

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2018-0215-03	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2018 FEB 15 A 10:21  
OFFICE OF  
ADMINISTRATIVE LAW

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

MAR 29 2018

4:12pm

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY  
Department of Justice

AGENCY FILE NUMBER (If any)  
DOJ-17-019

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Separation from Employment		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND	
		2021	
TITLE(S) 11		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs., title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal			
<input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Melan Noble		TELEPHONE NUMBER (916) 210-7011	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) Melan.Noble@doj.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY  
Sean McCluskie, Chief Deputy to the Attorney General

2/14/18

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

MAR 29 2018

Office of Administrative Law

DEPARTMENT OF JUSTICE  
DIVISION OF LAW ENFORCEMENT  
BUREAU OF GAMBLING CONTROL

TITLE 11, DIVISION 3, CHAPTER 1

Article 3, Section 2021 Separation From Employment: Designation of Bureau Employees

Section 100. CHANGES WITHOUT REGULATORY EFFECT

Pursuant to Title 1, Division 1, Chapter 1, Article 2, Section 100(b)(3), of the California Code of Regulations (CCR), the California Department of Justice, Division of Law Enforcement, Bureau of Gambling Control (Bureau) hereby submits this written statement explaining why the proposed changes to CCR Title 11, Division 3, Chapter 1, Section 2021, have no regulatory effect.

**The Regulation Is Non-Duplicative of Statute**

SB 666, (Vidak, Chapter 245, Statutes of 2017) became effective on January 1, 2018. This bill added further prohibition provisions to existing post-employment limitations in the Gambling Control Act. Specifically, SB 666 amended section 19981 of Business and Professions Code, and prohibits named positions within the California Gambling Control Commission, the chief, and any employee of the department who works on or supervises over gambling issues from holding a direct or indirect interest in, hold employment with, represent, appear for, or negotiate on behalf of, a gambling establishment, gambling enterprise, registrant, or licensee for a period of two years after leaving office or terminating employment with the Bureau. Newly added subdivision (c) to this statute expands the scope of certain capacities prohibited, applies to all Bureau employees, and defines for this expanded scope a different time-period than what is listed in subdivision (a) in the existing statute.

This Section 100 action makes changes necessary to implement this new subdivision of statute. This Section 100 action partially duplicates statute only to clarify its applicability to all Bureau employees as well as to the classifications listed in existing regulation section 2021.

**The Bureau Has No Discretion To Adopt A Change That Differs In Substance**

This Section 100 action makes conforming changes to Section 2021 by adding text which expands the scope of the activities prohibited, applies to all employees of the Bureau, and sets forth the time period limitation of two-years which employees are subject to the new limitations. These regulatory changes are consistent with and mandated by the recent amendment to statute resulting from SB 666.

**Specific Findings**

With respect to the following, the Bureau submits the following specific findings concerning necessity and consistency:

**Necessity**

Leaving the existing regulations pertaining to post-Bureau employment restrictions unchanged would leave out reference to the amendments to Business and Professions Code section 19981. This would result in Bureau staff not being fully aware of the limitations to their prospective, future employment options. The only logical and practical solution available to the Bureau is to amend its regulations to include the statutory change enacted in SB 666.

**Consistency**

The current regulation pertaining to the separation from employment and designation of Bureau employees is applicable only to the classifications cited and those employees whose job description involves functions involving the issuance, amendment, awarding, or revocation of a permit, license, or approval. As discussed above, SB 666 expanded the scope of post-Bureau employment where only certain classifications were prohibited from acting in certain capacities in the private sector, to now any employee of the department who works on or supervises over gambling issues for a period of two years after leaving office or terminating employment, are prohibited from holding a direct or indirect interest in, hold employment with, represent, appear for, or negotiate on behalf of, a gambling establishment, gambling enterprise, registrant, or licensee.

#### **The Proposed Action Has No Regulatory Effect**

The changes in this action will alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any regulation provision only to the extent mandated by the new statute and are, thus, without regulatory effect. The changes simply conform to the changes made by SB 666 to Business and Professions Code section 19981.

#### **Changes to Text**

The existing text in section 2021 was renumbered.

This change is non-substantive because it is a simple re-numbering, which was necessary for a subsequent change to the section.

Subdivision (b) is added and specifies the applicability of Business and Professions Code section 19981, subsection (c) to all Bureau employees. The added text indicates that in addition to those classifications state in the existing regulation, renumbered as discussed previously, any employee of the department who works on or supervises over gambling issues for a period of two years after leaving office or terminating employment, are prohibited from holding a direct or indirect interest in, hold employment with, represent, appear for, or negotiate on behalf of, a gambling establishment, gambling enterprise, registrant, or licensee.

Changes to the statute do not exempt any employee of the Bureau from the limitation to prospective, future employment outside of state service.

## **Title 11, Division 3, Chapter 1, Article 3. Administration.**

### **2021. SEPARATION FROM EMPLOYMENT: DESIGNATION OF BUREAU EMPLOYEES.**

(a) Pursuant to Business and Professions Code, section 19981, subdivision (a), specified Bureau employees shall not, for a period of 3 years following separation from employment, act in certain capacities involving administrative action or the issuance, amendment, awarding, or revocation of a license, permit, or approval. Bureau employees subject to the provisions of Business and Professions Code section 19981, subdivision (a) include:

1. Chief
2. Assistant Bureau Chief
3. Special Agent in Charge
4. Special Agent Supervisor
5. Special Agent or Special Agent Trainee
6. Field Representative
7. Auditor
8. Department of Justice Administrator I, Department of Justice Administrator II, or Department of Justice Administrator III
9. Staff Services Analyst working in a permitting, licensing or approval capacity
10. Associate Governmental Program Analyst working in a permitting licensing or approval capacity or,
11. Any employee whose class is not listed and whose job description involves actions related to the issuance, amendment, awarding, or revocation of a permit, license, or approval.

(b) Pursuant to Business and Professions Code, section 19981, subdivision (c), a Bureau employee shall not, for a period of two years after leaving office or terminating employment with the Bureau, hold a direct or indirect interest in, hold employment with, represent, appear for, or negotiate on behalf of, a gambling establishment, gambling enterprise, registrant, or licensee.

Note: Authority cited: Sections 19826, Business and Professions Code. Reference: Sections 19981, Business and Professions Code.

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- b- 2. Assistant Bureau Chief
- c- 3. Special Agent in Charge
- d- 4. Special Agent Supervisor
- e- 5. Special Agent or Special Agent Trainee
- f- 6. Field Representative
- g- 7. Auditor
- h- 8. Department of Justice Administrator I, Department of Justice Administrator II, or Department of Justice Administrator III
- i- 9. Staff Services Analyst working in a permitting, licensing or approval capacity
- j- 10. Associate Governmental Program Analyst working in a permitting licensing or approval capacity or,
- k- 11. Any employee whose class is not listed and whose job description involves actions related to the issuance, amendment, awarding, or revocation of a permit, license, or approval.

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