

ASSEMBLY BILL NO. 294—ASSEMBLYMEN HORNE, ATKINSON,
OHRENSCHALL, SEGERBLOM; AIZLEY, CARRILLO, DALY,
DONDERO LOOP, FLORES, FRIERSON, HOGAN, MUNFORD
AND PIERCE

MARCH 16, 2011

Referred to Committee on Judiciary

SUMMARY—Revises various provisions governing mobile gaming. (BDR 41-1042)

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

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

AN ACT relating to gaming; revising certain definitions relating to mobile gaming for the purposes of the Nevada Gaming Control Act; revising the method of paying certain fees received from the operation of mobile gaming; revising provisions relating to the location of a computer system associated with mobile gaming; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that mobile gaming may only be conducted in public areas of an establishment which holds a nonrestricted gaming license. (NRS 463.0176) **Section 1** of this bill authorizes mobile gaming to be conducted in any area of an establishment. **Section 2** of this bill clarifies that for purposes of regulation under the Nevada Gaming Control Act, the term "slot machine" does not include any item used for mobile gaming.

Existing law provides that all revenue which is received from any game or gaming device that is operated on the premises of a licensee must be attributed to and counted as part of the gross revenue of the licensee. (NRS 463.370) **Section 3** of this bill provides that any gross revenue received through the operation of mobile gaming must be attributed to the licensed operator of the mobile gaming system instead of the licensed gaming establishment. **Section 4** of this bill clarifies that a computer system associated with mobile gaming may be located outside a licensed gaming establishment but must be located within this State.



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

Section 1. NRS 463.0176 is hereby amended to read as follows:

463.0176 “Mobile gaming” means the conduct of gambling games through communications devices operated solely in ~~{public areas—of}~~ an establishment which holds a nonrestricted gaming license and which operates at least 100 slot machines and at least one other game by the use of communications technology that allows a person to transmit information to a computer to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. For the purposes of this ~~{section:~~

~~—1.—“Communications} section, “communications~~ technology” means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. ~~{The term does not include the Internet.~~

~~—2.—“Public areas” does not include rooms available for sleeping or living accommodations.}~~

Sec. 2. NRS 463.0191 is hereby amended to read as follows:

463.0191 “Slot machine” means any mechanical, electrical or other device, contrivance or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or any thing of value, whether the payoff is made automatically from the machine or in any other manner. *The term does not include any mechanical, electrical or other device, contrivance or machine used for mobile gaming.*

Sec. 3. NRS 463.370 is hereby amended to read as follows:

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

(a) Three and one-half percent of all the gross revenue of the licensee which does not exceed \$50,000 per calendar month;



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(b) Four and one-half percent of all the gross revenue of the licensee which exceeds \$50,000 per calendar month and does not exceed \$134,000 per calendar month; and

(c) Six and three-quarters percent of all the gross revenue of the licensee which exceeds \$134,000 per calendar month.

2. Unless the licensee has been operating for less than a full calendar month, the Commission shall charge and collect the fee prescribed in subsection 1, based upon the gross revenue for the preceding calendar month, on or before the 24th day of the following month. Except for the fee based on the first full month of operation, the fee is an estimated payment of the license fee for the third month following the month whose gross revenue is used as its basis.

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

4. ~~[AHH]~~ *Except as otherwise provided in subsection 5, all* revenue received from any game or gaming device which is operated on the premises of a licensee, regardless of whether any portion of the revenue is shared with any other person, must be attributed to the licensee for the purposes of this section and counted as part of the gross revenue of the licensee. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any game, gaming device or inter-casino linked system that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on or before the 24th day of each calendar month. The proportionate share of an operator of an inter-casino linked system must be based on all compensation and other consideration received by the operator of the inter-casino linked system, including, without limitation, amounts that accrue to the



1 meter of the primary progressive jackpot of the inter-casino linked
2 system and amounts that fund the reserves of such a jackpot, subject
3 to all appropriate adjustments for deductions, credits, offsets and
4 exclusions that the licensee is entitled to take or receive pursuant to
5 the provisions of this chapter. A licensee is not liable to any other
6 person authorized to receive a share of the licensee's revenue from
7 any game, gaming device or inter-casino linked system that is
8 operated on the premises of the licensee for that person's
9 proportionate share of the license fees to be remitted or credited to
10 the licensee by that person pursuant to this section.

11 5. *An operator of a mobile gaming system that receives gross*
12 *revenue from the operation of a mobile gaming system on the*
13 *premises of a licensed gaming establishment shall count such*
14 *revenue as part of the operator's gross revenue, and such gross*
15 *revenue must not be attributed to the licensed gaming*
16 *establishment for the purposes of this section or counted as part of*
17 *the gross revenue of the licensed gaming establishment. A licensed*
18 *gaming establishment that operates a mobile gaming system on*
19 *the premises shall count such gross revenue as part of the licensed*
20 *gaming establishment's gross revenue for the purposes of this*
21 *section, and such gross revenue must not be attributed to the*
22 *manufacturer of the mobile gaming system for the purposes of this*
23 *section or counted as part of the gross revenue of the*
24 *manufacturer of the mobile gaming system.*

25 6. *A person who operates a mobile gaming system and a*
26 *sports pool or race book at the establishment of another*
27 *nonrestricted licensee pursuant to subsection 3 of NRS 463.245*
28 *may combine, on a single form approved by the Board, the*
29 *payment of license fees due pursuant to this section for all of those*
30 *operations.*

31 7. An operator of an inter-casino linked system shall not enter
32 into any agreement or arrangement with a licensee that provides for
33 the operator of the inter-casino linked system to be liable to the
34 licensee for less than its full proportionate share of the license fees
35 paid by the licensee pursuant to this section, whether accomplished
36 through a rebate, refund, charge-back or otherwise.

37 ~~16.1~~ 8. Any person required to pay a fee pursuant to this
38 section shall file with the Commission, on or before the 24th day of
39 each calendar month, a report showing the amount of all gross
40 revenue received during the preceding calendar month. Each report
41 must be accompanied by:

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

44 (b) An adjustment for the difference between the estimated fee
45 previously paid for the month covered by the report, if any, and the



1 fee due for the actual gross revenue earned in that month. If the
2 adjustment is less than zero, a credit must be applied to the
3 estimated fee due with that report.

4 ~~7.1~~ 9. If the amount of license fees required to be reported and
5 paid pursuant to this section is later determined to be greater or less
6 than the amount actually reported and paid, the Commission shall:

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

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

11 ➤ Interest pursuant to paragraph (a) must be computed at the rate
12 prescribed in NRS 17.130 from the first day of the first month
13 following the due date of the additional license fees until paid.
14 Interest pursuant to paragraph (b) must be computed at one-half the
15 rate prescribed in NRS 17.130 from the first day of the first month
16 following the date of overpayment until paid.

17 ~~8.1~~ 10. Failure to pay the fees provided for in this section
18 shall be deemed a surrender of the license at the expiration of the
19 period for which the estimated payment of fees has been made, as
20 established in subsection 2.

21 ~~9.1~~ 11. Except as otherwise provided in NRS 463.386, the
22 amount of the fee prescribed in subsection 1 must not be prorated.

23 ~~10.1~~ 12. Except as otherwise provided in NRS 463.386, if a
24 licensee ceases operation, the Commission shall:

25 (a) Charge and collect the additional license fees determined to
26 be due with interest computed pursuant to paragraph (a) of
27 subsection ~~7.1~~ 9; or

28 (b) Refund any overpayment to the licensee with interest
29 computed pursuant to paragraph (b) of subsection ~~7.1~~ 9,

30 ➤ based upon the gross revenue of the licensee during the last 3
31 months immediately preceding the cessation of operation, or
32 portions of those last 3 months.

33 ~~11.1~~ 13. If in any month, the amount of gross revenue is less
34 than zero, the licensee may offset the loss against gross revenue in
35 succeeding months until the loss has been fully offset.

36 ~~12.1~~ 14. If in any month, the amount of the license fee due is
37 less than zero, the licensee is entitled to receive a credit against any
38 license fees due in succeeding months until the credit has been fully
39 offset.

40 **Sec. 4.** NRS 463.730 is hereby amended to read as follows:

41 463.730 1. Except as otherwise provided in subsection 2, the
42 Commission may, with the advice and assistance of the Board,
43 adopt regulations governing the operation of mobile gaming and the
44 licensing of:

45 (a) An operator of a mobile gaming system;



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(b) A manufacturer, seller or distributor of a mobile gaming system; and

(c) A manufacturer of equipment associated with mobile gaming.

2. The Commission may not adopt regulations pursuant to this section until the Commission first determines that:

(a) Mobile gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from areas of licensed gaming establishments that have been approved by the Commission for that purpose; and

(b) Mobile gaming can be operated in a manner which complies with all applicable laws.

3. The regulations adopted by the Commission pursuant to this section must:

(a) Provide that gross revenue received by a licensed gaming establishment or the operator or the manufacturer of a mobile gaming system from the operation of mobile gaming is subject to the same license fee provisions of NRS 463.370 as the other games and gaming devices operated at the licensed gaming establishment.

(b) Provide that a mobile communications device which displays information relating to the game to a participant in the game as part of a mobile gaming system is subject to the same fees and taxes applicable to slot machines as set forth in NRS 463.375 and 463.385.

(c) Set forth standards for the ~~location and~~ security of the computer system *and its location, which may be outside a licensed gaming establishment but must be within this State*, and for approval of hardware and software used in connection with mobile gaming.

(d) Define "mobile gaming system," "operator of a mobile gaming system ~~;~~" *" and "*equipment associated with mobile gaming" ~~and "public area"~~ as the terms are used in this chapter.

