

**Title 11--DEPARTMENT OF PUBLIC SAFETY
Division 45--Missouri Gaming Commission
Chapter 12--Liquor Control**

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.805, RSMo Supp. 2014, the commission amends a rule as follows:

11 CSR 45-12.090 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 16, 2016 (41 MoReg 241-244). Changes have been made to the text of the proposed amendment, so they are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on this proposed amendment on March 29, 2016. Mike Winter, Executive Director of the Missouri Gaming Association attended the public hearing and submitted one written comment. Two comments were also received from MGC staff members.

COMMENT #1: A staff member suggested adding the phrase “another person’s” behind “fondling of” to 11 CSR 45-12.090(6)(C) to clarify the intent of the regulation.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the suggestion and made the requested change.

COMMENT #2: Mike Winter submitted a comment suggesting limiting the impact of subsection (6)(C) to the gaming floor or to clearly state what is prohibited without linking it to the liquor rules. He suggested removing subsection (6)(C) or excluding ticketed events from subsection (6)(C). He alternatively proposed that the definition of improper acts and lewdness include the phrase “illegal acts prohibited by law”. He is concerned the proposed revisions in subsection (6)(C) would prohibit burlesque style entertainment which is not currently illegal.

RESPONSE AND EXPLANATION OF CHANGE: The commission understands the concerns of the industry. The language was revised to remove “buttocks” and limited the conduct to only apply to the actual or simulated touching of another person’s body parts with the change made in response to comment #1.

COMMENT #3: A staff member noted that Minimum Internal Control Standards (MICS), Chapter M §1.06 prohibits Surveillance personnel from consuming alcoholic beverages on premises, per “11 CSR 45-12.090 and 11 CSR 45-5.030 which prohibits employees from playing any gambling game, or receiving or consuming any intoxicating liquor while on the premises.” The staff member questioned whether the commission needs to revise this standard in MICS, Chapter M based on the new liquor control regulations.

RESPONSE: The commission staff agrees. A revision to MICS, Chapter M will be submitted to address this issue.

11 CSR 45-12.090 Rules of Liquor Control

(6) Lewdness. No Class B licensee or its employee or agent shall permit in or upon its licensed premises—

(A) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

(B) The displaying of any portion of the areola of the female breast;

(C) The actual or simulated touching, caressing, or fondling of another person's breast, anus, or genitals;

(D) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(E) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus; and

(F) The displaying of films, video programs or pictures depicting acts, the live performances of which are prohibited by this regulation or by any other law.