



## State of Louisiana

Gaming Control Board

M. J. "MIKE" FOSTER, JR.  
GOVERNOR

HILLARY J. CRAIN  
CHAIRMAN

# RULING ON PETITION FOR DECLARATORY ORDER OF UNO INVESTMENT GROUP, INC.

This is a petition for declaratory ruling by UNO Investment Group, Inc. ("UNO") asking the Louisiana Gaming Control Board ("Board") to rule that applicable video poker laws including La. R.S. 27:306(A)(5)(b) do not prohibit the leasing of a part of a building located upon the five (5) contiguous acre premises of petitioner's truck stop facility for the purposes of permitting a Louisiana State Racing Commission licensed offtrack wagering facility to conduct offtrack wagering operations thereat.

Petitioner alleges that the offtrack wagering facility will not be licensed for video draw poker operations, the lease would not permit application by the offtrack wagering facility for a video draw poker license, the lease would meet the criteria of La. R.S. 27:306(A)(5)(b),<sup>1</sup> the offtrack wagering

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<sup>1</sup> Louisiana Revised Statute 27:306(A)(5)(b) reads:

An owner or lessor of a qualified truck stop facility may lease or sublease any restaurant, convenience store, or any other business operation located on the premises of the qualified truck stop facility to another person, provided that such person executes a written lease which contains a requirement that the lessee or sublessee comply with the laws and regulations which govern the operation of video draw poker devices. If such lease or sublease is granted, the owner or lessor of such qualified truck stop facility shall maintain ultimate supervision and control of his entire truck stop premise. No such lessee or sublessee shall be required to meet suitability requirements unless he receives, as a result of the lease, any video draw poker operation revenue or unless he exercises some management or control over video draw poker devices. Any violation of the laws and regulations which govern the operation of video draw poker devices by such lessee or sublessee shall be considered a violation by the licensee. No financial lending institution or pawnshop shall be located on the premises of a qualified truck stop facility. Nothing herein shall prohibit the placement of automatic teller machines on the premises of a qualified truck stop.

facility will not receive video draw poker revenues from the truck stop facility and it will not exercise any management, influence or control over the video draw poker devices of the truck stop facility.

### LEGAL ANALYSIS

When enacting the Video Draw Poker Devices Control Law, La. R.S. 27:301 et seq., the legislature recognized the importance of a controlled gaming industry to the development of the economy of the state of Louisiana and the interest of the state in providing strict regulation of all persons and activities related to the operation of licensed establishments. La. R.S. 27:306(A)(1).<sup>2</sup> The legislature also found it necessary to establish three categories of licenses which may be issued to qualified establishments to operate video gaming devices to effectively regulate and control the video gaming industry. This was done in recognition of the unique features of the three types of establishments such as volume of business, number of establishments, and hours required to insure suitability prior to licensing. La. R.S. 27:306(A)(1).

The three categories are (1) restaurants, bars, taverns, cocktail lounges and clubs or such establishments located in a motel or hotel; (2) a Louisiana State Racing Commission licensed pari-

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<sup>2</sup> Louisiana Revised Statute 27:306(A)(1) reads:

The legislature hereby recognizes the importance of a controlled gaming industry to the development of the economy of the state of Louisiana. The legislature further recognizes that the success and growth of gaming are dependant upon public confidence and trust that gaming activities and particularly video draw poker gaming activities are conducted honestly and are free from criminal and corruptive elements. The state of Louisiana has a legitimate interest in providing strict regulation of all persons, practices, associations, and activities related to the operation of licensed establishments licensed to offer video draw poker devices, and the manufacture, supply, or distribution of video draw poker gaming devices and supplies, in order to maintain public confidence and trust in the video draw poker gaming industry. The legislature hereby finds that the types of establishments which may place video draw poker devices at their licensed establishments each possess unique features, some of which are volume of business, number of establishments, and hours required of the division to insure suitability prior to licensing. Therefore, in order to provide the most effective regulation and control of the video draw poker gaming industry, it is necessary to develop three categories of licenses which may be issued to qualified establishments for the privilege of operating video draw poker devices.

mutuel wagering facility or an offtrack wagering facility; and (3) a truck stop facility. La. R.S. 27:306(A)(2), (3) and (4).

A facility is defined as "the premises of a business which is licensed to house or offer for play video gaming devices within this state." L.A.C. 42:XI.2403. Premises are defined as "land together with all buildings, improvements, equipment, and personal property located thereon which is controlled by an applicant or a licensee, and associated with video gaming activities authorized by the act." L.A.C. 42:XI.2403.

A facility is the premises of a business and premises are all land together with all buildings located thereon. Therefore, a facility is all land together with all buildings. The legislature recognized a truck stop facility and an offtrack wagering facility as being two distinct facilities. If one were allowed to be contained on the premises of the other, there would be no distinction. The video gaming laws and regulations do not provide that one of these facilities encompass or contain the other.<sup>3</sup> It requires that the two be distinct and separate.

In furtherance of this distinction, La. R.S. 27:306 (C)(1) states that a licensee only have that number of video gaming devices on the premises allowed by law for that particular license category. La. R.S. 27:306(C)(1). A truck stop facility may have up to 50 devices depending on the amount of fuel sold. La. R.S. 27:306(A)(4). An offtrack wagering facility may have as many devices as desired. There is no limit as there is for a truck stop. La. R. S. 27:306(A)(3). Five hundred dollars is the maximum payout at a truck stop facility while one thousand dollars is the maximum payout at an offtrack wagering facility. La. R.S. 27:304.

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<sup>3</sup> The video gaming law does recognize that a truck stop facility contain a restaurant. A restaurant on the truck stop premises is one requirement for a truck stop facility to be qualified to have video gaming devices. La. R.S. 27:306(A)(4)(c)(ii).

There is a clear mandate from the legislature that a truck stop facility is separate and distinct from an offtrack wagering facility and should be treated differently due to this distinction. In order to maintain the distinction, an offtrack wagering facility cannot be located within the premises of a truck stop facility.

While the petitioner states that the offtrack wagering facility will not apply for a video gaming license, we must consider the ramifications if an offtrack wagering facility located on the premises of a truck stop did apply for a license and the truck stop surrendered its license. If this were allowed, we would have an unlimited number of video gaming devices and a betting parlor for horse racing at a truck stop facility that was not required to meet the qualifications of the video gaming law, i.e., fuel sales, acreage, and amenities. Other truck stops in the area would be at a severe disadvantage unless an offtrack wagering facility was also located on their property. This was not envisioned by the legislature and would subvert the clear mandate that a distinction exists between a truck stop facility and an offtrack wagering facility and each should be treated differently according to its unique features.

# ORDER

This matter having been considered by the Louisiana Gaming Control Board in open meeting of April 17, 2001:

IT IS THE RULING of the Board that the Video Draw Poker Control Law and rules promulgated in accordance therewith do not allow an offtrack wagering facility to be located within the premises of a truck stop facility.

THUS DONE AND SIGNED on this the 17<sup>th</sup> day of April, 2001.

LOUISIANA GAMING CONTROL BOARD

BY:

  
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HILLARY J. CRAIN, CHAIRMAN

LOUISIANA GAMING CONTROL BOARD  
I HEREBY CERTIFY THAT A CERTIFIED  
COPY HAS BEEN MAILED OR SERVED ON  
ALL PARTIES THIS 18<sup>th</sup> DAY  
OF April, 2001

APPEAL DOCKET CLERK

