

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session  
February 3, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:03 p.m. on Tuesday, February 3, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Greg Brower, Chair  
Senator Becky Harris, Vice Chair  
Senator Michael Roberson  
Senator Scott Hammond  
Senator Ruben J. Kihuen  
Senator Tick Segerblom  
Senator Aaron D. Ford

**STAFF MEMBERS PRESENT:**

Patrick Guinan, Policy Analyst  
Nick Anthony, Counsel  
Linda Hiller, Committee Secretary  
Lynette Jones, Committee Secretary  
Julia Barker, Committee Secretary

**OTHERS PRESENT:**

A. G. Burnett, Chair, State Gaming Control Board  
Dan Reaser, Global Cash Access, Inc.; Association of Gaming Equipment  
Manufacturers  
Shawn Reid, Board Member, State Gaming Control Board  
Karl Bennison, Chief, Enforcement Division, State Gaming Control Board  
Vanessa Spinazola, American Civil Liberties Union of Nevada  
Erik Schoen, Executive Director, Human Services Network

**Chair Brower:**

I will open the meeting of the Senate Committee on Judiciary and present the Senate Committee on Judiciary Rules for the 2015 Session ([Exhibit C](#)).

SENATOR KIHUEN MOVED TO ADOPT THE SENATE COMMITTEE ON JUDICIARY RULES FOR THE 2015 SESSION.

SENATOR FORD SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Brower:**

Committee staff has prepared for our review the Senate Committee on Judiciary Committee Brief February 2015 ([Exhibit D](#)) and the Summary of Court Decisions of Importance to Senate Judiciary ([Exhibit E](#)).

I will open the hearing on Senate Bill (S.B.) 38.

**SENATE BILL 38:** Revises provisions governing the regulation of gaming.  
(BDR 41-350)

**A. G. Burnett (Chair, State Gaming Control Board):**

In Nevada casinos, there are two forms of gaming components. The first form is a gaming device like a slot machine that usually contains a random number generator and produces the game the patron plays. The second component, associated equipment, is comprised of other devices, tools or implements tangential to the gaming operation. The statutory definition of associated equipment is found in *Nevada Revised Statute* (NRS) 463.0136. Associated equipment is anything other than a gaming device that does not go toward the overall outcome of a game. Some examples include dice, cards, links to progressive slots, items that report revenue, computerized betting systems in sports books, the slot monitoring hardware utilized on casino floors and items used for weighing money.

Companies making this associated equipment do not need a gaming license. Companies that manufacture gaming devices are required to go through the full licensure process with the State Gaming Control Board and the Nevada Gaming

Commission. Senate Bill 38 provides a clearer definition between the manufacturers of associated equipment versus gaming devices. The items that are not gaming devices and fall under the associated equipment definition do not require a gaming license. Some of these items have the capability to add and remove credits on a gaming device, gain access to account wagering information or voucher information, and are more integrated with licensed games. Senate Bill 38 applies the overall mandate of the Board's public policy in NRS 463.0129 to strictly regulate gaming in the State.

Not every person or entity that creates associated equipment must obtain a gaming license and go through the same process as a gaming device manufacturer. Senate Bill 38 is intended to allow the Commission to begin enacting regulations that would create a tiered system for associated equipment approvals.

When we suspect a company is providing services that are unsuitable to the definition of one who manufactures associated equipment, the only remedy is to call that person forward to be investigated for full licensure. In that case, under the terms of Nevada statutes and regulations, the Board must put forth the expense of the investigation and can sometimes place that person or entity into an unfair position because if the person or entity does not succeed the full licensure review, the only choices the regulators have are full approval or denial. In the case of full denial, the person is not permitted to set foot in a gaming casino or do business with a gaming business. The manufacturer of associated equipment may not rise to that level or have an issue that rises to the level requiring full approval or denial. The Commission needs to adopt regulations regarding licensure of those who repair, sell or distribute the associated equipment in a tiered category.

The Commission would also like to remove licensure requirements for manufacturers of equipment associated with interactive gaming. During the 77th Session, we found two categories of interactive gaming service providers with no need for licensure. The first category is those who provide certain intellectual property related to identifying interactive gaming systems. The second category is providers of information regarding persons for customer lists and databases.

The proposed amendment ([Exhibit F](#)) addresses cash access and wagering service providers. In the original bill, we proposed to remove licensing

requirements for cash access and wagering service providers, and we have decided to keep them.

**Senator Ford:**

Does that mean section 3, subsection 1, paragraph (e) would now be left in NRS?

**Mr. Burnett:**

Yes.

Sections 1 and 2 of the bill revise the definitions of gaming employee and manufacture for the purposes of the statutory provisions governing the licensing and control of gaming by including references to manufacturers of associated equipment. We are adding associated equipment to those two definitions.

The changes to NRS 463.650 in section 4, subsection 6 make it unlawful for a person to manufacture, sell or distribute any associated equipment related to gaming without first procuring and maintaining the required licensure. It requires the Commission to further adopt regulations prescribing the requirements for such licensure. There would be tiered categories going from full licensure to nothing at all.

Section 5, subsection 2 requires the Commission to prescribe the fees for issuance or renewal of such license to manufacture, sell or distribute associated equipment.

Sections 7 through 10 remove administrative equipment from the interactive gaming sections.

**Chair Brower:**

The Commission supports these proposed changes?

**Mr. Burnett:**

Yes. The Gaming Commission would like to move forward with writing these regulations for associated equipment. The Board and Commission would like to have a more regulatory grip.

**Dan Reaser (Global Cash Access, Inc.; Association of Gaming Equipment Manufacturers):**

Global Cash Access, Inc., endorses the proposed amendment, [Exhibit F](#), which would reinsert the licensing requirement for cash access wagering instrument providers. This class of company should continue to be licensed.

The Association of Gaming Equipment Manufacturers supports S.B. 38 and the proposed amendment, [Exhibit F](#). Section 6, subsection 5, paragraph (a), subparagraph (6) of the bill shifts the burden for the cost of the licensing procedures to the manufacturer or distributor of associated equipment rather than the State.

The important part of the bill is section 6, subsection 6 giving rule-making authority to the Commission to adopt who will be required to file an application for licensure and who will not. The Association believes it is important that in the rule-making process, overlapping licensing requirements are not being created. There is a need to create gradations of types of equipment that warrant mandatory licensing or different classes of regulatory oversight licensing registration. There may be a need to visit grandfathering certain products already in the market. We would not want a process where the Commission adopts a rule that would sweep those entities into the process and jeopardize the investment made by the casino industry, manufacturers and distributors.

**Chair Brower:**

I will close the hearing on S.B. 38 and open the hearing on S.B. 40.

**[SENATE BILL 40](#):** Prohibits certain acts relating to wagering. (BDR 41-353)

**Shawn Reid (Board Member, State Gaming Control Board):**

Senate Bill 40 codifies into NRS 465 the statutes regarding crimes and liabilities for illegal bookmaking. This bill defines those who actively facilitate illegal race and sports wagering, whether it is unregulated illegal offshore wagering sites or traditional illegal bookmaking operations in the State.

This bill is not targeting wagers placed at legal race and sports books, just illegal operations that would expose games, race and sports operations in Nevada. The State does not have an illegal bookmaking law in which to prosecute this illegal activity. *Nevada Revised Statute* 463.160 is a licensing regulatory statute that requires a license to expose a game for play in Nevada; otherwise, the penalty

for violating the statute is a Category B felony. We are trying to make a specific illegal bookmaking statute to help the Board in future prosecutions instead of utilizing a licensing statute.

We chose to codify the wagering related to criminal activity in NRS 465 and to keep it with all other crimes related to gaming. This will be better for the Board and its ability to proactively target illegal operations. A concern of the Board is protecting the gaming industry in the State. Illegal wagering and those who facilitate it threaten Nevada's legal race and sports books facilities and take critical tax dollars from the State.

Illegal operations send their agents to Las Vegas-licensed sports book locations to solicit patrons, attempting to take players from Nevada's licensed race and sports books. When bettors need to settle up, the cash-for-cash transactions are handled personally by agents of those operations in discreet locations.

In 2014, Geoff Freeman, President and CEO of the American Gaming Association, wrote a letter to the United States Senate regarding illegal gambling activities across the Country:

Illegal gambling operations attract illicit activities, such as money laundering and other serious crimes, while siphoning critical tax revenues from state and local governments across the country. The problem is all the more apparent with illegal sports betting, a matter of great interest among regulators, professional sports leagues, journalists and others ...

He further stated that:

Legal gaming is a highly regulated, \$240 billion U.S. industry that supports 1.7 million jobs in 40 states and works closely with law enforcement to identify illegal activity—in some cases leading to criminal convictions. In stark contrast, no such oversight exists for the illegal sports betting market, where the risk of money laundering is far greater due to its inherent underground market.

Nevada's public policy on gaming is NRS 463.0129 that states "The gaming industry is vitally important to the economy of the State and the general welfare

of the inhabitants” and that gaming should be “free from criminal and corruptive elements,” which is what we are trying to accomplish with S.B. 40.

Section 1, subsection 1, paragraph (a) of the bill clearly targets illegal bookmakers accepting or facilitating any bet or wager on a race, sporting or other event without a license.

Section 1, subsection 1, paragraph (b) deals with the individuals accepting wagers, signing up individuals for these illegal bookmaking operations. Section 1, subsection 1, paragraph (c) would cover the activities of such agents of these illegal operations in the transfer of anything of value.

**Mr. Burnett:**

Our proposed amendment ([Exhibit G](#)) has the same language as the bill, but the specific amendment contained in section 1, subsection 1 says: “race, sporting event or future contingent event.” There was some confusion regarding what qualified as a future contingent event. We wanted to change that to say, “or other event,” which makes it more in line with sports betting.

**Mr. Reid:**

“Other event,” is defined in our regulations. We changed it to make it clear that this is a race and sports intent.

**Mr. Burnett:**

Just like manufacturers of gaming devices, before one is allowed to conduct a sports betting operation in Nevada, one must obtain the proper license. This bill is aiming at those who do not have licenses and are operating illegally in violation of various federal laws. These would be illegal offshore Websites.

**Chair Brower:**

Would this bill change anything about legal sports betting in Nevada?

**Mr. Burnett:**

No.

**Chair Brower:**

Something we have been talking about is the proliferation of illegal offshore operations and the federal government’s apparent reluctance to do anything about it. This bill will not force the federal government to do something, but it

could give another predicate offense option for the Department of Justice (DOJ) if it chose to do something.

**Mr. Burnett:**

We are aiming for that predicate offense and laying the groundwork for someone to prosecute.

**Mr. Reid:**

The amendment, [Exhibit G](#) refers to the general criminal penalties. The original bill imposed a fine up to \$5,000; the proposed amendment changes it to \$10,000.

**Nick Anthony (Counsel):**

In section 2, subsection 1 of the proposed amendment, you loop in the penalty. Did you want to carry that through to section 2, subsection 2, which is in regard to attempts of conspiracy?

**Mr. Reid:**

Yes.

**Chair Brower:**

This is a new offense that we would put into law?

**Mr. Reid:**

The part in section 1 is covered in NRS 463.160. We want to move it specifically to NRS 465. What is new is the ability to target the person accepting or facilitating wagers and transferring money.

**Chair Brower:**

The Board's proposed potential punishment would be a Category B felony with a maximum \$10,000 fine?

**Mr. Reid:**

Yes.

**Senator Ford:**

Previously, you would be required to operate under NRS 463.160 to prosecute or prevent this type of offense?



**Mr. Reid:**

Yes.

**Senator Ford:**

Have you found that statute insufficient for stopping this type of activity? Specifically, have you lost a case because what would otherwise be covered under this proposed statute was not a crime under NRS 463.160?

**Karl Bennison (Chief, Enforcement Division, State Gaming Control Board):**

We have used NRS 463.160, but many cases are pleaded down so it does not stick. Of all the unlicensed activity, bookmaking is what we focus on. We seldom run into other aspects of gaming that are done in an unlicensed manner. Unlicensed bookmaking gets lost in the unlicensed statute, and it is not even in the criminal section of our statute. Senate Bill 40 moves it to NRS 465, which looks at every angle of the operation. These are not single individuals; they can be those who run the operation and have others to help them run it, whether that is paying and collecting, laying off wagers or recruiting for sites. This is a comprehensive look in statute that pulls together all the elements rather than just having the unlicensed aspect.

**Senator Ford:**

If this bill were to pass, could you charge a person under two provisions?

**Mr. Bennison:**

*Nevada Revised Statute* 463.160 would not be used if this bill were adopted. We would use this specifically for illegal bookmaking. If there was a different type of unlicensed illegal gambling other than bookmaking, NRS 463.160 would still be used.

**Senator Ford:**

In regard to the Category B felony, is that also under NRS 463.160?

**Mr. Bennison:**

Yes, but there is a smaller fine. We are making it consistent with the NRS 465 felonies.

**Mr. Burnett:**

Chapter 465 of NRS comprises the criminal statutes regarding gaming and is purely criminal; NRS 463.160 states it is unlawful if persons have not obtained

the requisite gaming license. The remedy is to call someone forward for licensure. However, illegal offshore Websites will not appear for licensure.

**Chair Brower:**

Do you think that passage of this bill would enhance the State's ability to prosecute illegal offshore operators, or is that a matter for the federal government?

**Mr. Burnett:**

I would leave that decision up to the authorities. The Office of the Attorney General might have an interest in pursuing an action as might other State law enforcement agencies. We work with the FBI and DOJ. They like to rely on a predicate state law violation. This became even more pertinent when we realized these illegal operators had bookies in our Las Vegas casinos who were utilizing the services provided by our sports books for what they were doing illegally. I realize there would be potential jurisdictional issues, and we are willing to work with all law enforcement agencies to overcome them.

**Chair Brower:**

It would be a team effort between the Board and the authorities.

**Mr. Reid:**

We are aware of these jurisdictional issues with the actual operators, but the additional sections give us the ability to go after their agents since they would be in Nevada. We could attempt to prosecute them and work from there.

**Mr. Burnett:**

*Nevada Revised Statute* 463.160 provides for a Category B offense. In practice, we call the individuals or entities to apply for gaming licenses. If they do not apply, we can run them up on an agenda and deny them. In the case of illegal offshore gaming sites, we do not think it would do much good.

**Chair Brower:**

The penalty for the NRS 463.160 violation would be a Category B felony with a maximum \$10,000 fine. Counsel tells me it is a \$50,000 fine, which is a higher potential penalty?

**Mr. Anthony:**

The NRS 463.160 penalties are found in NRS 463.360. This statute provides for a Category B offense with 1 to 10 years in prison and a fine of up to \$50,000. This bill has a lower penalty and lower fine.

**Chair Brower:**

Why not mirror the fines provided in NRS 463.160?

**Mr. Burnett:**

We would leave that up to the Legislators' discretion.

**Vanessa Spinazola (American Civil Liberties Union of Nevada):**

The American Civil Liberties Union of Nevada (ACLU) opposes S.B. 40. Voluntary interactions between individuals should not be criminalized. The State spends \$250 million a year on its corrections system, and every year we add new crimes. We must start drawing the line somewhere about what qualifies as a criminal action. People who pose little or no threat to public safety should not be incarcerated. If it is true that these individuals are engaged in money laundering or other violent acts, we expect that they would be caught on those acts. More crimes and fines should not be added to the books. I have submitted a statement describing the ACLU's opposition to S.B. 40 ([Exhibit H](#)).

**Senator Ford:**

Are you advocating for the repeal of prosecutions under NRS 463.160?

**Ms. Spinazola:**

Given the opportunity, yes.

**Erik Schoen (Executive Director, Human Services Network):**

The Human Services Network opposes S.B. 40. I have submitted a statement detailing our opposition ([Exhibit I](#)). The concern about an approach that makes this conviction a felony is the possible misuse of public funds. There are better ways to approach the kinds of issues addressed in S.B. 40. Incarceration has the opposite effect of what it is supposed to do. Many studies suggest that time spent in prison increases the likelihood of future possible criminal actions. We invite the Committee to consider other creative options, such as alternative sentencing, probation or other programs that may have a bigger return on taxpayer dollars. The penalties under statute are not something we would support either; if we could address that, we would.

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**Chair Brower:**

I will close the hearing on S.B. 40 and adjourn the Senate Committee on Judiciary at 2:02 p.m.

RESPECTFULLY SUBMITTED:

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Julia Barker,  
Committee Secretary

APPROVED BY:

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Senator Greg Brower, Chair

DATE: \_\_\_\_\_

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness or Agency</b>	<b>Description</b>
	A	1		Agenda
	B	5		Attendance Roster
	C	2	Senate Committee on Judiciary	Rules for the 2015 Session
	D	11	Patrick Guinan	Senate Committee on Judiciary Committee Brief February 2015
	E	17	Nick Anthony	Summary of Court Decisions of Importance to Senate Judiciary
S.B. 38	F	3	State Gaming Control Board	Proposed Amendment
S.B. 40	G	1	State Gaming Control Board	Proposed Amendment
S.B. 40	H	2	Vanessa Spinazola	Letter from ACLU
S.B. 40	I	1	Erik Schoen	Letter from Human Services Network