

Amendment No. 695

Senate Amendment to Assembly Bill No. 294 First Reprint (BDR 41-1042)

Proposed by: Senate Committee on Judiciary

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

NCA/BJE



Date: 5/29/2011

A.B. No. 294—Revises various provisions governing mobile gaming.
(BDR 41-1042)



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]~~ relating to 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; ~~[clarifying that for purposes of regulation under the Nevada Gaming Control Act, the term “slot machine” does not include any item used for mobile gaming;]~~ revising certain definitions relating to gaming for the purposes of the Nevada Gaming Control Act; removing the authority of the Nevada Gaming Commission to regulate certain independent contractors; making it unlawful to distribute gaming devices, systems or related equipment under certain circumstances; revising provisions relating to the location of a computer system associated with mobile gaming; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[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 mobile gaming may only be conducted in public areas of an establishment which holds a nonrestricted gaming license. (NRS 463.0176) Section 3.6 of this bill authorizes mobile gaming to be conducted in any area of such an establishment.

Section 3.8 of this bill removes the authority of the Nevada Gaming Commission to regulate independent contractors which manufacture certain property related to gaming. Section 3.8 also makes it unlawful to knowingly distribute any gaming device, system or related equipment from Nevada to any other jurisdiction where the use of any such device, system or related equipment is illegal.

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. (Deleted by amendment.)

Sec. 2. ~~(Deleted by amendment.)~~

Sec. 3. (Deleted by amendment.)

Sec. 3.2. NRS 463.0155 is hereby amended to read as follows:

463.0155 “Gaming device” means any object used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss and which does not otherwise constitute associated equipment. The term includes, without limitation:

1. A slot machine.

2. A collection of two or more of the following components:

(a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;

(b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;

(c) ~~[A storage medium containing a control program;~~

~~(d)]~~ An assembled mechanical or electromechanical display unit intended for use in gambling; or

~~[(e)]~~ (d) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.

3. Any object which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.

4. A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.

5. A control program.

6. Any combination of one of the components set forth in paragraphs (a) to ~~[(e)]~~ (d), inclusive, of subsection 2 and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.

7. Any object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.

As used in this section, “control program” means any software, source language or executable code which affects the result of a wager by determining win or loss as determined pursuant to regulations adopted by the Commission.

Sec. 3.4. NRS 463.01715 is hereby amended to read as follows:

463.01715 1. “Manufacture” means:

(a) To manufacture, produce, program, design, control the design of, ~~[, maintain a copyright over]~~ or make modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~[(,)]~~ for use or play in Nevada;

(b) To direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~[(,)]~~ for use or play in Nevada; or

(c) To assemble, or control the assembly of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~for use or play in Nevada.~~

2. As used in this section ~~“assume”~~:

(a) “Assume responsibility” means to acquire:

(1) Acquire complete control over, or ownership of, the applicable gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~for~~; and

(2) Accept continuing legal responsibility for the gaming device, cashless wagering system, mobile gaming system or interactive gaming system, including, without limitation, any form of manufacture performed by an affiliate or independent contractor.

(b) “Independent contractor” means, with respect to a manufacturer, any person who:

(1) Is not an employee of the manufacturer; and

(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, “control program” has the meaning ascribed to it in NRS 463.0155.

Sec. 3.6. 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”~~, “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. 3.8. NRS 463.650 is hereby amended to read as follows:

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada ~~for or for distribution outside of Nevada~~ without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering systems, without a distributor’s license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are

1 security in whole or in part for the lien, the Board may authorize the disposition of
2 the gaming devices without requiring a distributor's license.

3 4. The Commission may, by regulation, authorize a person who owns:

4 (a) Gaming devices for home use in accordance with NRS 463.160; or

5 (b) Antique gaming devices,

6 ➤ to sell such devices without procuring a license therefor to residents of
7 jurisdictions wherein ownership of such devices is legal.

8 5. Upon approval by the Board, a gaming device owned by:

9 (a) A law enforcement agency;

10 (b) A court of law; or

11 (c) A gaming device repair school licensed by the Commission on
12 Postsecondary Education,

13 ➤ may be disposed of by sale, in a manner approved by the Board, without a
14 distributor's license. An application for approval must be submitted to the Board in
15 the manner prescribed by the Chair.

16 6. Any person who the Commission determines is a suitable person to receive
17 a license under the provisions of this section and NRS 463.660 may be issued a
18 manufacturer's or distributor's license. The burden of proving his or her
19 qualification to receive or hold a license under this section and NRS 463.660 is at
20 all times on the applicant or licensee.

21 7. Every person who must be licensed pursuant to this section is subject to the
22 provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those
23 provisions by the Commission.

24 8. The Commission may exempt, for any purpose, a manufacturer, seller or
25 distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the
26 Commission determines that the exemption is consistent with the purposes of this
27 chapter.

28 9. ~~{The Commission may provide by regulation for:~~

29 ~~(a) The filing by a manufacturer of reports and information regarding:~~

30 ~~(1) Any independent contractor; and~~

31 ~~(2) The business arrangements between the manufacturer and an~~
32 ~~independent contractor.~~

33 ~~(b) Registration of independent contractors.~~

34 ~~(c) Procedures pursuant to which an independent contractor may be required to~~
35 ~~file an application for a finding of suitability.~~

36 ~~(d) Such other regulatory oversight of independent contractors as the~~
37 ~~Commission determines is necessary and appropriate.~~

38 Any person conducting
39 business in Nevada who is not required to be licensed as a manufacturer, seller
40 or distributor pursuant to subsection 1, but who otherwise must register with the
41 Attorney General of the United States pursuant to Title 15 of U.S.C., must submit
42 to the Board a copy of such registration within 10 days after submission to the
43 Attorney General of the United States.

44 10. It is unlawful for any person, either as owner, lessee or employee,
45 whether for hire or not, to knowingly distribute any gaming device, cashless
46 wagering system, mobile gaming system, interactive gaming system or associated
47 equipment from Nevada to any jurisdiction where the possession, ownership or
48 use of any such device, system or equipment is illegal.

49 11. As used in this section:

50 (a) "Antique gaming device" means a gaming device that was manufactured
51 before 1961.

52 (b) "Holding company" has the meaning ascribed to it in NRS 463.485.

53 ~~(c) "Independent contractor" means, with respect to a manufacturer, any~~
~~person who:~~

~~(1) Is not an employee of the manufacturer; and~~
~~(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.~~

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

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

- (a) An operator of a mobile gaming system;
- (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.