

**TITLE 15            GAMBLING AND LIQUOR CONTROL**  
**CHAPTER 1        GAMES AND GAMING GENERAL PROVISIONS**  
**PART 25           MANUFACTURER’S LICENSE WAIVER UNDER THE GAMING CONTROL ACT**

**15.1.25.1           ISSUING AGENCY:** New Mexico Gaming Control Board.  
[15.1.25.1 NMAC - N, 5/15/02]

**15.1.25.2           SCOPE:** This rule applies to all persons who manufacture associated equipment who are seeking waiver for licensure as a manufacturer under the New Mexico Gaming Control Act.  
[15.1.25.2 NMAC - N, 5/15/02]

**15.1.25.3           STATUTORY AUTHORITY:** Section 60-2E-7(B)(3) of the Gaming Control Act authorized the board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act. Section 60-2E-13(D) gives the board discretion to waive the licensing requirement for manufacturers of associated equipment.  
[15.1.25.3 NMAC - N, 5/15/02]

**15.1.25.4           DURATION:** Permanent.  
[15.1.25.4 NMAC - N, 5/15/02]

**15.1.25.5           EFFECTIVE DATE:** May 15, 2002, unless a later date is cited at the end of a section.  
[15.1.25.5 NMAC - N, 5/15/02]

**15.1.25.6           OBJECTIVE:** This rule establishes guidelines and procedures for obtaining a waiver of the license requirement for manufacturers of certain associated equipment.  
[15.1.25.6 NMAC - N, 5/15/02]

**15.1.25.7           DEFINITIONS:** Unless other wise defined below, terms used in this rule have the same meanings as set forth in the Gaming Control Act.

- A.            “Act”** means the New Mexico Gaming Control Act.
  - B.            “Associated equipment”** means equipment or a mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming.
  - C.            “Board”** means the gaming control board or its designee.
  - D.            “Central monitoring system”** means the hardware and software used by the board to control, monitor, and retrieve information from, all licensed gaming machines.
  - E.            “Executive director”** means the executive director of the board.
  - F.            “EPROM”** means erasable programmable read-only memory used for storing program instructions in a gaming device, including game programs and video graphics.
  - G.            “Game outcome”** means the final result of the wager.
  - H.            “Modification”** means a change or alteration in the associated equipment or component that affects the manner or mode of its operation or function.
  - I.            “Principal”** means a key person directly involved in day-to-day operations of the manufacturer.
  - J.            “State”** means the state of New Mexico.
  - K.            “Tier one associated equipment”** means associated equipment for which waiver of licensure is required to be approved by the board.
  - L.            “Tier two associated equipment”** means associated equipment for which waiver of licensure is required to be approved by the executive director.
  - M.            “Waiver”** means a determination by the board to exempt a manufacture of associated equipment from the requirement to obtain a manufacturer’s license under the act.
- [15.1.25.7 NMAC - N, 5/15/02; A, 5/15/07]

**15.1.25.8           WAIVER REQUESTS; TIER ONE ASSOCIATED EQUIPMENT; FORM AND GENERAL REQUIREMENTS:**

**A.            Any person who manufactures tier one associated equipment for use or play in the state or for sale, lease or distribution outside the state from any location within the state may request a waiver by filing a written waiver request form with the board.**

**B.** Waiver requests shall be submitted in writing on forms supplied or approved by the board and must contain such information and documents as specified. Every waiver request shall include payment of a \$25.00 nonrefundable fee.

**C.** A separate waiver request shall be submitted for each item of associated equipment the manufacturer intends to manufacture, fabricate, assemble, produce, program, or modify.

**D.** All information required to be included in the waiver request shall be true and complete as of the date of board action sought.

**E.** By requesting a waiver or other approval of the board, the manufacturer is requesting review of the equipment and a waiver of licensing requirements as a manufacturer. In addition, by requesting the waiver, the manufacturer accepts all risks of adverse public notice, embarrassment, criticism, or damages relating to the request with the board.

**F.** Any waiver granted by the board is a revocable privilege. No person holding such a waiver shall have any property rights therein.

**G.** By requesting a waiver, the holder agrees to abide by all provisions of the act and board rules.  
[15.1.25.8 NMAC - N, 5/15/02; A, 5/15/07]

**15.1.25.9 EVALUATION OF ASSOCIATED EQUIPMENT:**

**A.** The board shall maintain and publish from time to time a list of tier one associated equipment and tier two associated equipment.

**B.** If the equipment for which a manufacturer seeks waiver of licensure is not listed as tier one or tier two associated equipment no further action is required and the manufacturer may manufacture or distribute the equipment in the state.

**C.** If the equipment is associated equipment the manufacturer shall register as a manufacturer of associated equipment.

[15.1.25.9 NMAC - N, 5/15/02; A, 5/15/07]

**15.1.25.10 REGISTRATION REQUIREMENTS; TIER ONE ASSOCIATED EQUIPMENT:**

**A.** Registration shall be for a one-year period.

**B.** All manufacturers of tier one associated equipment seeking a waiver of licensure shall register with the board on forms supplied and approved by the board and shall provide all information and documents requested.

**C.** The registration form shall be accompanied by payment of a \$100.00 nonrefundable registration fee.

**D.** The registration form shall require the following information:

(1) manufacturer's name;

(2) manufacturer's business address;

(3) name, title, date of birth and social security number for principals directly involved in operations of the manufacturer and owners;

(4) disclosure of all other gaming licenses held by manufacturer; and

(5) any other information deemed necessary by the board.

**E.** The information and documents provided shall be used by the board for the purpose of conducting a limited background investigation.

**F.** Any information submitted in connection with registration under this section shall be deemed confidential to the same extent as information submitted with an application for licensure.

**G.** Once a manufacturer is registered, it may submit additional waiver requests without re-registration as long as the registration is in effect.

[15.1.25.10 NMAC - N, 5/15/02; A, 5/15/07]

**15.1.25.11 CRITERIA FOR GRANTING A LICENSE WAIVER; TIER ONE ASSOCIATED EQUIPMENT:**

**A.** The decision to grant a waiver of licensure for the manufacture of tier one associated equipment is within the absolute discretion of the board. Waivers will be granted on the terms and conditions the board deems necessary and provided the waiver is consistent with the purposes of the act.

**B.** The board may consider the following factors, where applicable, in determining whether to grant a waiver:

- (1) whether the manufacturer is licensed by another jurisdiction with standards for licensure comparable to the standards of the state;
  - (2) whether requiring licensure would inhibit the entry of a particular technology into the state;
  - (3) whether the cost of obtaining a license is disproportionate to the economic benefit the manufacturer would gain from licensure;
  - (4) whether requiring licensure would inhibit economic development in the state;
  - (5) whether the manufacturer or any of its principles has been denied a license or certification in this state or another state, has had a certification, permit or license issued pursuant to the laws of this state, another state or the United States permanently suspended or revoked for cause or is currently under suspension or other limiting action in this state or another state involving gaming activities or licensure for gaming activities;
  - (6) whether the manufacturer or any of its principles have been convicted of a crime in any jurisdiction;
  - (7) whether the associated equipment for which the waiver is sought affects the security of any game or gaming device;
  - (8) whether the associated equipment for which a waiver is sought has been verified by an independent laboratory or approved by another jurisdiction with standards comparable to the standards of the state; and
  - (9) any other factors the board deems appropriate.
- C. A waiver will not be granted if the manufacturer is manufacturing any of the following:
- (1) an EPROM or other storage medium containing game source language or executable code of a computer program that cannot be reasonably demonstrated to have any use other than in a gaming machine;
  - (2) any mechanical, electrical, or other device that may be connected to or used with a gaming machine to alter the normal criteria of random selection or affect the outcome of a game;
  - (3) a system for the accounting or management of any game or gaming machines;
  - (4) any hardware or software that interfaces directly with the central monitoring system or with a slot accounting system; or
  - (5) any other component that the board determines by regulation to be a gaming device used directly or remotely in connection with gaming or any game that affects the results of a wager by determining a win or loss.
- [15.1.25.11 NMAC - N, 5/15/02; A, 5/15/07]

**15.1.25.12 FINAL DECISION; EFFECT OF WAIVER OF LICENSURE; TIER ONE ASSOCIATED EQUIPMENT:**

- A. The board shall make the final decision to either grant or deny the waiver request. If the waiver request is granted, the manufacture will receive a written waiver indicating the specific tier one associated equipment it may manufacture without obtaining a manufacturer's license from the board.
- B. If the waiver request is denied the manufacture shall obtain a full manufacturer's license pursuant to the provisions of the act and board rules before manufacturing or distributing the associated equipment.
- C. A manufacture who has been issued a waiver shall only manufacture or distribute the tier one associated equipment or components that are specifically identified in the waiver.
- D. The manufacture of, distribution of or modification of any other tier one associated equipment not listed on the waiver is a violation of the act and is subject to criminal penalty and imposition of an administrative fine or both.
- E. Associated equipment for which a waiver is granted is not subject to approval requirements set forth in 15.1.7.30 NMAC.
- F. A manufacturer who has registered with the board and been granted a waiver of licensure to manufacture tier one associated equipment shall notify the board within 30 days of any change of ownership of the manufacturer or any change of the manufacturer's principles.
- G. A manufacturer who has registered with the board and been granted a waiver of licensure to manufacturer tier one associated equipment shall notify the board within 10 days if the manufacturer or any of the manufacturer's principles has had a license, permit or certification issued in connection with gaming activities or manufacture of gaming machines or associated equipment revoked, suspended or placed under limiting action in another jurisdiction.
- H. A manufacturer who has registered with the board and been granted a waiver of licensure to manufacture tier one associated equipment shall notify the board within 10 days if the manufacturer or any of the manufacturer's principles has been arrested, charged or convicted of a crime in any jurisdiction. This subsection does not apply to misdemeanor traffic offenses.

**I.** A manufacturer who has registered with the board and been granted a waiver of licensure to manufacture tier one associated equipment shall immediately notify the board in writing of any material problem, defect or malfunction of any associated equipment for which licensure has been waived.

**J.** A manufacturer who has registered with the board and been granted a waiver of licensure to manufacture tier one associated equipment shall immediately notify the board in writing if approval of the associated equipment for which licensure has been waived is suspended or revoked in any other jurisdiction.  
[15.1.25.12 NMAC - N, 5/15/02; A, 5/15/07]

**15.1.25.13 WAIVER REQUESTS; TIER TWO ASSOCIATED EQUIPMENT; FORM AND GENERAL REQUIREMENTS:**

**A.** A manufacturer seeking waiver of licensure for tier two associated equipment shall apply for approval of the tier two associated equipment pursuant to the requirements set forth in 15.1.7.30 NMAC.

**B.** The manufacturer shall submit with the application a request for waiver of licensure as a manufacturer of associated equipment.

**C.** Upon approval of the associated equipment pursuant to 15.1.7.30 NMAC, the waiver of licensure for manufacture of tier two associated equipment shall be granted.

**D.** The executive director shall notify the applicant in writing that the waiver has been granted.  
[15.1.25.13 NMAC - N, 5/15/02; A, 5/15/07]

**HISTORY OF 15.1.25 NMAC: [RESERVED]**