

ASSEMBLY BILL

No. 813

Introduced by Assembly Member Hall

February 26, 2009

An act to amend Section 19827 of the Business and Professions Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 813, as introduced, Hall. Gambling Control Act: administration.

Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and discipline of those activities and establishments by the Division of Gambling Control within the Department of Justice, as specified. Existing law permits the department to seize, remove, impound, photocopy, and audit any equipment, supplies, documents, papers, books, and records on the premises of a licensed gambling establishment for examination and inspection.

This bill would require that the examination and inspection of the equipment, supplies, documents, papers, books, and records of a gambling establishment take place during standard business hours.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19827 of the Business and Professions
- 2 Code is amended to read:

19827. (a) The department has all powers necessary and proper to enable it to carry out fully and effectually the duties and responsibilities of the department specified in this chapter. The investigatory powers of the department include, but are not limited to, all of the following:

(1) Upon approval of the chief, and without notice or warrant, the department may take any of the following actions:

(A) Visit, investigate, and place expert accountants, technicians, and any other person, as it may deem necessary, in all areas of the premises wherein controlled gambling is conducted for the purpose of determining compliance with the rules and regulations adopted pursuant to this chapter.

(B) Visit, inspect, and examine all premises where gambling equipment is manufactured, sold, or distributed.

(C) Inspect all equipment and supplies in any gambling establishment or in any premises where gambling equipment is manufactured, sold, or distributed.

(D) Summarily seize, remove, and impound any equipment, supplies, documents, or records from any licensed premises for the purpose of examination and inspection. However, upon reasonable demand by the licensee or the licensee's authorized representative, a copy of all documents and records seized shall be made and left on the premises.

(E) Demand access to, and inspect, examine, photocopy, and audit all papers, books, and records of an owner licensee on the gambling premises in the presence of the licensee or his or her agent.

(2) *The summary examination and inspection of the equipment, supplies, documents, papers, books, and records pursuant to subparagraphs (D) and (E) of this paragraph (1), shall be conducted during standard business hours.*

~~(2)~~

(3) Except as provided in paragraph (1), upon obtaining an inspection warrant pursuant to Section 1822.60 of the Code of Civil Procedure, the department may inspect and seize for inspection, examination, or photocopying any property possessed, controlled, bailed, or otherwise held by any applicant, licensee, or any intermediary company, or holding company.

~~(3)~~

1 (4) The department may investigate, for purposes of prosecution,
2 any suspected criminal violation of this chapter. However, nothing
3 in this paragraph limits the powers conferred by any other law on
4 agents of the department who are peace officers.

5 ~~(4)~~

6 (5) The department may do both of the following:

7 (A) Issue subpoenas to require the attendance and testimony of
8 witnesses and the production of books, records, documents, and
9 physical materials.

10 (B) Administer oaths, examine witnesses under oath, take
11 evidence, and take depositions and affidavits or declarations.
12 Notwithstanding Section 11189 of the Government Code, the
13 department, without leave of court, may take the deposition of any
14 applicant or any licensee. Sections 11185 and 11191 of the
15 Government Code do not apply to a witness who is an applicant
16 or a licensee.

17 (b) (1) Subdivision (a) shall not be construed to limit
18 warrantless inspections except as required by the California
19 Constitution or the United States Constitution.

20 (2) Subdivision (a) shall not be construed to prevent entries and
21 administrative inspections, including seizures of property, without
22 a warrant in the following circumstances:

23 (A) With the consent of the owner, operator, or agent in charge
24 of the premises.

25 (B) In situations presenting imminent danger to health and
26 safety.

27 (C) In situations involving inspection of conveyances where
28 there is reasonable cause to believe that the mobility of the
29 conveyance makes it impractical to obtain a warrant, or in any
30 other exceptional or emergency circumstance where time or
31 opportunity to apply for a warrant is lacking.

32 (D) In accordance with this chapter.

33 (E) In all other situations where a warrant is not constitutionally
34 required.