



Requirements to Ensure Compliance with COVID-19 Order No. 59, Temporarily Applying Further Capacity Restrictions to Statewide COVID-19 Safety Rules

Introduction & Background:

On June 23, 2020, following the temporary closure of casino operations due to the COVID-19 pandemic, the Commission approved the “Minimum Requirements for the Initial Phase 3 Opening of Gaming Establishments” in the Commonwealth.¹ With respect to Occupancy, the Guidelines state that “[t]he occupancy limit for each licensee shall be set by the following formula: Number of gaming positions available x 3 + gaming area employees of the licensee and MGC + capacity of open amenities utilizing the occupancy limits set by the Governor’s guidelines for each amenity.” These Requirements further state that “[t]he occupancy limit for PPC shall also include racing participants + racing employees of the licensee and MGC + the capacity of the simulcasting area utilizing the occupancy limit set by the Governor’s guidelines.”

On October 8, 2020, the Commission approved the “Minimum Requirements for the Reintroduction of Roulette at the Category 1 Gaming Establishments.” On November 5, 2020, the Commission approved “Requirements to Ensure Compliance with COVID-19 Order No. 53, Requiring Early Closing and Limiting Hours for Alcohol at the Commonwealth’s Gaming Establishments.”

On December 22, 2020, the Baker-Polito Administration issued “COVID-19 Order No. 59 – Order Temporarily Applying Further Capacity Restrictions to Statewide COVID-19 Safety Rules,” effective at 12:01 AM on Saturday, December 26, 2020, requiring, in relevant part, capacity limitations of 25% for casinos, restaurants, and retail businesses. Order No. 59 states that “workers/staff [are] excluded from the occupancy count for restaurants and retail businesses.” Order No. 59 states that it “shall remain in effect until 12:00 noon on January 10, 2021 unless further extended.”

COVID-19 Order No. 59 provides in part that the references to the 25% capacity limits “shall apply to a facility’s maximum permitted occupancy as documented in its occupancy permit or

¹ The Minimum Requirements for the Initial Phase 3 Opening of Gaming Establishments have applied to Encore Boston Harbor, MGM Springfield, and Plainridge Park Casino, including the PPC simulcasting area. The Commission will address the Simulcast Guidelines in agenda item 2.(ii) of its December 22, 2020 emergency open meeting.

similar license or permit on record with the municipal building department or other municipal record holder in which the facility is located.”

With respect to casinos, COVID-19 Order No. 59 further provides as follows: “MGC to re-issue capacity rules as necessary.”

Requirements for Gaming Establishments to Ensure Compliance with COVID-19 Order No. 59:

In keeping with COVID-19 Order No. 59, the Commission determines to supplement the Minimum Requirements For the Initial Phase 3 Opening of Gaming Establishments with the instant Requirements to Ensure Compliance with COVID-19 Order No. 59. These supplemental Requirements direct as follows:

1. Each gaming licensee may continue to abide by the formula for occupancy set forth in the June 23, 2020 Gaming Guidelines, but in no event may the occupancy level of the gaming establishment exceed the 25% level set forth in Order No. 59. In calculating the 25% capacity limit under this Supplemental Requirement, workers and staff are included in the occupancy counts.
2. *For Amenities:* Each gaming licensee shall abide by the 25% occupancy limits established in Order No. 59 for applicable sectors.
3. Each gaming licensee shall develop a Plan, including a Communications Plan, to ensure that compliance with the 25% occupancy limits is achieved in an effective, safe, and orderly manner, including in instances when additional guests may seek entry to the gaming establishment after the occupancy limit has been reached.
4. These Supplemental Requirements are effective at 12:01 AM on December 26, 2020 and shall remain in effect until 12:00 noon on January 10, 2021, unless further extended by Order of the Governor or by Order of the Commission.