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underlined material is that portion being added

BILL NO. L-10-7-14-1 (A)

SUMMARY – An ordinance amending sections of Chapter 8.20 of the Clark County Code to revise the requirements of taverns operating with a gaming license.

ORDINANCE NO. L-256-14
(of Clark County, Nevada)

AN ORDINANCE AMENDING CHAPTER 8.20 OF THE CLARK COUNTY CODE TO REVISE THE REQUIREMENTS OF TAVERNS OPERATING WITH A GAMING LICENSE, AMENDING DEFINITIONS RELATING THEREO, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS DOES ORDAIN AS FOLLOWS:

SECTION ONE. Section 8.20.020.023 of the Clark County Code is amended to read as follows:

8.20.020.023 Bar.

A “bar” is a physical structure with a flat horizontal counter, which when located in a tavern licensed for Class A slot machines, shall be at least forty-two (42) inches in height (except for only that portion which is mandated to be a different height in order to comply with the Americans with Disabilities Act of 1990, as amended, or other applicable law) which fully encompasses the main work area of the bartender(s) or attendant(s), including the point of sale system or cash register, on one side of which alcoholic liquors are kept, ~~and~~ maintained, and prepared and where seats ~~[may be]~~ are placed for patrons to sit on the side opposite from where the alcoholic liquor is kept, and where the sale and service of alcoholic beverages are by the drink across such structure. The following liquor licenses permit the

operation of a bar on a licensed premises: main bar, full bar, tavern, pub, nightclub, supper club, retail beer and wine and portable bar.

SECTION TWO. A new section of the Clark County Code, designated 8.20.020.024, is adopted to read as follows:

8.20.020.024 Bartop Machine.

A “bartop machine” [means] is a slot machine or gaming device which is installed into the flat horizontal counter of a “bar”, as defined in Section 8.20.020.023 of this code and for which the bar is the cabinetry of the slot machine. Unless a different height is required for some of the bartop machines to comply with the Americans with Disabilities Act of 1990, as amended, or other applicable law, the screen of the bartop machine shall be at a minimum height of forty (40) inches, from the bottom of the bar, on the patron’s side of the bar. A bartop machine shall not be capable of operating except when installed into a “bar” and any slot machine commonly referred to as “stand-up” or “slant-top” slot machine shall not qualify as a bartop machine.

SECTION THREE. Section 8.20.020.385 of the Clark County Code is amended to read as follows:

8.20.020.385 Taverns

(a). **Grandfathered Taverns.** “Grandfathered Tavern” means:

(i) a tavern licensed for fifteen (15) or fewer slot machines, the application for which was pending or approved prior to the effective date of the Nevada Clean Indoor Air Act (Nevada Revised Statutes 202.2483, et seq, effective December 8, 2006); or

(ii) any tavern which, as of December 2, 2014, operated more than fifty percent (50%) of the slot machines on its premises as bartop machines, regardless of the height of such bartop machines located in a bar as defined prior to the effective date of this ordinance.

A tavern that has been determined to be a grandfathered tavern pursuant to either of the foregoing provisions shall be considered to be a primary business for all purposes of Section 8.04.040 of this code, to which the operation of fifteen (15) or fewer slot machines shall be presumed to be incidental.

A grandfathered tavern shall not be required to comply with subsection (c) or (d) below; provided, however, that a grandfathered tavern licensed after December 22, 1990, (either Class A or B) shall be required to comply with subsections (c) or (d) below in the event the owner, licensee, operator or transferee fails to operate and maintain the tavern in a manner substantially similar to the manner of operation and physical layout of the tavern as of December 2, 2014, including but not limited to removing the bar or reducing the number of bartop operated on the premises. Nothing contained in this section shall prohibit an owner, licensee, or operator from improving, refurbishing or redecorating a tavern; provided any grandfathered tavern which operated a tavern restaurant as of October 7, 2014, must continue to operate such tavern restaurant in order to remain a grandfathered tavern. On or before February 1, 2015, each tavern licensee shall submit to the Director a diagram of its tavern, on an 8-1/2" by 11" sheet of paper, depicting the configuration of the bar, the location of all slot machines, and the location of the restaurant and kitchen (if the tavern has a restaurant and kitchen). The accuracy of the submitted diagram is subject to verification by the Director. Prior to a tavern licensee making any significant change to the physical layout of a tavern, including but not limited to a change that requires a building permit or inspection, the tavern licensee shall submit to the Director a diagram, on an 8-1/2" by 11" sheet of paper, showing the nature of the proposed changes. The Director shall review the diagram and determine whether the proposed changes are either consistent with maintaining the tavern's grandfathered status, or in the alternative, include a bar with bartop machines and a tavern restaurant.

(b). "Tavern" means a bar, or lounge, where alcoholic liquors are sold at retail by the drink to the general public. A tavern liquor license is the only category of liquor license that a licensed adult entertainment cabaret is eligible for. A restaurant may be operated on the same premises with a tavern. Minors may be allowed in the restaurant provided there is separation between the bar and/or lounge area

and the restaurant area by a structural barrier sufficient to exclude minors from the bar and/or lounge area, and provided that no liquor sales, consumption, or distribution occur in an area not licensed for liquor sales or under the control of the liquor licensee. Alcoholic liquors may be served to all patrons aged twenty-one and older throughout the premises, except that any person twenty-one and older accompanying a minor in the restaurant portion of the business may [only] be served alcohol only in conjunction with meals at dining tables or booths. Whenever package liquor is sold in a tavern, it is unlawful to consume the contents of the package liquor on the premises. [~~Taverns licensed prior to separation requirements relating to restaurants in taverns shall be required to come into compliance with said requirements upon change of ownership of the business or upon transfer of fifty percent or more of stock.~~]

The only new gaming license which may be operated in conjunction with a tavern is a Class A slot machine license. [~~All taverns making application for a Class A slot machine license after December 22, 2010, shall be required to provide the following: (a) at least two thousand five hundred square feet of area open and available for use by patrons; (b) a bar as defined in Chapter 8.20 of this code, in which are embedded at least eight of the slot machines on location in the premises (if a location has fewer than eight slot machines, all shall be integrated); and (c) a tavern restaurant, as defined by this code. Any tavern which has been granted a Class A slot machine license based on an application filed with Clark County prior to December 22, 2010, and which is not in full compliance with this code section must, in order to continue to be licensed for a Class A slot machine license, come into compliance with the requirement to have a bar as defined by Chapter 8.20 of this code in which at least eight slot machines are integrated upon the earlier of (i) a change of ownership of such business or upon the transfer of fifty percent or more of the stock or other ownership interest in the entity owning such business, or (ii) April 22, 2013. Any tavern granted a gaming license prior to December 22, 1990 existing at the same location shall be exempt from the requirement to have a bar as defined by Chapter 8.20 of this code in which at least eight slot machines are integrated. Taverns for which an application for a Class A slot machine license was filed with Clark County prior to December 22, 2010, shall be exempt from the requirements~~

~~to provide (i) two thousand five hundred square feet of area open and available for use by patrons and (ii) a tavern restaurant, provided that the location does not remain without a nonconforming license for a period of eighteen consecutive months. All taverns which qualify for an exemption from the requirements to provide (i) two thousand five hundred square feet of area open and available for use by patrons and (ii) a tavern restaurant, and those which may have been granted a tavern license and a Class B slot machine license as of June 1, 1981, may, upon a change of ownership, continue to be licensed for nonconforming tavern operations if the new owners are found suitable.]~~

b.] A tavern licensee, or an applicant for a tavern license, may apply for, and if granted, hold a Class A slot machine license for up to 15 slot machines.

(c). Unless a tavern is a grandfathered tavern, a licensee, in order to operate more than seven (7) slot machines as incidental to a tavern license, must no later than December 31, 2015, either:

(1) maintain a bar as defined by Section 8.20.020.023 of this code in which all of the permitted slot machines on the premises are installed as bartop machines, as defined in Section 8.20.020.024 of this code, and no less than twelve (12) of such bartop machines meet the forty (40) inch height minimum set forth in the definition of bartop machine, as defined in Section 8.20.020.024, unless the location operates less than twelve (12) slot machines, in which instance all slot machines except for one (1) slot machine shall meet the forty (40) inch height minimum, and operate a tavern restaurant as that term is defined by Section 8.20.020.387 of this Chapter;
or

(2) demonstrate to the satisfaction of the Director that, during the previous twelve (12) month period, the revenue from the operation of slot machines on the premises is not more than 50% of its tavern revenue, as defined in Section 8.20.020.388 of this code.

(a) A tavern that, upon licensing and thereafter, continues to meet either of the criteria set forth in (1) or (2) above shall be considered to be a primary business for all purposes of Section

8.04.040 of this code, to which the operation of fifteen (15) or fewer slot machines shall be presumed to be incidental.

(d) Unless a tavern is a grandfathered tavern, each tavern licensee operating more than seven (7) slot machines shall file a yearly report with the Director or her designee setting forth its compliance with either (c)(1) or (2) above, on forms prescribed by the Director and signed by the licensee certifying the accuracy of the report. Each report shall be for a one-year period beginning January 1 and concluding with December 31 of that year. The report shall be filed no later than 20 business days following the end of each reporting period. Failure to timely file the report, or filing a misleading or false report, may result in disciplinary action, up to and including revocation of both the licensee's slot machine and tavern licenses. If any licensee reports non-compliance with both subsection (c) (1) and (2) above, it shall remove all but seven (7) of the slot machines from the premises.

The Director or her designee may conduct an annual audit of each tavern licensee who operates in excess of seven (7) machines in conjunction with the operation of that tavern. If the results of the audit establish a violation of this section, the number of slot machines operated by such licensee shall be reduced to seven (7) slot machines. After such a reduction in slot machines has been in effect for at least one year, the licensee may reapply for additional slots but must comply with the restrictions on revenue generated by such slots. If the next annual audit does not establish compliance with the revenue restrictions, the licensee will again be reduced to 7 slots and is not eligible for re-application for a three year period.

(e) The revenue from the operation of seven (7) or fewer slots in conjunction with the operation of a tavern is presumed to incidental to the operation of the tavern license and does not trigger the requirements of subsection b above.

(f) If a licensee continues to operate over seven (7) slot machines after filing a report disclosing a failure to comply with the requirements of subsection (c) above, or after a finding by the Director or her designee of a failure to meet the requirements of subsection (c) above, the Director may immediately

cause a complaint and citation to be issued pursuant to Sections 8.08.040 and 8.08.050 of this code, and set a hearing to revoke the license or take other disciplinary action. This remedy is in addition to and not in place of any other remedy provided by this code for a violation of any section thereof.

SECTION FOUR. Section 8.20.020.387 of the Clark County Code is amended to read as follows:

8.20.020.387. Tavern Restaurant

A “tavern restaurant” means a space operated in conjunction with a tavern, in a suitable building kept, used, maintained, advertised or held out to be a public place where hot meals are prepared and cooked on the premises, ordered from tables or booths providing a seating capacity for at least twenty-five persons in a room separate from the on-premises kitchen. Pre-packaged or pre-prepared items which are merely reheated in a microwave oven for sale do not qualify in themselves as meals under this subsection. The kitchen must be operated no less than ~~[twelve]~~ sixteen hours per day each day that the tavern is open for business to the public, must utilize cooking equipment typically used by a restaurant in the preparation of full meals (for example: a grill, hood, fryer, with a grease trap, and must employ no fewer than one (1) worker dedicated solely to the operation of the tavern restaurant for each hour that the kitchen is in operation. If the restaurant allows admittance of minors, the dining room shall be divided and separated from the bar and/or lounge area. If the restaurant does not allow the admittance of minors, no physical separation from the bar and/or lounge area is required, but a sign must be posted at the entrance of the business which states that the entrance of minors is prohibited. The stools at the bar, or seats in a lounge or outside dining area, may not be included as meeting the minimum seating requirement of this section

SECTION FIVE. A new section of the Clark County Code, designated 8.20.020.388, is adopted to read as follows:

8.20.020.388 Tavern Revenue

“Tavern revenue” means the cash revenue received by a tavern licensee derived from the cash sale of food and beverage (excluding complimentaries) plus all the slot machine revenue received by the tavern from the operation of gaming devices, inclusive of any payment to a slot machine operator, as that term is defined in Section 8.040.010.175. Each tavern licensee shall keep complete and accurate records of its tavern revenue that distinguishes between the revenue from gaming devices and the cash sale of food and beverage. The licensee’s revenue from the sale of sundries shall not be included in the calculation of tavern revenue. Sundries include, without limitation, the sale of cigarettes and other tobacco products, but do not include the sale of food and alcoholic beverages served on the premises.

SECTION SIX. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION SEVEN. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION EIGHT. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 7th day of October, 2014.

PROPOSED BY: Commissioner Steve Sisolak.

PASSED on the 3rd day of December, 2014.

AYES: Susan Brager

Lawrence L. Brown III

Tom Collins

Mary Beth Scow

Steve Sisolak

Lawrence Weekly

NAYS: Chris Giunchigliani

ABSTAINING: None

ABSENT: None

LIQUOR AND GAMING LICENSING BOARD

BY:

Lawrence Weekly
LAWRENCE WEEKLY, Chairman

ATTEST:

Diana Alba

DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after

the 17th day of December 2014.