

2009 Bill 42

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Second Session, 27th Legislature, 58 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 42**

## **GAMING AND LIQUOR AMENDMENT ACT, 2009**

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MR. ANDERSON

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 42*  
*Mr. Anderson*

## **BILL 42**

2009

### **GAMING AND LIQUOR AMENDMENT ACT, 2009**

*(Assented to , 2009)*

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Amends RSA 2000 cG-1**

**1 The *Gaming and Liquor Act* is amended by this Act.**

**2 Section 1(1) is amended by adding the following after clause  
(w):**

(w.1) “police officer” means a police officer as defined in the  
*Police Act*;

**3 Section 9 is amended**

**(a) by repealing subsection (1) and substituting the  
following:**

#### **Board**

**9(1)** The board of the Commission consists of

- (a) not more than 7 members appointed by the Lieutenant  
Governor in Council, and
- (b) the chief executive officer appointed under section  
18(1).

## Explanatory Notes

**1** Amends chapter G-1 of the Revised Statutes of Alberta 2000.

**2** Adds a definition.

**3** Section 9 presently reads:

*9(1) The board of the Commission consists of not more than 7 members appointed by the Lieutenant Governor in Council for a term specified in their appointment.*

*(1.1) The Lieutenant Governor in Council may appoint any of the following as members of the board:*

- (a) the person holding the position of Deputy Minister of the Department of Gaming;*
- (b) the person holding the position of chief executive officer of the Commission;*

**(b) by repealing subsection (1.1) and substituting the following:**

**(1.1)** The chief executive officer is not eligible to vote or to serve as Chair or acting Chair.

**(c) in subsection (3) by adding “excluding the chief executive officer” after “members”.**

**4 The following is added after section 9:**

**Maximum years of service**

**9.1(1)** No person shall serve as a member of the board for more than 9 years.

**(2)** The 9-year maximum established by subsection (1) does not apply in respect of the chief executive officer’s service as a member.

**5 Section 11(1) is amended by adding “but which must not include the chief executive officer” after “the Chair”.**

**6 Section 14 is repealed and the following is substituted:**

**Exercise of powers and duties**

**14** Where an enactment specifically assigns a power or duty to the Commission or the chief executive officer, the power or duty may only be exercised or performed by the chief executive officer, except to any extent that the power or duty may be delegated under the enactment.

*(c) if one person holds both the positions referred to in clauses (a) and (b), that person.*

*(2) The Lieutenant Governor in Council must designate a member as Chair of the board.*

*(3) A quorum of the board is 3 members.*

*(4) The Lieutenant Governor in Council must fix the amount of the members' remuneration and the travelling, living and other expenses that the members are entitled to receive.*

**4** Maximum years of service.

**5** Section 11(1) presently reads:

*11(1) The Chair may designate any 2 or more members of the board, which may include the Chair, to sit as a panel of the board and may direct that panel*

*(a) to make any decision that the board may make with respect to licences or registration, or*

*(b) to conduct any hearing or inquiry that the board may conduct.*

**6** Section 14 presently reads:

*14 The board must not exercise a power or perform a duty that is by any enactment specifically assigned to the Commission or the chief executive officer.*

**7 Section 17(2)(b) is repealed and the following is substituted:**

- (b) the power to establish amounts of fines under section 91(2.1), or

**8 Section 18(1.1) is repealed.**

**9 Section 30(1) is amended**

- (a) **by striking out** “The Commission” **and substituting** “The board”;
- (b) **in clause (c) by striking out** “Commission” **and substituting** “board”.

**7** Section 17(2) presently reads:

*(2) The board must not delegate*

- (a) the power or duty to conduct a hearing or inquiry that it is required or authorized to conduct under any enactment,*
- (b) the power to impose fines under section 91(2), or*
- (c) the power to cancel a licence.*

**8** Section 18(1.1) presently reads:

*(1.1) The Lieutenant Governor in Council may appoint as the chief executive officer of the Commission*

- (a) the person holding the position of Deputy Minister of the Department of Gaming,*
- (b) the person holding the position of Chair of the board, or*
- (c) if one person holds both the positions referred to in clauses (a) and (b), that person.*

**9** Section 30(1) presently reads:

*30(1) The Commission must, as soon as practicable after the end of each fiscal year, provide the Minister with a report that summarizes its operations during the last fiscal year and that contains*

- (a) the audited financial statements of the Commission,*
- (b) general information and remarks with regard to the administration and enforcement of this Act during the year, and*
- (c) any other information that the Commission considers relevant or the Minister requests.*

**10 Section 38 is amended**

(a) in subsection (1) by adding “or amended” after “made”;

(b) by repealing subsection (2) and substituting the following:

(2) The Commission must make available to a licensee the board policies that are conditions of the licence and must notify the licensee if those policies are amended after the licence is issued.

**11 Section 44 is repealed and the following is substituted:**

**Agreements**

**44(1)** The Commission may, on behalf of the Government of Alberta, enter into agreements with the governments of any other provinces or territories or their agents regarding the conduct and management of a provincial lottery within Alberta and those other provinces or territories.

(2) An agreement referred to in subsection (1) may provide for the provincial lottery to be conducted and managed by an agent acting on behalf of the Government of Alberta and on behalf of the governments of the other provinces or territories.

**12 Section 48 is amended**

(a) by repealing subsections (1) and (2);

(b) in subsection (4) by striking out “any of the municipalities referred to in subsections (1) and (3)” and substituting “a municipality referred to in subsection (3)”;

(c) by repealing subsection (5) and substituting the following:

**10** Section 38 presently reads:

*38(1) The board's policies respecting the activities authorized by a gaming or facility licence are conditions of the licence, including policies made after the licence is issued.*

*(2) The Commission must provide a licensee with a copy of the board policies that are conditions of the licence and any amendments to those policies.*

*(3) When issuing a gaming or facility licence, the board may, with or without a hearing, impose conditions on a licence that are in addition to the conditions referred to in subsection (1).*

*(4) When the board imposes a condition under subsection (3) without a hearing, the board must give the licensee information about an application for a hearing.*

**11** Section 44 presently reads:

*44 The Commission may, on behalf of the Government of Alberta, enter into agreements with the governments of any other provinces or territories regarding the conduct and management of a provincial lottery within Alberta and those other provinces or territories.*

**12** Section 48 presently reads:

*48(1) All agreements between the Commission and retailers respecting video lottery terminals existing immediately prior to May 19, 1999 and any rights of retailers connected with or arising from those agreements are hereby terminated and cancelled in the following municipalities:*

*(a) County of Lethbridge No. 26;*

*(b) Town of Lacombe;*

**(5)** In this section, “video lottery terminal” means a video gaming terminal other than one that is located in a licensed facility.

**13 Section 61 is amended**

**(a)** in subsection (1) by adding “or amended” after “made”;

**(b)** by repealing subsection (2) and substituting the following:

**(2)** The Commission must make available to a licensee the board policies that are conditions of the liquor licence and

(c) *Municipal District of Opportunity No. 17;*

(d) *Regional Municipality of Wood Buffalo;*

(e) *Town of Canmore;*

(f) *Town of Coaldale;*

(g) *Town of Stony Plain.*

(2) *The Commission must remove all video lottery terminals from establishments located in the municipalities referred to in subsection (1).*

(3) *Subject to subsection (4), if the Commission has removed video lottery terminals from a municipality before May 19, 1999 as the result of a vote held in that municipality, the Commission may not*

(a) *enter into agreements with retailers respecting video lottery terminals, or*

(b) *place or replace any video lottery terminals in establishments in that municipality.*

(4) *The Commission may not, in respect of any of the municipalities referred to in subsections (1) and (3), enter into an agreement with a retailer or place video lottery terminals in establishments unless a policy of the Minister under section 7 authorizes the Commission to do so.*

(5) *In this section, “video lottery terminal” means a video device from which payouts are made by means of paper slips that may be redeemed for cash.*

**13** Section 61 presently reads:

*61(1) The board’s policies respecting the activities authorized by a liquor licence are conditions of the licence, including policies made after the licence is issued.*

*(2) The Commission must provide a licensee with a copy of the board policies that are conditions of the liquor licence and any amendments to those policies.*

must notify the licensee if those policies are amended after the licence is issued.

**14 Section 62(3) to (7) are repealed.**

**15 The following is added after section 69:**

**Risks to public order and safety in licensed premises — gangs**

**69.1(1)** In this section,

- (a) “gang” means a group of people engaged in a pattern of unlawful behaviour or in creating an atmosphere of fear or intimidation in a community;
- (b) “unlawful behaviour” means
  - (i) production, sale, importation, exportation or trafficking of a controlled substance within the

*(3) When issuing a liquor licence, the board may, with or without a hearing, impose conditions on a licence that are in addition to the conditions referred to in subsection (1).*

*(4) When the board imposes a condition under subsection (3) without a hearing, the board must give the licensee information about an application for a hearing.*

**14** Section 62 presently reads in part:

*(3) No liquor agency may authorize a person to act as a representative of a liquor supplier in the sale of the supplier's liquor unless the person is registered for that purpose.*

*(4) No employee or agent of a liquor agency may act as a representative of a liquor supplier in the sale of the supplier's liquor unless the employee or agent is registered for that purpose.*

*(5) No liquor supplier may sell liquor unless the liquor supplier is registered for that purpose.*

*(6) No liquor supplier may authorize its employees to represent the supplier in the sale of the supplier's liquor unless the employees are registered for that purpose.*

*(7) No employee of a liquor supplier may act as the supplier's representative in the sale of the supplier's liquor unless the employee is registered for that purpose.*

**15** Risks to public order and safety in licensed premises — gangs.

meaning of the *Controlled Drugs and Substances Act* (Canada),

- (ii) prostitution or living on the avails of prostitution,
- (iii) unlawful possession or transfer of firearms, or
- (iv) violence, threats, extortion or intimidation.

**(2)** For the purposes of this section, a person is associated with a gang if the person

- (a) is a member of the gang,
- (b) supports, facilitates or participates in the gang's activities, or
- (c) is in the company of a person described in clause (a) or (b).

**(3)** A police officer may exclude or remove from licensed premises any person the police officer believes to be associated with a gang.

**(4)** A police officer need not rely on personal knowledge in concluding that a person is associated with a gang but may rely on information from others, including but not limited to

- (a) information regarding
  - (i) any admission of association with a gang,
  - (ii) use of names, signs, symbols or other representations used by a gang,
  - (iii) a person's presence at the scene of unlawful behaviour by a gang, regardless of whether the person participated in the unlawful behaviour,
  - (iv) receipt of benefits from a gang, and
  - (v) frequent association with persons associated with a gang,

and



(b) any other categories of information set out in the regulations.

(5) For greater certainty, a police officer's good faith belief that a person is associated with a gang is itself sufficient grounds for the exclusion or removal of the person from licensed premises under this section.

(6) Every person who is directed to leave licensed premises by a police officer acting under subsection (3) shall comply with the direction.

(7) A person who contravenes subsection (6) is a trespasser on the licensed premises.

**16 The following is added before section 70:**

**Collection of personal information by licensee**

**69.2(1)** A licensee may, before allowing a person to enter licensed premises, collect the person's name, age and photograph.

(2) If a licensee has personal knowledge or reasonably believes that a person referred to in subsection (1) has, at any time within the preceding year, engaged in an activity referred to in section 69(1) or (2), the licensee may, in good faith, disclose the person's name, age and photograph to other licensees for the purpose of allowing them to determine whether they wish to allow the person to enter licensed premises.

(3) A licensee must, as soon as possible after a request is made by a police officer, disclose to the police officer any information collected under subsection (1).

**17 Section 91 is amended**

**(a) in subsection (1)**

(i) **in clause (d) by adding** "or other federal legislation" **after** "the *Criminal Code* (Canada)";

(ii) **in clause (e) by adding** "or other federal legislation" **after** "the *Criminal Code* (Canada)";

**16** Collection of personal information by licensee.

**17** Section 91 presently reads:

*91(1) The board may do any one or more of the things referred to in subsection (2) if the board is of the opinion that*

- (a) a licensee or registrant has failed to comply with this Act, an order of the board or a condition imposed on a licence or registration;*
- (b) a liquor licensee has failed to comply with stadium bylaws;*

**(b) by adding the following after subsection (2):**

**(2.1)** The board may establish amounts of fines for the purposes of subsection (2)(c) and may delegate to the chief executive officer the power to impose and collect the fines.

**(2.2)** If the power to impose and collect fines is delegated to the chief executive officer under subsection (2.1),

- (a) the opinion required under subsection (1) is to be formed by the chief executive officer instead of the board, and
- (b) any fine imposed under subsection (2)(c) may be imposed by the chief executive officer by means of a written instrument in a form approved by the board, instead of by board order.

- (c) *a licensee has failed with respect to licensed premises or a licensed facility to comply with the Safety Codes Act, orders under the Public Health Act or any municipal bylaw;*
  - (d) *an owner of licensed premises or facilities or a manager of licensed premises or facilities or, if the licensee is a corporation, an employee or agent of the corporation who is in charge of the licensed premises or facilities has been charged with or convicted of an offence under this Act, the Criminal Code (Canada) or stadium bylaws;*
  - (e) *if the licensee or registrant is a corporation, a shareholder, director, officer or employee of the corporation has been charged with or convicted of an offence under this Act or the Criminal Code (Canada);*
  - (f) *a licensee or registrant has committed any act that is contrary to the public interest or that detracts from the integrity with which gaming activities or provincial lotteries are to be conducted in Alberta.*
- (2) *If subsection (1) applies, the board may, by order, with respect to a licensee or registrant, do any one or more of the following, with or without a hearing:*
- (a) *issue a warning;*
  - (b) *impose conditions on the licence or registration or rescind or amend existing conditions on the licence or registration;*
  - (c) *impose a fine of not more than \$200 000 and refuse to issue or reinstate a licence or a registration until the fine is paid;*
  - (d) *subject to this section, suspend or cancel the licence or registration;*
  - (e) *in a case where a person referred to in subsection (1)(d) or (e) has been charged but not convicted of an offence referred to in that clause or in a case to which subsection (1)(f) applies, begin an investigation of the matter and suspend the licence or registration pending completion of the investigation.*
- (3) *A licence or registration may not be cancelled*
- (a) *where a person referred to in subsection (1)(d) or (e)*

**18 The following is added after section 93:**

**Fine imposed by chief executive officer**

**93.1** Where, pursuant to a delegation made under section 91(2.1), the chief executive officer imposes a fine under section 91(2)(c), the chief executive officer must give the licensee or registrant

- (a) a copy of the written instrument by which the fine is imposed,
- (b) a written summary of the reasons and information on which the fine is based, and
- (c) information about the right to apply for a hearing.

**19 Section 94(1) is repealed and the following is substituted:**

**Application for board hearing**

**94(1)** A licensee or registrant may apply to the board for a hearing if any of the following has occurred without a hearing in respect of that licensee or registrant:

- (a) the board has made an order under section 91, 91.1(2) or 92;
- (a.1) the chief executive officer has, pursuant to a delegation made under section 91(2.1), imposed a fine under section 91(2)(c);

- (i) has been charged but not convicted, until after the Commission has completed an investigation of the matter,*  
*or*
- (ii) has been convicted, until after the conviction becomes final,*  
  
*or*
- (b) in a case to which subsection (1)(f) applies, until after the Commission has completed an investigation of the matter.*

**18** Fine imposed by chief executive officer.

**19** Section 94(1) presently reads:

*94(1) A licensee or registrant may apply to the board for a hearing if the board has, without a hearing in respect of that licensee or registrant,*

- (a) made an order under section 91, 91.1(2) or 92,*
- (b) imposed conditions on the licence under section 38(3) or 61(3), or*
- (c) imposed conditions on the registration under the regulations.*

- (b) the board has imposed conditions on the licence under section 38(3) or 61(3);
- (c) the board has imposed conditions on the registration under the regulations.

**20 Section 116 is amended by adding “, 69.1(6)” after “69”.**

**21 Section 129(1) is amended**

- (a) in clause (g)(iii) by striking out “, representatives and others”;
- (b) by adding the following after clause (r):
  - (r.1) restricting the application of section 69.1 to licensed premises and categories of licensed premises prescribed in those regulations;
  - (r.2) setting out categories of information for the purposes of section 69.1(4);
  - (r.3) respecting the collection, use and disclosure of information under section 69.2;

**22 This Act comes into force on Proclamation.**

**20** Section 116 presently reads:

*116 A person who contravenes section 36, 37.1, 37.2, 39, 40, 41, 45, 46, 50, 64, 65(1), 66, 68, 69, 70, 71, 72, 73, 74, 75, 75.1, 77, 79, 81, 84, 86(2), 87, 89, 90, 99, 100, 101 or 115(1) or a section in the regulations the contravention of which is designated by the regulations to be an offence is guilty of an offence.*

**21** Adds new regulation-making powers.

**22** Coming into force.

