

ASSEMBLY BILL NO. 114—ASSEMBLYMEN HORNE, KIRKPATRICK,
FRIERSON, HEALEY, BOBZIEN; PAUL ANDERSON, EISEN,
ELLISON, FLORES, HARDY, HICKEY AND KIRNER

FEBRUARY 13, 2013

JOINT SPONSORS: SENATORS ATKINSON, KIHUEN, DENIS, SMITH,
MANENDO; FORD, HAMMOND AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing interactive gaming.
(BDR 41-97)

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

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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; defining certain terms related to interactive gaming; requiring the Nevada Gaming Commission to adopt regulations authorizing the Governor to enter into agreements with other states to conduct interactive gaming; prohibiting the issuance of licenses to operate interactive gaming to certain persons; revising provisions related to interactive gaming; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain gaming establishments to obtain a license to operate interactive gaming. (NRS 463.750) **Sections 2-5** of this bill define certain terms for the purposes of determining whether a person may be found suitable for a license to operate interactive gaming. **Section 6** of this bill requires the Nevada Gaming Commission to adopt regulations authorizing the Governor to enter into agreements with other states to allow patrons of those states to participate in interactive gaming.

Existing law requires the Commission to establish by regulation that a license to operate interstate interactive gaming does not become effective until: (1) the passage of federal legislation authorizing interactive gaming; or (2) the United States Department of Justice notifies the Commission or the State Gaming Control Board that interactive gaming is permissible under federal law. (NRS 463.750) **Section 10** of this bill removes the condition that a license to operate interactive



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gaming does not become effective until the passage of federal legislation or notice providing that interactive gaming is permissible under federal law. **Section 10** also prohibits the issuance of a license to operate interactive gaming for a period of 5 years after the effective date of this bill for certain entities that, after December 31, 2006, operated interactive gaming involving patrons located in the United States. Finally, **section 10** authorizes the Commission to waive such prohibition if the Commission determines that those entities complied with all applicable provisions of federal law or the law of any state when, after December 31, 2006, those entities operated interactive gaming involving patrons located in the United States.

Section 11 of this bill authorizes the Commission to adopt regulations to increase or decrease the fees for the initial issuance and the renewal of a license for an establishment to operate interactive gaming under certain circumstances. (NRS 463.765)

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *“Covered asset” means any tangible or intangible asset specifically designed for use in, and used in connection with, the operation of an interactive gaming facility that, after December 31, 2006, knowingly and intentionally operated interactive gaming that involved patrons located in the United States, unless and to the extent such activity was licensed at all times by a state or the Federal Government, including, without limitation:*

1. Any trademark, trade name, service mark or similar intellectual property under which an interactive gaming facility was identified to the patrons of the interactive gaming facility;

2. Any information regarding persons via a database, customer list or any derivative of a database or customer list; and

3. Any software or hardware relating to the management, administration, development, testing or control of an interactive gaming facility.

Sec. 3. 1. *“Covered person” means any person who:*

(a) Has at any time owned, in whole or in significant part, an interactive gaming facility or an entity operating an interactive gaming facility that after December 31, 2006, knowingly and intentionally operated interactive gaming that involved patrons located in the United States, unless and to the extent such activity was licensed at all times by a state or the Federal Government;

(b) After December 31, 2006, acted, or proposed to act, on behalf of a person described in paragraph (a) and knowingly and intentionally provided, or proposed to provide, to such person any services as an interactive gaming service provider, with knowledge



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1 *that the interactive gaming facility's operation of interactive*
2 *gaming involved patrons located in the United States; or*

3 *(c) Purchased or acquired, directly or indirectly:*

4 *(1) In whole or in significant part, a person described in*
5 *paragraph (a) or (b); or*

6 *(2) Any covered assets, in whole or in part, of such person.*

7 *2. As used in this section:*

8 *(a) "Interactive gaming service provider" has the meaning*
9 *ascribed to it in NRS 463.677.*

10 *(b) "Significant part" means with respect to ownership,*
11 *purchase or acquisition of an entity, interactive gaming facility or*
12 *person, holding 5 percent or more of the entity, interactive gaming*
13 *facility or person, or any amount of ownership that provides*
14 *control over the entity, interactive gaming facility or person.*

15 **Sec. 4. 1. "Interactive gaming facility" means any Internet**
16 **website, or similar communications facility in which transmissions**
17 **may cross any state's boundaries, through which any person**
18 **operates interactive gaming through the use of communications**
19 **technology.**

20 **2. As used in this section, "communications technology" has**
21 **the meaning ascribed to it in NRS 463.016425.**

22 **Sec. 5. "Operate interactive gaming" means to operate, carry**
23 **on, conduct, maintain or expose for play interactive gaming.**

24 **Sec. 6. 1. The Commission shall, by regulation, authorize**
25 **the Governor, on behalf of the State of Nevada, to:**

26 *(a) Enter into agreements with other states, or authorized*
27 *agencies thereof, to enable patrons in the signatory states to*
28 *participate in interactive gaming offered by licensees in those*
29 *signatory states; and*

30 *(b) Take all necessary actions to ensure that any agreement*
31 *entered into pursuant to this section becomes effective.*

32 **2. Any regulations adopted pursuant to subsection 1 must:**

33 *(a) Set forth provisions for any potential arrangements to*
34 *share revenue between this State and any other state or agency*
35 *within another state.*

36 *(b) Be adopted in accordance with the provisions of chapter*
37 *233B of NRS.*

38 **Sec. 7. NRS 463.013 is hereby amended to read as follows:**

39 **463.013 As used in this chapter, unless the context otherwise**
40 **requires, the words and terms defined in NRS 463.0133 to**
41 **463.01967, inclusive, and sections 2 to 5, inclusive, of this act have**
42 **the meanings ascribed to them in those sections.**

43 **Sec. 8. (Deleted by amendment.)**

44 **Sec. 9. NRS 463.745 is hereby amended to read as follows:**

45 **463.745 The Legislature hereby finds and declares that:**



1 1. The State of Nevada leads the nation in gaming regulation
2 and enforcement, such that the State of Nevada is uniquely
3 positioned to develop an effective and comprehensive regulatory
4 structure related to interactive gaming.

5 2. A comprehensive regulatory structure, coupled with strict
6 licensing standards, will ensure the protection of consumers,
7 *including minors and vulnerable persons*, prevent fraud, guard
8 against underage and problem gambling, *avoid unauthorized use*
9 *by persons located in jurisdictions that do not authorize interactive*
10 *gaming* and aid in law enforcement efforts.

11 3. To provide for licensed and regulated interactive gaming ,
12 ~~and to prepare for possible federal legislation,~~ the State of Nevada
13 must develop the necessary structure for licensure, regulation and
14 enforcement.

15 **Sec. 10.** NRS 463.750 is hereby amended to read as follows:

16 463.750 1. The Commission shall, with the advice and
17 assistance of the Board, adopt regulations governing the licensing
18 and operation of interactive gaming.

19 2. The regulations adopted by the Commission pursuant to this
20 section must:

21 (a) Establish the investigation fees for:

22 (1) A license to operate interactive gaming;

23 (2) A license for a manufacturer of interactive gaming
24 systems;

25 (3) A license for a manufacturer of equipment associated
26 with interactive gaming; and

27 (4) A license for a service provider to perform the actions
28 described in paragraph (a) of subsection 5 of NRS 463.677.

29 (b) Provide that:

30 (1) A person must hold a license for a manufacturer of
31 interactive gaming systems to supply or provide any interactive
32 gaming system, including, without limitation, any piece of
33 proprietary software or hardware;

34 (2) A person may be required by the Commission to hold a
35 license for a manufacturer of equipment associated with interactive
36 gaming; and

37 (3) A person must hold a license for a service provider to
38 perform the actions described in paragraph (a) of subsection 5 of
39 NRS 463.677.

40 (c) ~~Set~~ *Except as otherwise provided in subsections 6 to 10,*
41 *inclusive, set* forth standards for the suitability of a person to be
42 licensed as a manufacturer of interactive gaming systems,
43 manufacturer of equipment associated with interactive gaming or a
44 service provider as described in paragraph (b) of subsection 5 of



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1 NRS 463.677 that are as stringent as the standards for a
2 nonrestricted license.

3 (d) Set forth provisions governing:

4 (1) The initial fee for a license for a service provider as
5 described in paragraph (b) of subsection 5 of NRS 463.677.

6 (2) The fee for the renewal of such a license for such a
7 service provider and any renewal requirements for such a license.

8 (3) Any portion of the license fee paid by a person licensed
9 to operate interactive gaming, pursuant to subsection 1 of NRS
10 463.770, for which a service provider may be liable to the person
11 licensed to operate interactive gaming.

12 (e) Provide that gross revenue received by an establishment
13 from the operation of interactive gaming is subject to the same
14 license fee provisions of NRS 463.370 as the games and gaming
15 devices of the establishment, unless federal law otherwise provides
16 for a similar fee or tax.

17 (f) Set forth standards for the location and security of the
18 computer system and for approval of hardware and software used in
19 connection with interactive gaming.

20 (g) Define "equipment associated with interactive gaming,"
21 "interactive gaming system," "manufacturer of equipment
22 associated with interactive gaming," "manufacturer of interactive
23 gaming systems," "operate interactive gaming" and "proprietary
24 hardware and software" as the terms are used in this chapter.

25 ~~[(h) Provide that any license to operate interstate interactive~~
26 ~~gaming does not become effective until:~~

27 ~~—— (1) A federal law authorizing the specific type of interactive~~
28 ~~gaming for which the license was granted is enacted; or~~

29 ~~—— (2) The United States Department of Justice notifies the~~
30 ~~Board or Commission in writing that it is permissible under federal~~
31 ~~law to operate the specific type of interactive gaming for which the~~
32 ~~license was granted.]~~

33 3. Except as otherwise provided in subsections 4 and 5, the
34 Commission shall not approve a license for an establishment to
35 operate interactive gaming unless:

36 (a) In a county whose population is 700,000 or more, the
37 establishment is a resort hotel that holds a nonrestricted license to
38 operate games and gaming devices.

39 (b) In a county whose population is 45,000 or more but less than
40 700,000, the establishment is a resort hotel that holds a nonrestricted
41 license to operate games and gaming devices or the establishment:

42 (1) Holds a nonrestricted license for the operation of games
43 and gaming devices;

44 (2) Has more than 120 rooms available for sleeping
45 accommodations in the same county;



(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

4. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection 3;

(2) The affiliate is located in the same county as the establishment; and

(3) The establishment has held a nonrestricted license for at least 5 years before the date on which the application is filed; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

5. The Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by federal law regulating the licensure of interactive gaming.

6. *Except as otherwise provided in subsections 7, 8 and 9:*

(a) A covered person may not be found suitable for licensure under this section within 5 years after the effective date of this act;

(b) A covered person may not be found suitable for licensure under this section unless such covered person expressly submits to the jurisdiction of the United States and of each state in which patrons of interactive gaming operated by such covered person after December 31, 2006, were located, and agrees to waive any



1 *statutes of limitation, equitable remedies or laches that otherwise*
2 *would preclude prosecution for a violation of any provision of*
3 *federal law or the law of any state in connection with such*
4 *operation of interactive gaming after that date;*

5 (c) *A person may not be found suitable for licensure under this*
6 *section within 5 years after the effective date of this act if such*
7 *person uses a covered asset for the operation of interactive*
8 *gaming; and*

9 (d) *Use of a covered asset is grounds for revocation of an*
10 *interactive gaming license, or a finding of suitability, issued under*
11 *this section.*

12 7. *The Commission, upon recommendation of the Board, may*
13 *waive the requirements of subsection 6 if the Commission*
14 *determines that:*

15 (a) *In the case of a covered person described in paragraphs (a)*
16 *and (b) of subsection 1 of section 3 of this act:*

17 (1) *The covered person did not violate, directly or indirectly,*
18 *any provision of federal law or the law of any state in connection*
19 *with the ownership and operation of, or provision of services to,*
20 *an interactive gaming facility that, after December 31, 2006,*
21 *operated interactive gaming involving patrons located in the*
22 *United States; and*

23 (2) *The assets to be used or that are being used by such*
24 *person were not used after that date in violation of any provision*
25 *of federal law or the law of any state;*

26 (b) *In the case of a covered person described in paragraph (c)*
27 *of subsection 1 of section 3 of this act, the assets that the person*
28 *will use in connection with interactive gaming for which the*
29 *covered person applies for a finding of suitability were not used*
30 *after December 31, 2006, in violation of any provision of federal*
31 *law or the law of any state; and*

32 (c) *In the case of a covered asset, the asset was not used after*
33 *December 31, 2006, in violation of any provision of federal law or*
34 *the law of any state, and the interactive gaming facility in*
35 *connection with which the asset was used was not used after that*
36 *date in violation of any provision of federal law or the law of any*
37 *state.*

38 8. *With respect to a person applying for a waiver pursuant to*
39 *subsection 7, the Commission shall afford the person an*
40 *opportunity to be heard and present relevant evidence. The*
41 *Commission shall act as finder of fact and is entitled to evaluate*
42 *the credibility of witnesses and persuasiveness of the evidence. The*
43 *affirmative votes of a majority of the whole Commission are*
44 *required to grant or deny such waiver. The Board shall make*
45 *appropriate investigations to determine any facts or*



1 *recommendations that it deems necessary or proper to aid the*
2 *Commission in making determinations pursuant to this subsection*
3 *and subsection 7.*

4 *9. The Commission shall make a determination pursuant to*
5 *subsections 7 and 8 with respect to a covered person or covered*
6 *asset without regard to whether the conduct of the covered person*
7 *or the use of the covered asset was ever the subject of a criminal*
8 *proceeding for a violation of any provision of federal law or the*
9 *law of any state, or whether the person has been prosecuted and*
10 *the prosecution terminated in a manner other than with a*
11 *conviction.*

12 *10. It is unlawful for any person, either as owner, lessee or*
13 *employee, whether for hire or not, either solely or in conjunction*
14 *with others, to operate interactive gaming:*

15 (a) Until the Commission adopts regulations pursuant to this
16 section; and

17 (b) Unless the person first procures, and thereafter maintains in
18 effect, all appropriate licenses as required by the regulations adopted
19 by the Commission pursuant to this section.

20 ~~17~~ *11. A person who violates subsection ~~16~~ 10 is guilty of a*
21 *category B felony and shall be punished by imprisonment in the*
22 *state prison for a minimum term of not less than 1 year and a*
23 *maximum term of not more than 10 years or by a fine of not more*
24 *than \$50,000, or both.*

25 **Sec. 11.** NRS 463.765 is hereby amended to read as follows:

26 463.765 1. *Unless a different fee is established pursuant to*
27 *this section:*

28 (a) Before issuing an initial license for an establishment to
29 operate interactive gaming, the Commission shall charge and collect
30 from the establishment a license fee of \$500,000.

31 ~~12~~ (b) Each initial license for an establishment to operate
32 interactive gaming must be issued for a 2-year period beginning on
33 January 1 of the first year and ending on December 31 of the second
34 year.

35 ~~13~~ (c) Notwithstanding the provisions of ~~subsections 1 and 2~~
36 *paragraphs (a) and (b)* to the contrary, a license for an
37 establishment to operate interactive gaming may be issued after
38 January 1 of a calendar year for a period beginning on the date of
39 issuance of the license and ending on the second December 31
40 following the date of issuance of the license. Before issuing an
41 initial license pursuant to this subsection, the Commission shall
42 charge and collect from the establishment a license fee of \$500,000
43 prorated by 1/24 for each full month between January 1 of the
44 calendar year and the date of issuance of the license.



~~14~~ (d) Before renewing a license issued pursuant to this section, but in no case later than the second December 31 after the license was issued or previously renewed, the Commission shall charge and collect a renewal fee of \$250,000 for the renewal of the license for the immediately following 1-year period.

2. *The Commission may, by regulation, increase the license fee pursuant to this section to not more than \$1,000,000 and the renewal fee to not more than \$500,000 if the Commission determines one or more of the following:*

(a) *A higher fee is necessary to ensure licensees have the financial capacity to operate interactive gaming;*

(b) *Regulatory costs to carry out the duties of the Commission and the Board, outside of investigative costs, require additional personnel or other regulatory expenditures;*

(c) *A higher fee is necessary because of costs incurred or other conditions associated with entering into an interactive gaming agreement with one or more other states; or*

(d) *Federal legislation requires a higher fee or imposes requirements necessitating the higher fee or making it advisable.*

3. *The Commission may, by regulation, reduce the license fee pursuant to this section to not less than \$150,000 and the renewal fee to not less than \$75,000 in the manner provided in this subsection. Any regulation adopted pursuant to this subsection must be adopted in accordance with the provisions of chapter 233B of NRS, and the Commission must not reduce the fees unless it determines two or more of the following:*

(a) *The fee is not competitive with fees charged in other jurisdictions;*

(b) *The low number of applicants demonstrates that the fee is too high;*

(c) *A lower fee would generate greater competition in the market;*

(d) *A lower fee is necessary because of conditions associated with entering into an interactive gaming agreement with one or more other states; or*

(e) *Federal legislation requires a lower fee or makes a lower fee advisable.*

4. *Any increase or decrease in fees established by the Commission pursuant to this section applies to the issuance or renewal of a license on or after the effective date of the increase or decrease.*

Sec. 12. (Deleted by amendment.)



1 **Sec. 12.5.** NRS 233B.039 is hereby amended to read as
2 follows:

3 233B.039 1. The following agencies are entirely exempted
4 from the requirements of this chapter:

5 (a) The Governor.

6 (b) Except as otherwise provided in NRS 209.221, the
7 Department of Corrections.

8 (c) The Nevada System of Higher Education.

9 (d) The Office of the Military.

10 (e) The State Gaming Control Board.

11 (f) Except as otherwise provided in NRS 368A.140 ~~†~~ *and*
12 *463.765 and section 6 of this act*, the Nevada Gaming Commission.

13 (g) The Division of Welfare and Supportive Services of the
14 Department of Health and Human Services.

15 (h) Except as otherwise provided in NRS 422.390, the Division
16 of Health Care Financing and Policy of the Department of Health
17 and Human Services.

18 (i) The State Board of Examiners acting pursuant to chapter 217
19 of NRS.

20 (j) Except as otherwise provided in NRS 533.365, the Office of
21 the State Engineer.

22 (k) The Division of Industrial Relations of the Department
23 of Business and Industry acting to enforce the provisions of
24 NRS 618.375.

25 (l) The Administrator of the Division of Industrial Relations of
26 the Department of Business and Industry in establishing and
27 adjusting the schedule of fees and charges for accident benefits
28 pursuant to subsection 2 of NRS 616C.260.

29 (m) The Board to Review Claims in adopting resolutions to
30 carry out its duties pursuant to NRS 590.830.

31 (n) The Silver State Health Insurance Exchange.

32 2. Except as otherwise provided in subsection 5 and NRS
33 391.323, the Department of Education, the Board of the Public
34 Employees' Benefits Program and the Commission on Professional
35 Standards in Education are subject to the provisions of this chapter
36 for the purpose of adopting regulations but not with respect to any
37 contested case.

38 3. The special provisions of:

39 (a) Chapter 612 of NRS for the distribution of regulations by
40 and the judicial review of decisions of the Employment Security
41 Division of the Department of Employment, Training and
42 Rehabilitation;

43 (b) Chapters 616A to 617, inclusive, of NRS for the
44 determination of contested claims;



(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

(d) NRS 90.800 for the use of summary orders in contested cases,

➤ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694; or

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 13. This act becomes effective upon passage and approval.

