislature.

After the 2015 session of the Nevada Legislature and the adoption of SB 266, the process to amend the LET regulations resumed. The changes to the LET statutes accomplished through SB 266 necessitated a major overhaul of the proposed LET regulation amendment draft. The public comments post adoption of SB 266 included: applicability of LET to sales made prior to October 1, 2015 (the effective date of SB 266); volume of tickets offered for sale by non-profits and how the statutory term “offered for sale or other distribution” is measured; capacity determinations; multiple-event admissions; how to handle luxury suite sales; meaning of statutory term “professional team based in this state”; definition of “service charge”; definition of “disc jockey”; definition of “go-go dancing”; definition of “performance”; definition of “recorded music”; definition of “patron”; definition of “live entertainment status”; handling of over-collected LET from patrons; treatment of table sales under LET statutes; treatment of credit card charges; treatment of professional golf tournaments held for charity; applicability of LET to luxury boxes; definition of “membership fees”; live entertainment time period; required information on ticket or sign; receipt in lieu of ticket; whether complimentary tickets are considered “offered for sale”; treatment of tickets given to people who volunteer to work a live entertainment event; definition of “ticket” relating to multiple events; responsibilities of gaming licensees; application of LET to luxury suite license fees; definition of “marketing or promotional activity”; advisory ruling and audit reliance; record maintenance and retention requirements for taxpayers; definition of “ticket broker”; definition of “shopping mall”; and intent of phrase “predominant attention” in the definition of “performance”.

A copy of the summary of public responses, including written and oral comment may be obtained by submitting a written request to the following:

Executive Secretary
Nevada Gaming Commission
P.O. Box 8003
Carson City, NV 89702-8003

c. The number of persons who attended each hearing, testified at each hearing, and submitted written statements to the Commission:

1. May 7, 2014 Workshop

- Number of Attendees: 43
- Number of Attendees who Testified: 3

2. January 14, 2015 Workshop

- Number of Attendees: 12
(Note: This number was probably higher, but could not locate sign-in sheet for Las Vegas)
- Number of Attendees who Testified: 6

3. July 9, 2015 Workshop

- Number of Attendees: At least 6
(Note: This number was higher, but could not locate sign-in sheets for either Las Vegas or Carson City)

- Number of Attendees who Testified: 6
- 4. July 23, 2015 Workshop**
 - Number of Attendees: 64
 - Number of Attendees who Testified: 6
- 5. September 2, 2015 Workshop**
 - Number of Attendees: 48
 - Number of Attendees who Testified: 6
- 6. September 17, 2015 Workshop**
 - Number of Attendees: 30
 - Number of Attendees who Testified: 2
- 7. September 22, 2016 Adoption Hearing**
 - Number of Attendees: 17
 - Number of Attendees who Testified: 2
- 8. Submitted written statements to the Commission:**
 - Total Number of Written Comments Submitted: 10

d. Information of the persons who testified and the dates of the workshops wherein their testimony was heard:

1. May 7, 2014 Workshop – Testifying Attendees

- Jennie Ellsworth
Executive Director of Finance Wynn Las Vegas Resort
3131 Las Vegas Boulevard South Las Vegas, Nevada 89109
(702) 770-2546
Jennie.Ellsworth@wynnlasvegas.com Representing Wynn Las Vegas Resort
- Jeff Rodefer, Esq. General Counsel Golden Gaming, LLC
6595 South Jones Boulevard Las Vegas, Nevada 89118 (702) 891-4224
jrodefer@ggilv.com
Representing Golden Gaming LLC
- Paulina Oliver Deputy Director
Nevada Department of Taxation
555 East Washington Avenue, Suite 1300 Las Vegas, Nevada 89101
(702) 486-2331
poliver@tax.state.nv.us
Representing Nevada Department of Taxation

2. January 14, 2015 Workshop

- Mark A. Clayton, Esq. Greenberg Traurig
3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
(702) 599-8006
claytonm@gtlaw.com Representing Hakkasan Group
- Paulina Oliver Deputy Director
Nevada Department of Taxation
555 East Washington Avenue, Suite 1300 Las Vegas, Nevada 89101
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poliver@tax.state.nv.us
Representing Nevada Department of Taxation
- Ellen F. Whittemore, Esq. Whittemore Gaming Group
1975 Village Center Circle, Suite 140 Las Vegas, Nevada 89134
(702) 228-1272
efw@whittemoregaming.com Representing MGM Resorts International
- Lou Dorn, Esq. General Counsel SLS Las Vegas
2535 Las Vegas Boulevard South Las Vegas, Nevada 89109
(702) 761-7703
lou.dorn@slslasvegas.com Representing SLS Las Vegas
- Stacie Michaels, Esq. Associate General Counsel Wynn Las Vegas, LLC
3131 Las Vegas Boulevard South Las Vegas, Nevada 89109
(702) 770-7574
(No email address provided) Representing Wynn Las Vegas Resort
- Virginia Valentine President
Nevada Resort Association
900 South Pavilion Center Drive, Suite 160 Las Vegas, Nevada 89144
(702) 735-4620
(No email address provided) Representing Nevada Resort Association

3. July 9, 2015 Meeting

- Jonathan P. Leleu, Esq. Greenberg Traurig, LLP
3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
(702) 792-3773
LeleuJ@gtlaw.com Representing Live Nation

- Ellen F. Whittemore, Esq. Whittemore Gaming Group
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(702) 228-1272
efw@whittemoregaming.com Representing MGM Resorts International
- Lou Dorn, Esq. General Counsel SLS Las Vegas
2535 Las Vegas Boulevard South Las Vegas, Nevada 89109
(702) 761-7703
lou.dorn@sllasvegas.com Representing SLS Las Vegas
- Kevin J. Tourek, Esq.
Vice President and General Counsel Wynn Las Vegas, LLC
3131 Las Vegas Boulevard South Las Vegas, Nevada 89109
(702) 770-7000
(No email address provided) Representing Wynn Las Vegas Resort
- Patrick Lindsey Tournament Director
Shriners Hospital for Children 1680 Village Center Circle Las Vegas, Nevada
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info@shrinershopitalsopen.com
Representing Shriners Hospitals for Children
- Paul Beaton
Manager of Gaming Tax
Caesars Entertainment Corporation One Caesars Palace Drive
Las Vegas, Nevada 89109 (702) 599-8006
(No email address provided)
Representing Caesars Entertainment Corporation

4. July 23, 2015 Workshop

- Michael G. Alonso, Esq.
Lewis Roca Rothgerber Christie LLP Bank of America Plaza
50 West Liberty Street, Suite 410
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Representing Caesars Entertainment Corporation
- Paul Beaton
Manager of Gaming Tax
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- Tom Clark
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tom@tomclarkcolutions.com Representing Burning Man
- Jonathan P. Leleu, Esq. Greenberg Traurig, LLP
3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
(702) 792-3773
LeleuJ@gtlaw.com Representing Live Nation
- Russell M. Rowe, Esq. Rowe Law Group
7435 South Eastern Avenue, Suite 510 Las Vegas, Nevada 89123
(702) 884-5014
russ@rowelawnv.com
Representing Boyd Gaming Corporation

5. September 2, 2015 Workshop

- Paul Beaton
Manager of Gaming Tax
Caesars Entertainment Corporation One Caesars Palace Drive
Las Vegas, Nevada 89109 (702) 599-8006
(No email address provided)
Representing Caesars Entertainment Corporation
- Paulina Oliver Deputy Director
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Representing Nevada Department of Taxation
- Jonathan P. Leleu, Esq. Greenberg Traurig, LLP
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1975 Village Center Circle, Suite 140 Las Vegas, Nevada 89134
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efw@whittemoregaming.com Representing MGM Resorts International
- Carole Vilardo President
Nevada Taxpayers Association 116 East 7th Street, Suite 202 Carson City,
Nevada 89701 (775) 882-2697
info@nevadataxpayers.org
Representing Nevada Taxpayers Association

6. September 17, 2015 Workshop

- Ellen F. Whittemore, Esq. Whittemore Gaming Group
1975 Village Center Circle, Suite 140 Las Vegas, Nevada 89134
(702) 228-1272
efw@whittemoregaming.com Representing MGM Resorts International
- Mark A. Clayton, Esq. Greenberg Traurig
3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
(702) 599-8006
claytonm@gtlaw.com Representing Hakkasan Group

7. September 22, 2016 Adoption Hearing

- Jonathan P. Leleu, Esq. Greenberg Traurig, LLP
3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
(702) 792-3773
LeleuJ@gtlaw.com
Representing Live Nation and AEG Live

8. Submitted written statements to the Commission:

- July 24, 2014 Teri Ginter
Director, Non-Gaming Audit and Accounting Financial Shared Services Center
MGM Resorts International (No address provided)
(702) 692-2629
(No email address provided) Representing MGM Resorts International

- January 13, 2015
 Erica L. Okerberg, Esq. Greenberg Traurig
 3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
 (702) 792-3773
 (No email address provided) Representing Hakkasan Group
- July 9, 2015 David Krasn
 Vice President of Tax Boyd Gaming Corporation
 6465 South Rainbow Boulevard Las Vegas, Nevada 89118
 (702) 792-7292
 (No email address provided) Representing Boyd Gaming Corporation
- July 22, 2015
 Jonathan P. Leleu, Esq. Greenberg Traurig
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 (702) 792-3773
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- July 23, 2015
 Mark Ferrario, Esq. Greenberg Traurig
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ferrariom@gtlaw.com Representing AEG Live
- August 5, 2015 Russell M. Rowe, Esq. Rowe Law Group
 7435 South Eastern Avenue, Suite 510 Las Vegas, Nevada 89123
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 Representing Boyd Gaming Corporation
- August 5, 2015
 Ellen F. Whittemore, Esq. Whittemore Gaming Group
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efw@whittemoregaming.com Representing MGM Resorts International
- August 5, 2015 Lora K. Picini General Counsel
 Regional Operations
 Caesars Entertainment Corporation (No address provided)
 (No phone number provided) lpicini@caesars.com
 Representing Caesars Entertainment Corporation
- August 26, 2015 Jonathan P. Leleu, Esq. Greenberg Traurig
 3773 Howard Hughes Parkway, Suite 400 North Las Vegas, Nevada 89169
 (702) 792-3773
LeleuJ@gtlaw.com Representing Live Nation

- September 14, 2016 Terry Johnson Member
Nevada Gaming Control Board
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(702) 486-2022
tjohnson@gcb.nv.gov

e. Description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the summary:

See statement provided under item “b” above for this information. The affected businesses were included in the same solicitation made to interested parties and the public as a whole. The people that spoke at each of the seven public workshops represented affected businesses. Further, all written comments received were from representatives of businesses affected by the proposed regulations.

f. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

As indicated above, various members of the public submitted oral and written recommendations for changes to the proposed regulations. The draft proposed by the Commission, through the efforts of the Board, incorporated many of the suggestions provided by the public. This is evidenced by the multiple versions of the draft regulations that were created prior to submission of the proposed regulation to the Legislative Counsel Bureau for review. These changes strengthened the regulation and clarified its provisions.

g. The estimated economic effect of the regulation on the businesses which it is to regulate and on the public.

The Commission does not anticipate that the proposed regulation will have a negative or positive economic effect on the businesses which it will regulate or on the public. Any economic effect would stem from the amendments to the LET statutes (NRS Chapter 368A) which were enacted in SB 266 during the 78th (2015) session of the Legislature, not from the proposed regulation. Based on the statutory changes, the costs of imposing LET should decrease as LET will now only apply to admission sales, and not the sale of food, beverages, or merchandise. This will reduce the costs of recording and accounting for LET sales.

h. The estimated cost to the agency for enforcement of the regulation.

The Commission does not anticipate that the costs of the enforcement of the LET regulation will increase or decrease, as the Board’s procedures in auditing and monitoring the tax will remain the same as it has been. The estimated cost of performing those procedures is roughly \$370,000 per year.

- i. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The Commission does not believe the proposed regulations overlap or duplicate any regulation of other state or government agencies or federal agencies. While LET is also enforced by the Nevada Department of Taxation, that agency's jurisdiction is over live entertainment venues that are not located on the premises of licensed gaming establishments. The Commission's jurisdiction, on the other hand, is limited to live entertainment venues that are located on the premises of licensed gaming establishments. In addition, the Department of Taxation has its own set of regulations relating to LET. (See NAC 368A.010 – NAC 368A.170 (2006)). While many of the provisions contained therein mirror those in the proposed regulation, the regulations differ for items unique to the Department of Taxation's jurisdiction (*e.g.*, tax on escort services). The Department of Taxation's regulations (LCB Draft No. R137-15) are set for adoption on October 3, 2016 before the Nevada Tax Commission.

- j. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

The proposed regulation does not include provisions that duplicate or are more stringent than federal regulations regulating the same activity.

- k. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

The proposed regulation does not provide any new fees nor does it increase an existing fee.