

ASSEMBLY BILL NO. 359—ASSEMBLYMAN OHRENSCHALL

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to gaming.
(BDR 41-591)

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; revising certain definitions relating to gaming; revising provisions governing the regulation of gaming; revising provisions governing the collection of revenue related to gaming; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, except for licenses to operate a mobile gaming system or to operate interactive gaming, all gaming licenses issued to the same person at the same establishment must be merged into a single gaming license. (NRS 463.245) **Section 3** of this bill exempts a license to operate poker from the requirement that all licenses issued to the same person at the same establishment must be merged into a single gaming license.

Existing law provides that, for the purposes of calculating certain license fees, 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 4** of this bill provides that any license fees that are attributable to revenue received through the operation of mobile gaming must be paid directly to the Nevada Gaming Commission by the operator of the mobile gaming system instead of the licensed gaming establishment, unless the operator of the mobile gaming system and the licensed gaming establishment are the same licensee.

Existing law provides that any person who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the quarterly and annual license fees paid by the licensee for each slot machine. (NRS 463.375, 463.385) **Sections 5 and 6** of this bill provide that an operator of a mobile gaming system shall pay the operator's proportionate share of quarterly and annual license fees directly to the Commission unless the operator of the mobile gaming system and the licensee are the same.



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

Section 1. NRS 463.01643 is hereby amended to read as follows:

463.01643 "Inter-casino linked system" means a network of electronically interfaced similar games which are located at two or more licensed gaming establishments that are linked to conduct gaming activities, contests or tournaments. *The term does not include a mobile gaming system, even when a mobile gaming system supports common or linked games located at two or more licensed gaming establishments.*

Sec. 2. 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 ~~an establishment~~ *establishments* which ~~holds a~~ *hold* nonrestricted gaming ~~license~~ *licenses* and which ~~operates~~ *operate* 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, "communications technology" means any *secure* method used and the components employed ~~by~~ *at* 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.~~

Sec. 3. NRS 463.245 is hereby amended to read as follows:

463.245 1. Except as otherwise provided in this section:

(a) All licenses issued to the same person, including a wholly owned subsidiary of that person, for the operation of any game, including a sports pool or race book, which authorize gaming at the same establishment must be merged into a single gaming license.

(b) A gaming license may not be issued to any person if the issuance would result in more than one licensed operation at a single establishment, whether or not the profits or revenue from gaming are shared between the licensed operations.

2. A person who has been issued a nonrestricted gaming license may establish a sports pool or race book on the premises of the establishment at which the person conducts a nonrestricted gaming operation only after obtaining permission from the Commission.



3. A person who has been issued a license to operate a sports pool or race book at an establishment may be issued a license to operate a sports pool or race book at another establishment if the second establishment is operated by a person who has been issued a nonrestricted license.

4. Nothing in this section limits or prohibits an operator of an inter-casino linked system from placing and operating such a system on the premises of two or more gaming licensees and receiving, either directly or indirectly, any compensation or any percentage or share of the money or property played from the linked games in accordance with the provisions of this chapter and the regulations adopted by the Commission. An inter-casino linked system must not be used to link games other than slot machines, unless such games are located at an establishment that is licensed for games other than slot machines.

5. The provisions of this section do not apply to a license to operate a mobile gaming system , *to operate poker* or to operate interactive gaming.

Sec. 4. 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;

(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



1 day of the following calendar month. The payment of the fee due for
2 the first full calendar month of operation must be accompanied by
3 the payment of a fee equal to three times the fee for the first full
4 calendar month. This additional amount is an estimated payment of
5 the license fees for the next 3 calendar months. Thereafter, each
6 license fee must be paid in the manner described in subsection 2.
7 Any deposit held by the Commission on July 1, 1969, must be
8 treated as an advance estimated payment.

9 4. ~~IAH~~ *Except as otherwise provided in subsection 5, all*
10 revenue received from any game or gaming device which is
11 operated on the premises of a licensee, regardless of whether any
12 portion of the revenue is shared with any other person, must be
13 attributed to the licensee for the purposes of this section and counted
14 as part of the gross revenue of the licensee. Any other person,
15 including, without limitation, an operator of an inter-casino linked
16 system, who is authorized to receive a share of the revenue from any
17 game, gaming device or inter-casino linked system that is operated
18 on the premises of a licensee is liable to the licensee for that
19 person's proportionate share of the license fees paid by the licensee
20 pursuant to this section and shall remit or credit the full
21 proportionate share to the licensee on or before the 24th day of each
22 calendar month. The proportionate share of an operator of an inter-
23 casino linked system must be based on all compensation and other
24 consideration received by the operator of the inter-casino linked
25 system, including, without limitation, amounts that accrue to the
26 meter of the primary progressive jackpot of the inter-casino linked
27 system and amounts that fund the reserves of such a jackpot, subject
28 to all appropriate adjustments for deductions, credits, offsets and
29 exclusions that the licensee is entitled to take or receive pursuant to
30 the provisions of this chapter. A licensee is not liable to any other
31 person authorized to receive a share of the licensee's revenue from
32 any game, gaming device or inter-casino linked system that is
33 operated on the premises of the licensee for that person's
34 proportionate share of the license fees to be remitted or credited to
35 the licensee by that person pursuant to this section.

36 5. *Any fees owed by a licensee pursuant to subsection 4,*
37 *which are attributable to the revenue received from the operation*
38 *of a mobile gaming system, must be paid directly to the*
39 *Commission by the operator of the mobile gaming system, unless*
40 *the operator of the mobile gaming system and the licensed gaming*
41 *establishment are the same licensee.*

42 6. An operator of an inter-casino linked system shall not enter
43 into any agreement or arrangement with a licensee that provides for
44 the operator of the inter-casino linked system to be liable to the
45 licensee for less than its full proportionate share of the license fees



1 paid by the licensee pursuant to this section, whether accomplished
2 through a rebate, refund, charge-back or otherwise.

3 ~~16-1~~ 7. Any person required to pay a fee pursuant to this
4 section shall file with the Commission, on or before the 24th day of
5 each calendar month, a report showing the amount of all gross
6 revenue received during the preceding calendar month. Each report
7 must be accompanied by:

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

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

15 ~~17-1~~ 8. If the amount of license fees required to be reported and
16 paid pursuant to this section is later determined to be greater or less
17 than the amount actually reported and paid, the Commission shall:

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

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

22 ➔ Interest pursuant to paragraph (a) must be computed at the rate
23 prescribed in NRS 17.130 from the first day of the first month
24 following the due date of the additional license fees until paid.
25 Interest pursuant to paragraph (b) must be computed at one-half the
26 rate prescribed in NRS 17.130 from the first day of the first month
27 following the date of overpayment until paid.

28 ~~18-1~~ 9. Failure to pay the fees provided for in this section shall
29 be deemed a surrender of the license at the expiration of the period
30 for which the estimated payment of fees has been made, as
31 established in subsection 2.

32 ~~19-1~~ 10. Except as otherwise provided in NRS 463.386, the
33 amount of the fee prescribed in subsection 1 must not be prorated.

34 ~~110-1~~ 11. Except as otherwise provided in NRS 463.386, if a
35 licensee ceases operation, the Commission shall:

36 (a) Charge and collect the additional license fees determined to
37 be due with interest computed pursuant to paragraph (a) of
38 subsection ~~17-1~~ 8; or

39 (b) Refund any overpayment to the licensee with interest
40 computed pursuant to paragraph (b) of subsection ~~17-1~~ 8,

41 ➔ based upon the gross revenue of the licensee during the last 3
42 months immediately preceding the cessation of operation, or
43 portions of those last 3 months.



~~11.1~~ **12.** If in any month, the amount of gross revenue is less than zero, the licensee may offset the loss against gross revenue in succeeding months until the loss has been fully offset.

~~11.2~~ **13.** If in any month, the amount of the license fee due is less than zero, the licensee is entitled to receive a credit against any license fees due in succeeding months until the credit has been fully offset.

Sec. 5. NRS 463.375 is hereby amended to read as follows:

463.375 1. In addition to any other state gaming license fees provided for in this chapter, before issuing a state gaming license to an applicant for a nonrestricted operation, the Commission shall charge and collect from the applicant a license fee of \$80 for each slot machine for each calendar year.

2. The Commission shall charge and collect the fee prescribed in subsection 1, at the rate of \$20 for each slot machine for each calendar quarter:

(a) On or before the last day of the last month in a calendar quarter, for the ensuing calendar quarter, from a licensee whose operation is continuing.

(b) In advance from a licensee who begins operation or puts additional slot machines into play during a calendar quarter.

3. Except as provided in NRS 463.386, no proration of the quarterly amount prescribed in subsection 2 may be allowed for any reason.

4. ~~The~~ **Each** operator ~~at~~ **at** the location where slot machines are situated shall pay the fee prescribed in subsection 1 upon the total number of slot machines situated in that location ~~and operated by that operator~~, whether the machines are owned by one or more licensee-owners.

5. ~~Any~~ **Except as otherwise provided in subsection 6, 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 slot machine 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 dates set forth in subsection 2. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any slot machine that is operated on the premises of a licensee for that person's proportionate share of the license fees to be remitted or credited to the licensee by that person pursuant to this section.

6. An operator of a mobile gaming system who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee shall pay the operator's full



1 *proportionate share of the license fees to the Commission on or*
2 *before the dates set forth in subsection 2, unless the operator of*
3 *the mobile gaming system and the licensee are the same.*

4 **Sec. 6.** NRS 463.385 is hereby amended to read as follows:

5 463.385 1. In addition to any other license fees and taxes
6 imposed by this chapter, there is hereby imposed upon each slot
7 machine operated in this State an annual excise tax of \$250. If a slot
8 machine is replaced by another, the replacement is not considered a
9 different slot machine for the purpose of imposing this tax.

10 2. The Commission shall:

11 (a) Collect the tax annually on or before June 30, as a condition
12 precedent to the issuance of a state gaming license to operate any
13 slot machine for the ensuing fiscal year beginning July 1, from a
14 licensee whose operation is continuing.

15 (b) Collect the tax in advance from a licensee who begins
16 operation or puts additional slot machines into play during the fiscal
17 year, prorated monthly after July 31.

18 (c) Include the proceeds of the tax in its reports of state gaming
19 taxes collected.

20 3. ~~Any~~ *Except as otherwise provided in subsection 4, any*
21 *other person, including, without limitation, an operator of an inter-*
22 *casino linked system, who is authorized to receive a share of the*
23 *revenue from any slot machine that is operated on the premises of a*
24 *licensee is liable to the licensee for that person's proportionate share*
25 *of the license fees paid by the licensee pursuant to this section and*
26 *shall remit or credit the full proportionate share to the licensee on or*
27 *before the dates set forth in subsection 2. A licensee is not liable to*
28 *any other person authorized to receive a share of the licensee's*
29 *revenue from any slot machine that is operated on the premises of a*
30 *licensee for that person's proportionate share of the license fees to*
31 *be remitted or credited to the licensee by that person pursuant to this*
32 *section.*

33 4. *An operator of a mobile gaming system who is authorized*
34 *to receive a share of the revenue from any slot machine that is*
35 *operated on the premises of a licensee shall pay the operator's full*
36 *proportionate share of the license fees to the Commission on or*
37 *before the dates set forth in subsection 2, unless the operator of*
38 *the mobile gaming system and the licensee are the same.*

39 5. The Commission shall pay over the tax as collected to the
40 State Treasurer to be deposited to the credit of the State Distributive
41 School Account in the State General Fund, and the Capital
42 Construction Fund for Higher Education and the Special Capital
43 Construction Fund for Higher Education, which are hereby created
44 in the State Treasury as special revenue funds, in the amounts and to



1 be expended only for the purposes specified in this section, or for
2 any other purpose authorized by the Legislature.

3 ~~15-1~~ 6. During each fiscal year, the State Treasurer shall
4 deposit the tax paid over to him or her by the Commission as
5 follows:

6 (a) The first \$5,000,000 of the tax in the Capital Construction
7 Fund for Higher Education;

8 (b) Twenty percent of the tax in the Special Capital Construction
9 Fund for Higher Education; and

10 (c) The remainder of the tax in the State Distributive School
11 Account in the State General Fund.

12 ~~16-1~~ 7. There is hereby appropriated from the balance in the
13 Special Capital Construction Fund for Higher Education on July 31
14 of each year the amount necessary to pay the principal and interest
15 due in that fiscal year on the bonds issued pursuant to section 5 of
16 chapter 679, Statutes of Nevada 1979, as amended by chapter 585,
17 Statutes of Nevada 1981, at page 1251, the bonds authorized to be
18 issued by section 2 of chapter 643, Statutes of Nevada 1987, at page
19 1503, the bonds authorized to be issued by section 2 of chapter 614,
20 Statutes of Nevada 1989, at page 1377, the bonds authorized to be
21 issued by section 2 of chapter 718, Statutes of Nevada 1991, at page
22 2382, and the bonds authorized to be issued by section 2 of chapter
23 629, Statutes of Nevada 1997, at page 3106. If in any year the
24 balance in that fund is not sufficient for this purpose, the remainder
25 necessary is hereby appropriated on July 31 from the Capital
26 Construction Fund for Higher Education. The balance remaining
27 unappropriated in the Capital Construction Fund for Higher
28 Education on August 1 of each year and all amounts received
29 thereafter during the fiscal year must be transferred to the State
30 General Fund for the support of higher education. If bonds described
31 in this subsection are refunded and if the amount required to pay the
32 principal of and interest on the refunding bonds in any fiscal year
33 during the term of the bonds is less than the amount that would have
34 been required in the same fiscal year to pay the principal of and the
35 interest on the original bonds if they had not been refunded, there is
36 appropriated to the Nevada System of Higher Education an amount
37 sufficient to pay the principal of and interest on the original bonds,
38 as if they had not been refunded. The amount required to pay the
39 principal of and interest on the refunding bonds must be used for
40 that purpose from the amount appropriated. The amount equal to the
41 saving realized in that fiscal year from the refunding must be used
42 by the Nevada System of Higher Education to defray, in whole or in
43 part, the expenses of operation and maintenance of the facilities
44 acquired in part with the proceeds of the original bonds.



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~~17.1~~ 8. After the requirements of subsection ~~16.1~~ 7 have been met for each fiscal year, when specific projects are authorized by the Legislature, money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education must be transferred by the State Controller and the State Treasurer to the State Public Works Board for the construction of capital improvement projects for the Nevada System of Higher Education, including, but not limited to, capital improvement projects for the community colleges of the Nevada System of Higher Education. As used in this subsection, "construction" includes, but is not limited to, planning, designing, acquiring and developing a site, construction, reconstruction, furnishing, equipping, replacing, repairing, rehabilitating, expanding and remodeling. Any money remaining in either Fund at the end of a fiscal year does not revert to the State General Fund but remains in those Funds for authorized expenditure.

~~18.1~~ 9. The money deposited in the State Distributive School Account in the State General Fund under this section must be apportioned as provided in NRS 387.030 among the several school districts and charter schools of the State at the times and in the manner provided by law.

~~19.1~~ 10. The Board of Regents of the University of Nevada may use any money in the Capital Construction Fund for Higher Education and the Special Capital Construction Fund for Higher Education for the payment of interest and amortization of principal on bonds and other securities, whether issued before, on or after July 1, 1979, to defray in whole or in part the costs of any capital project authorized by the Legislature.

Sec. 7. 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 ~~it~~ *concurrent uses at a licensed gaming establishment of* mobile communications ~~device~~ *devices* which ~~displays~~ *display* information relating to the game to a participant in the game as part of a mobile gaming system ~~is~~ *are* 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 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" as the terms are used in this chapter.

Sec. 8. This act becomes effective on July 1, 2013.

