

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

**Section 1800.350 Inducements**

For the purposes of Board action, the following criteria regarding the provision of goods and services shall apply.

- a) For the purposes of this section:
  - 1) “Terminal operator” means any licensed terminal operator, applicant for a terminal operator license, affiliated entities of the terminal operator, its owners, employees, agents, other persons of significant influence or control, or any immediate family members of such persons, or any third party, including sales agents, acting on behalf of or to the benefit of the terminal operator.
  - 2) “Video gaming location” means any licensed video gaming location as defined in Section 110 of this Part, any applicant to become a licensed video gaming location, any person who the terminal operator has reason to believe may apply to become a licensed video gaming location, and including the video gaming location’s owners, employees, agents, persons of significant influence or control, or their immediate family members.
  - 3) “Immediate family” means spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance), parents, grandparents, siblings, children and grandchildren, step-children, whether by blood, marriage, or adoption.
- b) A terminal operator providing the following goods and services to a video gaming location, or payment for those goods and services, does not constitute a prohibited incentive or inducement under Section 25(c) of the Act:
  - 1) Video gaming terminals and any related items necessary to make the video gaming terminals operable at the video gaming location, including any wiring or rewiring, telephone lines, network connections, circuit boards, redemption devices, site controllers, or other like items specified by the video gaming terminal manufacturer, central communications system provider, or the Board. The cost of any service or hardware under this Paragraph, other than video gaming equipment, shall not exceed \$2,500 without prior written approval of the Administrator.
  - 2) Software upgrades, replacement parts, repairs, or other costs directly related to ongoing maintenance expenses of video gaming terminals.
  - 3) Video surveillance, alarms, ID scanners, or other security systems or devices required by this Part or intended to monitor or enhance the

security and integrity of video gaming operations and the video gaming area of a video gaming location, including stanchions, ropes, or other movable or temporary dividers, but not including the costs of permanent physical construction. Such surveillance and alarms may include exterior entrances and exits to the video gaming location. When surveillance, alarms, or other security systems cover both gaming and non-gaming areas of the video gaming location, this paragraph only applies to the portion of the installation or ongoing costs and fees proportional to the video gaming area and exterior entrance and exit coverage.

- 4) Bases, chairs, stools, tables, spacers, or other similar furniture designated for use at the video gaming terminals, and that are intended to remain in the video gaming area of the video gaming location.
- 5) Assisting a video gaming location in preparing or filing applications or other documentation required by the Board, or advising a video gaming location on compliance with the Act and this Part, but not including paying any fee or cost on behalf of the video gaming location.
- 6) Payment by a terminal operator on behalf of the video gaming establishment to a third party with subsequent reimbursement by the video gaming location, if all of the following conditions are met:
  - A) There is an express written agreement or, in the absence of a written agreement, the payment is made pursuant to a lien or court order;
  - B) The payment to the third party is:
    - i) a shared cost of the terminal operator and the video gaming location otherwise permitted under the Act and this Part, including but not limited to the central communication service fee, fees or taxes required by state or local law or ordinance to be shared by the terminal operator and the video gaming location, shared security or surveillance fees, or shared promotional expenses;
    - ii) the exclusive legal obligation of the video gaming location to a unit of local government and is directly and solely related to the operation of video gaming terminals; or
    - iii) pursuant to a lien or court order.
  - C) The video gaming location reimburses the terminal operator either:

- i) through direct deduction from the video gaming location's share of net terminal income prior to disbursement of any revenue to the video gaming location; or
  - ii) within 60 days.
- 7) Promotional items, merchandise, or gifts other than food or beverage items, when the items meet all of the following conditions:
  - A) Each item has an actual cost of \$5 or less;
  - B) Each item prominently and exclusively displays the logo, brand, or other identifying mark of the terminal operator; and
  - C) Each item is solely for distribution to patrons.
- 8) Non-permanent exterior signage at the video gaming location including but not limited to banners, flags, wheeled, free standing, or otherwise portable or removable signs or displays subject to the following limitations:
  - A) A concurrent maximum of five (5) signs at a single video gaming location;
  - B) Each sign costs no more than \$300; and
  - C) The signage shall not bear the name, logo or identifying mark of the video gaming location
- 9) Interior signage, display devices of any kind that relate directly and exclusively to the operation or promotion of video gaming terminals, including but not limited to:
  - A) Problem gambling resources;
  - B) Age restrictions;
  - C) Directing patrons to the gaming area;
  - D) Informing patrons as to the availability or functionality of video gaming terminals or individual games;
  - E) Promoting the video gaming terminals;
  - F) Promoting individual specific games;

- G) Promoting the terminal operator; or
  - H) Any other information as directed by the Administrator.
- 10) Anything provided through the procurement of terminal operator services to the Department of Agriculture to effectuate the State Fair Gaming Act [230 ILCS 50/30] when done in compliance with the Illinois Procurement Code.
- c) Provision of the following goods and services, or payment for those goods and services, by a terminal operator to a video gaming location shall be expressly prohibited:
- 1) Permanent construction or signage unless permitted by Subsection 350(b);
  - 2) Non-permanent signage at a video gaming location except as permitted by subsection (b);
  - 3) Food and beverage;
  - 4) Items for use in the conduct of the non-video gaming portions of the video gaming location's business, including but not limited to glassware, napkins, menus, or coasters, regardless of whether an item displays the logo or brand name of the terminal operator;
  - 5) Free or promotional video gaming play, including match play, for distribution to patrons; and
  - 6) Conducting joint marketing, advertising, or promotional activities, except when the costs are equally split between the terminal operator and video gaming location.
- d) Unless expressly identified in subsection (b), provision of the following goods and services, or payment for those goods and services, by a terminal operator to a video gaming location creates a rebuttable presumption of a prohibited incentive or inducement under Section 25(c) of the Act:
- 1) Direct monetary payment, other than distribution of a share of the after tax income of a video gaming location, from a video gaming terminal.
  - 2) Any loan or financing arrangement, regardless of the purpose of the loan or financing.
  - 3) Reimbursement or payment to any third party for a debt or obligation of the video gaming location, except as provided under subsection (b)(6) of this Part.

- 4) Total or partial payment or reimbursement of any tax or fee that is the legal obligation of the video gaming location, regardless of the source of the obligation, except as provided under subsection (b)(6) of this Part.
- 5) Providing free, reduced cost, or below fair market value goods or services, including but not limited to:
  - A) Amusement devices when the video gaming location is receiving greater than 50% of the revenue from the device;
  - B) ATM services when the video gaming location is receiving greater than 50% of the revenue from the device; or
  - C) Real estate lease or rental agreements.
- e) In determining whether a payment or the provision of goods or services is a prohibited incentive or inducement, including for purposes of inferring the intent of the parties, the Board may consider all relevant factors, including but not limited to:
  - 1) The relationship, if any, between the goods or services and the operation or promotion of video gaming terminals at the video gaming location.
  - 2) Whether, and to what degree, costs of a good or service are proportionally shared between the parties.
  - 3) Whether, and to what degree, the benefits of a good or service are proportionally shared between the parties.
  - 4) The nature of the relationship between any individual or entity providing or receiving the goods, services, or reimbursement and the terminal operator or video gaming location.
  - 5) The fair market value of any goods or services, including but not limited to:
    - A) Commission payments;
    - B) Salaries to employees;
    - I) Real estate leases or rental agreements;
    - D) Amusement device revenue; or
    - E) Other independent, arms-length contracts or transactions.

- 6) Whether the specific behavior in question is in the public interest and the best interests of Illinois video gaming.
  - 7) Whether the specific behavior in question discredits or tends to discredit the integrity of Illinois video gaming.
- f) Record Keeping
- 1) A terminal operator shall maintain records of all goods and services it provides to any video gaming location, including all costs of goods or services it shares with any video gaming location. The terminal operator shall maintain these records for a minimum of three years. These records shall, at a minimum, include the following:
    - A) Invoices;
    - B) Estimates;
    - C) Payments; and
    - D) Requests for reimbursements.
  - 2) A terminal operator shall report to the Board, on no less than a quarterly basis, all goods, services, and shared costs it provides to any video gaming location.
  - 3) Any video gaming location that receives a good or service from, or shares the cost of the good or service with a terminal operator, shall make good faith efforts to maintain all records of the goods, services, and shared costs for no less than three years. Records maintained by the video gaming location shall be independent of any records maintained by the terminal operator.
  - 4) All records maintained pursuant to this Section shall be made available to the Board or its agents upon request.