

ASSEMBLY BILL NO. 578—COMMITTEE ON JUDICIARY

(ON BEHALF OF GAMING CONTROL BOARD)

MARCH 26, 2001

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to gaming. (BDR 41-531)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to gaming; providing for certain application fees and license fees relating to interactive gaming; exempting the operation of interactive gaming from certain other fees and taxes; revising the definition of “gross revenue” for the purposes of the Nevada Gaming Control Act; revising the computation of interest payable by the Nevada gaming commission on the overpayment of certain fees and taxes; revising provisions relating to persons who acquire a certain beneficial ownership in a publicly traded corporation registered with the commission; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 463 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 6, inclusive, of this act.
3 **Sec. 2. 1. *An application for a license for an establishment to***
4 ***operate interactive gaming:***
5 ***(a) Must be accompanied by a nonrefundable application fee of***
6 ***\$100,000 when the application is filed with the board.***
7 ***(b) May be filed with the board, on a form approved by the board:***
8 ***(1) Not later than 90 days after the effective date of this section; or***
9 ***(2) Not earlier than 181 days after the commission issues the first***
10 ***license for an establishment to operate interactive gaming pursuant to***
11 ***this chapter.***
12 **2. *The board shall not accept an application for a license for an***
13 ***establishment to operate interactive gaming filed on any date other than***
14 ***a date described in paragraph (b) of subsection 1.***
15 **Sec. 3. 1. *Before issuing a license for an establishment to operate***
16 ***interactive gaming, the commission shall charge and collect from the***
17 ***establishment a license fee of \$1,000,000.***



* A B 5 7 8 R 1 *

1 2. Each license for an establishment to operate interactive gaming
2 must be issued for a 2-year period beginning on January 1 of the first
3 year and ending on December 31 of the second year.

4 3. Notwithstanding the provisions of subsections 1 and 2 to the
5 contrary, a license for an establishment to operate interactive gaming
6 may be issued after January 1 of a calendar year for a period beginning
7 on the date of issuance of the license and ending on the second
8 December 31 following the date of issuance of the license. Before issuing
9 a license pursuant to this subsection, the commission shall charge and
10 collect from the establishment a license fee of \$1,000,000 prorated by
11 1/24 for each full month between January 1 of the calendar year and the
12 date of issuance of the license.

13 4. Before renewing a license issued pursuant to this section, but in
14 no case later than the second December 31 after the license was issued or
15 previously renewed, the commission shall charge and collect a renewal
16 fee of \$1,000,000 for the renewal of the license for the immediately
17 following 2-year period.

18 Sec. 4. The operation of interactive gaming is exempt from the fees
19 and taxes imposed pursuant to NRS 463.375, 463.380, 463.383 and
20 463.385.

21 Sec. 5. 1. Before issuing a license for a manufacturer of a gaming
22 device for interactive gaming, manufacturer of equipment associated
23 with a gaming device for interactive gaming or manufacturer of
24 peripheral equipment related to a gaming device for interactive gaming,
25 the commission shall charge and collect a license fee of:

26 (a) Two hundred and fifty thousand dollars for a license for a
27 manufacturer of a gaming device for interactive gaming;

28 (b) One hundred thousand dollars for a license for a manufacturer of
29 equipment associated with a gaming device for interactive gaming; or

30 (c) Fifty thousand dollars for a license for a manufacturer of
31 peripheral equipment related to a gaming device for interactive gaming.

32 2. Each license issued pursuant to this section must be issued for a 1-
33 year period that begins on the date the license is issued.

34 3. Before renewing a license issued pursuant to this section, but in
35 no case later than 1 year after the license was issued or previously
36 renewed, the commission shall charge and collect a renewal fee for the
37 renewal of the license for the immediately following 1-year period. The
38 renewal fee for a license for a:

39 (a) Manufacturer of a gaming device for interactive gaming is an
40 amount equal to the greater of:

41 (1) Fifty thousand dollars; or

42 (2) Fifty thousand dollars multiplied by the number of
43 establishments licensed to operate interactive gaming that, on the date of
44 renewal, have an agreement with the manufacturer of a gaming device
45 for interactive gaming to share the revenue from an interactive gaming
46 system.

47 (b) Manufacturer of equipment associated with a gaming device for
48 interactive gaming is \$50,000.



* A B 5 7 8 R 1 *

1 (c) Manufacturer of peripheral equipment related to a gaming device
2 for interactive gaming is \$25,000.

3 **Sec. 6.** 1. In addition to the fees set forth in section 5 of this act, a
4 licensed manufacturer of a gaming device for interactive gaming shall
5 pay a monthly license fee pursuant to this section for each agreement to
6 share the revenue from an interactive gaming system into which the
7 manufacturer of a gaming device for interactive gaming has entered with
8 an establishment licensed to operate interactive gaming.

9 2. Each establishment licensed to operate interactive gaming with
10 which the manufacturer of a gaming device for interactive gaming has
11 an agreement to share the revenue from an interactive gaming system
12 shall transmit the license fee required by subsection 1 on behalf of the
13 manufacturer of a gaming device for interactive gaming based upon the
14 amount of revenue to which the manufacturer of a gaming device for
15 interactive gaming is entitled pursuant to the agreement, as follows:

16 (a) Six and one-quarter percent of the revenue from the previous
17 calendar month that does not exceed \$500,000;

18 (b) Nine and one-half percent of the revenue from the previous
19 calendar month that exceeds \$500,000 and does not exceed \$1,000,000;
20 and

21 (c) Twelve and three-quarters percent of the revenue from the
22 previous calendar month that exceeds \$1,000,000.

23 3. For the purposes of subsection 2, the amount of revenue to which
24 the manufacturer of a gaming device for interactive gaming is entitled
25 pursuant to an agreement to share the revenue from an interactive
26 gaming system:

27 (a) Includes all revenue of the manufacturer of a gaming device for
28 interactive gaming that is his share of the revenue from the interactive
29 gaming system pursuant to the agreement; and

30 (b) Does not include revenue that is the fixed purchase price for the
31 sale of a component of the interactive gaming system.

32 4. Each establishment licensed to operate interactive gaming
33 described in subsection 2 shall:

34 (a) Withhold the amount necessary to pay the license fee from the
35 share due the manufacturer of a gaming device for interactive gaming
36 pursuant to the agreement; and

37 (b) Transmit the license fee on behalf of the manufacturer of a
38 gaming device for interactive gaming on the same date and in the same
39 manner as the establishment pays license fees pursuant to NRS 463.370.

40 5. Revenue upon which a license fee is paid pursuant to this section
41 is not subject to the provisions of NRS 463.370.

42 **Sec. 7.** NRS 463.0161 is hereby amended to read as follows:

43 463.0161 1. "Gross revenue" means the total of all:

44 (a) Cash received as winnings;

45 (b) Cash received in payment for credit extended by a licensee to a
46 patron for purposes of gaming; and

47 (c) Compensation received for conducting any game in which the
48 licensee is not party to a wager,



1 less the total of all cash paid out as losses to patrons, those amounts paid to
2 fund periodic payments and any other items made deductible as losses by
3 NRS 463.3715. For the purposes of this section, cash or the value of
4 noncash prizes awarded to patrons in a contest or tournament are not
5 losses, except that losses in a contest or tournament conducted in
6 conjunction with an inter-casino linked system may be deducted to the
7 extent of the compensation received for the right to participate in that
8 contest or tournament.

9 2. The term does not include:

10 (a) Counterfeit facsimiles of money, chips, tokens, wagering
11 instruments or wagering credits;

12 (b) Coins of other countries which are received in gaming devices;

13 (c) Any portion of the face value of any chip, token or other
14 representative of value won by a licensee from a patron for which the
15 licensee can demonstrate that it or its affiliate has not received cash;

16 (d) Cash taken in fraudulent acts perpetrated against a licensee for
17 which the licensee is not reimbursed;

18 (e) Cash received as entry fees for contests or tournaments in which
19 patrons compete for prizes, except for a contest or tournament conducted in
20 conjunction with an inter-casino linked system;

21 (f) Uncollected baccarat commissions; ~~to~~

22 (g) Cash provided by the licensee to a patron and subsequently won by
23 the licensee, for which the licensee can demonstrate that it or its affiliate
24 has not been reimbursed ~~to~~ ; or

25 *(h) Revenue from an interactive gaming system to which a*
26 *manufacturer of a gaming device for interactive gaming is entitled*
27 *pursuant to an agreement to share revenue between the manufacturer of*
28 *a gaming device for interactive gaming and the licensee.*

29 3. As used in this section, "baccarat commission" means:

30 (a) A fee assessed by a licensee on cash paid out as a loss to a patron at
31 baccarat to modify the odds of the game; or

32 (b) A rate or fee charged by a licensee for the right to participate in a
33 baccarat game.

34 **Sec. 8.** NRS 463.370 is hereby amended to read as follows:

35 463.370 1. Except as otherwise provided in NRS 463.373, the
36 commission shall charge and collect from each licensee a license fee based
37 upon all the gross revenue of the licensee as follows:

38 *(a)* Three percent of all the gross revenue of the licensee which does not
39 exceed \$50,000 per calendar month;

40 *(b)* Four percent of all the gross revenue of the licensee which exceeds
41 \$50,000 per calendar month and does not exceed \$134,000 per calendar
42 month; and

43 *(c)* Six and one-quarter percent of all the gross revenue of the licensee
44 which exceeds \$134,000 per calendar month.

45 2. Unless the licensee has been operating for less than a full calendar
46 month, the commission shall charge and collect the fee prescribed in
47 subsection 1, based upon the gross revenue for the preceding calendar
48 month, on or before the 24th day of the following month. Except for the fee
49 based on the first full month of operation, the fee is an estimated payment



* A B 5 7 8 R 1 *

1 of the license fee for the third month following the month whose gross
2 revenue is used as its basis.

3 3. When a licensee has been operating for less than a full calendar
4 month, the commission shall charge and collect the fee prescribed in
5 subsection 1, based on the gross revenue received during that month, on or
6 before the 24th day of the following calendar month of operation. After the
7 first full calendar month of operation, the commission shall charge and
8 collect the fee based on the gross revenue received during that month, on or
9 before the 24th day of the following calendar month. The payment of the
10 fee due for the first full calendar month of operation must be accompanied
11 by the payment of a fee equal to three times the fee for the first full
12 calendar month. This additional amount is an estimated payment of the
13 license fees for the next 3 calendar months. Thereafter, each license fee
14 must be paid in the manner described in subsection 2. Any deposit held by
15 the commission on July 1, 1969, must be treated as an advance estimated
16 payment.

17 4. All revenue received from any game or gaming device which is
18 operated on the premises of a licensee, regardless of whether any portion of
19 the revenue is shared with any other person, must be attributed to the
20 licensee for the purposes of this section and counted as part of the gross
21 revenue of the licensee. Any other person, including, without limitation, an
22 operator of an inter-casino linked system, who is authorized to receive a
23 share of the revenue from any game, gaming device or inter-casino linked
24 system that is operated on the premises of a licensee is liable to the licensee
25 for that person's proportionate share of the license fees paid by the licensee
26 pursuant to this section and shall remit or credit the full proportionate share
27 to the licensee on or before the 24th day of each calendar month. The
28 proportionate share of an operator of an inter-casino linked system must be
29 based on all compensation and other consideration received by the operator
30 of the inter-casino linked system, including, without limitation, amounts
31 that accrue to the meter of the primary progressive jackpot of the inter-
32 casino linked system and amounts that fund the reserves of such a jackpot,
33 subject to all appropriate adjustments for deductions, credits, offsets and
34 exclusions that the licensee is entitled to take or receive pursuant to the
35 provisions of this chapter. A licensee is not liable to any other person
36 authorized to receive a share of the licensee's revenue from any game,
37 gaming device or inter-casino linked system that is operated on the
38 premises of the licensee for that person's proportionate share of the license
39 fees to be remitted or credited to the licensee by that person pursuant to this
40 section.

41 5. An operator of an inter-casino linked system shall not enter into any
42 agreement or arrangement with a licensee that provides for the operator of
43 the inter-casino linked system to be liable to the licensee for less than its
44 full proportionate share of the license fees paid by the licensee pursuant to
45 this section, whether accomplished through a rebate, refund, charge-back
46 or otherwise.

47 6. Any person required to pay a fee pursuant to this section shall file
48 with the commission, on or before the 24th day of each calendar month, a



1 report showing the amount of all gross revenue received during the
2 preceding calendar month. Each report must be accompanied by:

3 (a) The fee due based on the revenue of the month covered by the
4 report; and

5 (b) An adjustment for the difference between the estimated fee
6 previously paid for the month covered by the report, if any, and the fee due
7 for the actual gross revenue earned in that month. If the adjustment is less
8 than zero, a credit must be applied to the estimated fee due with that report.

9 7. If the amount of license fees required to be reported and paid
10 pursuant to this section is later determined to be greater or less than the
11 amount actually reported and paid, the commission shall:

12 (a) Charge and collect the additional license fees determined to be due,
13 with interest thereon until paid; or

14 (b) Refund any overpayment to the person entitled thereto pursuant to
15 this chapter, with interest thereon.

16 Interest *pursuant to paragraph (a)* must be computed at the rate prescribed
17 in NRS 17.130 from the first day of the first month following ~~either~~ the
18 due date of the additional license fees ~~for the date of overpayment~~ until
19 paid. *Interest pursuant to paragraph (b) must be computed at one-half*
20 *the rate prescribed in NRS 17.130 from the first day of the first month*
21 *following the date of overpayment until paid.*

22 8. Failure to pay the fees provided for in this section shall be deemed a
23 surrender of the license at the expiration of the period for which the
24 estimated payment of fees has been made, as established in subsection 2.

25 9. Except as otherwise provided in NRS 463.386, the amount of the
26 fee prescribed in subsection 1 must not be prorated.

27 10. Except as otherwise provided in NRS 463.386, if a licensee ceases
28 operation, the commission shall:

29 (a) Charge and collect the additional license fees determined to be due
30 with interest ~~+~~ *computed pursuant to paragraph (a) of subsection 7;* or

31 (b) Refund any overpayment ~~+, with interest thereon,~~ to the licensee ~~+~~
32 *with interest computed pursuant to paragraph (b) of subsection 7,*
33 based upon the gross revenue of the licensee during the last 3 months
34 immediately preceding the cessation of operation, or portions of those last
35 3 months.

36 11. If in any month, the amount of gross revenue is less than zero, the
37 licensee may offset the loss against gross revenue in succeeding months
38 until the loss has been fully offset.

39 12. If in any month, the amount of the license fee due is less than zero,
40 the licensee is entitled to receive a credit against any license fees due in
41 succeeding months until the credit has been fully offset.

42 **Sec. 9.** NRS 463.387 is hereby amended to read as follows:

43 463.387 1. State gaming license fees or taxes paid in excess of the
44 amount required to be reported and paid may be refunded, upon the
45 approval of the commission, as other claims against the state are paid.

46 2. Within 90 days after the mailing of the notice of the commission's
47 action upon a claim for refund filed pursuant to this chapter, the claimant
48 may bring an action against the commission on the grounds set forth in the
49 claim in any court of competent jurisdiction for the recovery of the whole



* A B 5 7 8 R 1 *

1 or any part of the amount with respect to which the claim has been
2 disallowed.

3 3. Failure to bring an action within the time specified in subsection 2
4 constitutes a waiver of any demand against the state on account of alleged
5 overpayments.

6 4. Within 20 days after the mailing of the notice of the commission's
7 action upon a claim for refund filed pursuant to this chapter, the claimant
8 may file a motion for rehearing with the commission. The commission
9 must take action on the motion for rehearing within 50 days after it has
10 been filed with the commission. If the motion for rehearing is granted, the
11 commission's earlier action upon the claim for refund is rescinded and the
12 90-day period specified in subsection 2 does not begin until the
13 commission mails notice of its action upon the claim following the
14 rehearing.

15 5. If the commission fails to mail its notice of action on a claim within
16 6 months after the claim is filed or reheard, the claimant may consider the
17 claim disallowed and bring an action against the commission on the
18 grounds set forth in the claim for the recovery of the whole or any part of
19 the amount claimed as an overpayment.

20 6. In any case where a refund is granted, interest must be allowed at
21 *one-half* the rate prescribed in NRS 17.130 upon the amount found to have
22 been erroneously paid from the first day of the first month following the
23 date of overpayment until paid. The commission may in its discretion deny
24 or limit the payment of interest if it finds that the claimant has failed to file
25 a claim for a refund within 90 days after receiving written notification of
26 overpayment from the board or has impeded the board's ability to process
27 the claim in a timely manner.

28 7. Notwithstanding the provisions of NRS 353.115, any claim for
29 refund of state gaming license fees or taxes paid in excess of the amount
30 required to be reported and paid ~~H~~ must be filed with the commission
31 within 5 years after the date of overpayment and not thereafter.

32 8. The provisions of this chapter must not be construed to permit the
33 proration of state gaming taxes or license fees for purposes of a refund.

34 **Sec. 10.** NRS 463.400 is hereby amended to read as follows:

35 463.400 Any person who willfully fails to report, pay or truthfully
36 account for and pay over the license fees imposed by NRS 463.370,
37 463.373 to 463.3855, inclusive, *and sections 3 to 6, inclusive, of this act*,
38 463.390 and 463.450, or willfully attempts in any manner to evade or
39 defeat any such tax or payment thereof, or any licensee who puts additional
40 games into play without authority of the commission to do so or any
41 licensee who fails to remit any license fee provided for by this chapter
42 when due is in addition to the amount due liable for a penalty of the
43 amount of the license fee evaded or not paid, collected or paid over. The
44 penalty must be assessed and collected in the same manner as are other
45 charges, license fees and penalties under this chapter.

46 **Sec. 11.** NRS 463.403 is hereby amended to read as follows:

47 463.403 1. Every person required to pay the tax imposed by NRS
48 463.401 shall file with the commission, on or before the 24th day of each



* A B 5 7 8 R 1 *

1 month, a report showing the amount of all taxable receipts for the
2 preceding month.

3 2. Each report must be accompanied by the amount of tax which is due
4 for the month covered by the report.

5 3. If the amount of tax required to be reported and paid pursuant to
6 NRS 463.401 is later determined to be greater or less than the amount
7 actually reported and paid, the commission shall:

8 (a) Charge and collect the additional tax determined to be due, with
9 interest thereon until paid; or

10 (b) Refund any overpayment to the person entitled thereto pursuant to
11 this chapter, with interest thereon.

12 Interest ~~is~~ *pursuant to paragraph (a) must be* computed at the rate
13 prescribed in NRS 17.130 from the first day of the first month following
14 ~~either~~ the due date of the additional tax ~~for the date of overpayment~~ until
15 paid. *Interest pursuant to paragraph (b) must be computed at one-half*
16 *the rate prescribed in NRS 17.130 from the first day of the first month*
17 *following the date of overpayment until paid.*

18 **Sec. 12.** NRS 463.450 is hereby amended to read as follows:

19 463.450 1. Any disseminator of such information obtaining a license
20 under NRS 463.430 to 463.480, inclusive, shall pay to the commission a
21 fee of 4.25 percent of the total fees collected from users each calendar
22 month for the dissemination of live broadcasts.

23 2. The commission shall collect the fee on or before the last day of
24 each calendar month for the preceding calendar month.

25 3. If the amount of the fee required by this section to be reported and
26 paid is determined to be different than the amount reported or paid by the
27 licensee, the commission shall:

28 (a) Charge and collect any additional fee determined to be due, with
29 interest thereon until paid; or

30 (b) Refund any overpaid fees to the person entitled thereto pursuant to
31 this chapter, with interest thereon.

32 Interest ~~is~~ *pursuant to paragraph (a) must be* computed at the rate
33 prescribed in NRS 17.130 from the first day of the first calendar month
34 following ~~either~~ the due date of the additional license fees ~~for the date of~~
35 ~~overpayment~~ until paid. *Interest pursuant to paragraph (b) must be*
36 *computed at one-half the rate prescribed in NRS 17.130 from the first*
37 *day of the first month following the date of overpayment until paid.*

38 4. The commission shall remit all fees collected, less any fees refunded
39 pursuant to subsection 3, to the state treasurer for deposit to the credit of
40 the state general fund.

41 **Sec. 13.** NRS 463.643 is hereby amended to read as follows:

42 463.643 1. Each person who acquires, directly or indirectly,
43 beneficial ownership of any voting security in a publicly traded corporation
44 which is registered with the commission may be required to be found
45 suitable if the commission has reason to believe that his acquisition of
46 ~~such~~ *that* ownership would otherwise be inconsistent with the declared
47 policy of this state.

48 2. Each person who acquires, directly or indirectly, beneficial
49 ownership of any debt security in a publicly traded corporation which is



* A B 5 7 8 R 1 *

1 registered with the commission may be required to be found suitable if the
2 commission has reason to believe that his acquisition of ~~such~~ the debt
3 security would otherwise be inconsistent with the declared policy of this
4 state.

5 3. Each person who, individually or in association with others,
6 acquires, directly or indirectly, beneficial ownership of more than 5 percent
7 of any class of voting securities of a publicly traded corporation registered
8 with the Nevada gaming commission, and who is required to report, or
9 voluntarily reports, ~~such~~ the acquisition to the Securities and Exchange
10 Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities
11 Exchange Act of 1934, as amended, ~~15~~ 15 U.S.C. §§ 78m(d)(1), 78m(g)
12 and 78p(a), respectively, ~~15~~ shall file a copy of that report, and any
13 amendments thereto, with the Nevada gaming commission within 10 days
14 after filing that report with the Securities and Exchange Commission.

15 4. Each person who, individually or in association with others,
16 acquires, directly or indirectly, the beneficial ownership of more than 10
17 percent of any class of voting securities of a publicly traded corporation
18 registered with the commission, ~~and~~ or who is required to report, or
19 voluntarily reports, the acquisition pursuant to section 13(d)(1), 13(g) or
20 16(a) of the Securities Exchange Act of 1934, as amended, ~~15~~ 15 U.S.C.
21 §§ 78m(d)(1), 78m(g) and 78p(a), respectively, ~~15~~ shall apply to the
22 commission for a finding of suitability within 30 days after the chairman of
23 the board mails the written notice.

24 5. A person who acquires beneficial ownership of any voting security
25 or debt security in a publicly traded corporation created under the laws of a
26 foreign country which is registered with the commission shall file such
27 reports and is subject to such a finding of suitability as the commission
28 may prescribe.

29 6. Any person required by the commission or by this section to be
30 found suitable shall:

31 (a) Except as otherwise required in subsection 4, apply for a finding of
32 suitability within 30 days after the commission requests that he do so; and

33 (b) Together with the application, deposit with the board a sum of
34 money which, in the opinion of the board, will be adequate to pay the
35 anticipated costs and charges incurred in the investigation and processing
36 of the application, and deposit such additional sums as are required by the
37 board to pay final costs and charges.

38 7. Any person required by the commission or this section to be found
39 suitable who is found unsuitable by the commission shall not hold directly
40 or indirectly the beneficial ownership of any voting security or debt
41 security of a publicly traded corporation which is registered with the
42 commission beyond the time prescribed by the commission.

43 8. The violation of subsection 6 or 7 is a gross misdemeanor.

44 9. As used in this section, "debt security" means any instrument
45 generally recognized as a corporate security representing money owed and
46 reflected as debt on the financial statement of a publicly traded corporation,
47 including, but not limited to, bonds, notes and debentures.



* A B 5 7 8 R 1 *

1 **Sec. 14.** The amendatory provisions of sections 1 through 7, inclusive,
2 and 10 of this act do not apply to offenses committed before the effective
3 date of sections 1 through 7, inclusive, and 10 of this act.

4 **Sec. 15.** 1. This section and section 14 of this act become effective
5 upon passage and approval.

6 2. Sections 1 through 7, inclusive, and 10 of this act become effective
7 upon passage and approval only if the governor has first signed Assembly
8 Bill No. 296 of this session.

9 3. Sections 8, 9, 11, 12 and 13 of this act become effective on July 1,
10 2001.

