

Amendment No. 2

Assembly Amendment to Assembly Bill No. 75	(BDR 41-264)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

BAW



Date: 3/30/2017

A.B. No. 75—Revises provisions governing the licensing and control of gaming.
(BDR 41-264)



ASSEMBLY BILL NO. 75—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE NEVADA GAMING CONTROL BOARD)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the licensing and control of gaming.
(BDR 41-264)

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

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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; exempting manufacturers, distributors and independent contractors associated with gaming from certain licensing requirements; revising provisions governing the regulation of trustees of an employee stock ownership plan by the Nevada Gaming Commission; authorizing the Commission to reject an application for a license, registration, finding of suitability or approval; making various other changes related to the regulation of gaming; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Nevada Gaming Commission and the Nevada Gaming Control Board to administer state gaming licenses and manufacturers', sellers' and distributors' licenses, and to perform various acts relating to the regulation and control of gaming. (NRS 463.140) **Section 1** of this bill revises the definition of "manufacture" for the purposes of the statutory provisions governing the licensing and control of gaming to include the act of assuming responsibility for certain actions.

Existing law makes it unlawful to deliver or furnish any equipment, services or property in exchange for any interest or revenue derived from a gambling game without procuring and maintaining the required state gaming license. (NRS 463.162) **Section 2** of this bill exempts persons who are already licensed as a manufacturer or distributor of certain gaming devices or systems from this licensing requirement.

Existing law authorizes the Commission to exempt a bank acting as a fiduciary from certain requirements for licensing and regulation related to gaming. (NRS 463.175) **Section 3** of this bill similarly authorizes the Commission to exempt a trustee of an employee stock ownership plan from such requirements.

Existing law provides that after a final order of the Board recommending denial of an application for a license, registration, finding of suitability or approval, the Commission may: (1) deny the application; (2) remand the matter to the Board for further investigation and reconsideration; or (3) by unanimous vote of the members present, grant the application. (NRS 463.220) Section 3.5 of this act: (1) authorizes the Commission to reject the application; and (2) provides that a rejection of the application

does not constitute a determination of the suitability of the applicant or a denial of the application.

Existing law: (1) establishes the Nevada Gaming Control Board Revolving Account in order to facilitate the confidential investigation of certain violations relating to gaming; and (2) provides that expenditures from the Revolving Account may not exceed the amount authorized by the Legislature in any fiscal year. (NRS 463.330) **Section 4** of this bill provides that such expenditures may only exceed the amount authorized by the Legislature if the expenses are incurred by the Board for confidential investigations concerning the enforcement of existing law governing gaming and the money for payment of the expenses is ~~not~~ derived from ~~the State General Fund,~~ **state or federal forfeiture funds.**

Existing law makes it unlawful to manufacture, sell or distribute any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada without first procuring and maintaining the required licensure. (NRS 463.650) **Section 5** of this bill exempts certain persons from the required licensure if a person who is already licensed as a manufacturer assumes responsibility for the underlying actions.

Existing law requires the Commission, with the advice and assistance of the Board, to adopt regulations relating to the approval of associated equipment by the Board. (NRS 463.665) **Section 6** of this bill transfers certain duties required to be included in those regulations from the Commission to the Board.

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

Section 1. 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 or make modifications to a gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada;

(b) To direct ~~to~~ **or** control ~~for 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, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada; ~~for~~

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

(d) To assume responsibility for any action described in paragraph (a), (b) or (c).

2. As used in this section:

(a) "Assume responsibility" means to:

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

(2) Accept continuing legal responsibility for the gaming device, associated equipment, 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. 1.5. NRS 463.0173 is hereby amended to read as follows:

463.0173 “Manufacturer’s, seller’s or distributor’s license” means a license issued pursuant to NRS 463.650. ~~and 463.660.~~

Sec. 2. NRS 463.162 is hereby amended to read as follows:

463.162 1. Except as otherwise provided in subsections 2 and 3, it is unlawful for any person to:

(a) Lend, let, lease or otherwise deliver or furnish any equipment of any gambling game, including any slot machine, for any interest, percentage or share of the money or property played, under guise of any agreement whatever, without having first procured a state gaming license.

(b) Lend, let, lease or otherwise deliver or furnish, except by a bona fide sale or capital lease, any slot machine under guise of any agreement whereby any consideration is paid or is payable for the right to possess or use that slot machine, whether the consideration is measured by a percentage of the revenue derived from the machine or by a fixed fee or otherwise, without having first procured a state gaming license for the slot machine.

(c) Furnish services or property, real or personal, on the basis of a contract, lease or license, pursuant to which that person receives payments based on earnings or profits from any gambling game, including any slot machine, without having first procured a state gaming license.

2. The provisions of subsection 1 do not apply to any person:

(a) Whose payments are a fixed sum determined in advance on a bona fide basis for the furnishing of services or property other than a slot machine.

(b) Who furnishes services or property under a bona fide rental agreement or security agreement for gaming equipment.

(c) That is a wholly owned subsidiary of:

(1) A corporation, limited partnership or limited-liability company holding a state gaming license; or

(2) A holding company or intermediary company, or publicly traded corporation, that has registered pursuant to NRS 463.585 or 463.635 and which has fully complied with the laws applicable to it.

(d) Who is licensed as a ~~manufacturer or distributor and who rents or leases any equipment of any gambling game, including any slot machine, under a bona fide agreement where the payments are a fixed sum determined in advance and not determined as a percentage of the revenue derived from the equipment or slot machine.~~ pursuant to NRS 463.650. ~~and 463.660.~~

(e) Who is found suitable by the Commission to act as an independent agent.

➤ Receipts or rentals or charges for real property, personal property or services do not lose their character as payments of a fixed sum or as bona fide because of provisions in a contract, lease or license for adjustments in charges, rentals or fees on account of changes in taxes or assessments, escalations in the cost-of-living index, expansions or improvement of facilities, or changes in services supplied. Receipts of rentals or charges based on percentage between a corporate licensee or a licensee who is a limited partnership or limited-liability company and the entities enumerated in paragraph (c) are permitted under this subsection.

3. The Commission may, upon the issuance of its approval or a finding of suitability, exempt a holding company from the licensing requirements of subsection 1.

4. The Board may require any person exempted by the provisions of subsection 2 or paragraph (b) of subsection 1 to provide such information as it may require to perform its investigative duties.

1 5. The Board and the Commission may require a finding of suitability or the
2 licensing of any person who:

3 (a) Owns any interest in the premises of a licensed establishment or owns any
4 interest in real property used by a licensed establishment whether the person leases
5 the property directly to the licensee or through an intermediary.

6 (b) Repairs, rebuilds or modifies any gaming device.

7 (c) Manufactures or distributes chips or gaming tokens for use in this state.

8 (d) Operates a call center within this State as an agent of a licensed race book
9 or sports pool in this State in accordance with the regulations adopted by the
10 Commission.

11 (e) Has invented, has developed or owns the intellectual property rights to a
12 game for which approval by the Commission is being sought or has been received
13 in accordance with the regulations adopted by the Commission.

14 6. If the Commission finds a person described in subsection 5 unsuitable, a
15 licensee shall not enter into any contract or agreement with that person without the
16 prior approval of the Commission. Any other agreement between the licensee and
17 that person must be terminated upon receipt of notice of the action by the
18 Commission. Any agreement between a licensee and a person described in
19 subsection 5 shall be deemed to include a provision for its termination without
20 liability on the part of the licensee upon a finding by the Commission that the
21 person is unsuitable. Failure expressly to include that condition in the agreement is
22 not a defense in any action brought pursuant to this section to terminate the
23 agreement. If the application is not presented to the Board within 30 days after
24 demand, the Commission may pursue any remedy or combination of remedies
25 provided in this chapter.

26 **Sec. 3.** NRS 463.175 is hereby amended to read as follows:

27 463.175 1. As used in this section:

28 (a) "Bank" means a national banking association that is authorized to do
29 business in this State, a banking corporation formed or regulated under the laws of
30 this State or a trust company formed or regulated under the laws of this State.

31 (b) *"Employee stock ownership plan" means a type of profit-sharing plan*
32 *that invests primarily in the employer's stock.*

33 (c) "Fiduciary" means an executor, an administrator, a special administrator, a
34 trustee of an inter vivos trust, a trustee of a testamentary trust, *a trustee of an*
35 *employee stock ownership plan*, an escrow agent, a depository or any combination
36 thereof.

37 2. The Commission may, selectively or by general regulation, at any time and
38 from time to time, exempt a bank *or trustee of an employee stock ownership plan*
39 acting as a fiduciary from all or any portion of the requirements of NRS 463.160,
40 463.162, 463.167, 463.170, and 463.490 to 463.645, inclusive, and from the
41 regulations adopted thereunder.

42 3. The Commission may, upon the recommendation of the Board or upon its
43 own undertaking, grant, deny, limit, condition, restrict, revoke or suspend any
44 exemption or application for exemption pursuant to subsection 2 for any reasonable
45 cause.

46 4. An exemption granted pursuant to subsection 2 is a revocable privilege,
47 and no person may acquire any vested rights therein or thereunder.

48 **Sec. 3.5.** *NRS 463.220 is hereby amended to read as follows:*

49 463.220 1. The Board shall present its final order upon an application to the
50 Commission at the next meeting of the Commission.

51 2. The Commission may, after considering the recommendation of the Board,
52 issue to the applicant named, as a natural person, and to the licensed gaming
53 establishment, as a business entity, under the name or style therein designated, a

1 state gaming license, or deny the same. The Commission may limit the license or
2 place such conditions thereon as it may deem necessary in the public interest. The
3 Commission may, if it considers necessary, issue a probationary license. No state
4 gaming license may be assigned either in whole or in part.

5 3. The Commission may limit or place such conditions as it may deem
6 necessary in the public interest upon any registration, finding of suitability or
7 approval for which application has been made.

8 4. After final order of the Board recommending denial of an application, the
9 Commission, after considering the recommendation of the Board, may:

10 (a) Deny the application;

11 (b) Reject the application;

12 (c) Remand the matter to the Board for such further investigation and
13 reconsideration as the Commission may order; or

14 ~~(c)~~ (d) By unanimous vote of the members present, grant the application for
15 a license, registration, finding of suitability or approval.

16 ➤ For the purposes of this section, a tie vote of the Board upon an application does
17 not constitute a recommendation of denial of the application. A rejection of the
18 application does not constitute a determination of the suitability of the applicant
19 or a denial of the application of the applicant.

20 5. If the Commission is not satisfied that an applicant approved by the Board
21 is qualified to be licensed under this chapter, the Commission may cause to be
22 made such investigation into and conduct such hearings concerning the
23 qualifications of the applicant in accordance with its regulations as it may deem
24 necessary.

25 6. If the Commission desires further investigation be made or to conduct any
26 hearings, it shall, within 30 days after presentation of the recommendation of the
27 Board so notify the applicant and set a date for hearing, if a hearing is requested by
28 the applicant. Final action by the Commission must be taken within 120 days after
29 the recommendation of the Board has been presented to the Commission. Failure of
30 the Commission to take action within 120 days shall be deemed to constitute
31 approval of the applicant by the Commission, and a license must be issued
32 forthwith upon compliance by the applicant with the provisions of NRS 463.225.

33 7. The Commission has full and absolute power and authority to deny any
34 application for any cause it deems reasonable. If an application is denied, the
35 Commission shall prepare and file its written decision upon which its order denying
36 the application is based.

37 **Sec. 4.** NRS 463.330 is hereby amended to read as follows:

38 463.330 1. Costs of administration of this chapter incurred by the
39 Commission and the Nevada Gaming Control Board must be paid from the State
40 General Fund on claims presented by the Commission and the Board, respectively,
41 and approved and paid as other claims against the State are paid. The Commission
42 and the Board shall comply with the provisions of the State Budget Act in order
43 that legislative authorization for budgeted expenditures may be provided.

44 2. In order to facilitate the confidential investigation of violations of this
45 chapter and the regulations adopted by the Commission pursuant to this chapter,
46 there is hereby created the Nevada Gaming Control Board Revolving Account.
47 Upon the written request of the Chair of the Board, the State Controller shall draw a
48 warrant in favor of the Chair in the amount of \$10,000, and upon presentation of
49 the warrant to the State Treasurer, the State Treasurer shall pay it. When the
50 warrant is paid, the Chair shall deposit the \$10,000 in a bank or credit union of
51 reputable standing which shall secure the deposit with a depository bond
52 satisfactory to the State Board of Examiners.

3. The Chair of the Board may use the Revolving Account to pay the reasonable expenses of agents and employees of the Board engaged in confidential investigations concerning the enforcement of this chapter, including the prepayment of expenses where necessary, whether such expenses are incurred for investigation of known or suspected violations. In allowing such expenses, the Chair is not limited or bound by the provisions of NRS 281.160.

4. Expenditures from the Revolving Account may ~~not~~ exceed the amount authorized by the Legislature in any fiscal year ~~H~~ *only if the Revolving Account is used to pass through expenses incurred by the Board while engaged in confidential investigations concerning the enforcement of this chapter, and the money for payment of the expenses is derived from ~~sources other than the State General Fund~~ state or federal forfeiture funds as approved by the Chair.*

Sec. 5. NRS 463.650 is hereby amended to read as follows:

463.650 1. Except as otherwise provided in subsections 2 to ~~7~~, 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 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. ~~for 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 security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

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

- (a) Gaming devices for home use in accordance with NRS 463.160; or
- (b) Antique gaming devices,

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

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

- (a) A law enforcement agency;
- (b) A court of law; or
- (c) A gaming device repair school licensed by the Commission on Postsecondary Education,

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

6. *A manufacturer who performs any action described in paragraph (a), (b) or (c) of subsection 1 of NRS 463.01715 is not required to be licensed under the provisions of this section with respect to the performance of that action if another manufacturer who is licensed under the provisions of this section assumes responsibility for the performance of that action.*

7. *An independent contractor who designs, develops, programs, produces or composes a control program for use in the manufacture of a gaming device that is for use or play in this State is not required to be licensed under the provisions*

1 *of this section with respect to the design, development, programming, production*
2 *or composition of a control program if a manufacturer who is licensed under the*
3 *provisions of this section assumes responsibility for the design, development,*
4 *programming, production or composition of the control program.*

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

10 ~~7-7~~ 9. Every person who must be licensed pursuant to this section is subject
11 to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from
12 those provisions by the Commission.

13 ~~8-8~~ 10. The Commission may exempt, for any purpose, a manufacturer,
14 seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if
15 the Commission determines that the exemption is consistent with the purposes of
16 this chapter.

17 ~~9-9~~ 11. Any person conducting business in Nevada who is not required to be
18 licensed as a manufacturer, seller or distributor pursuant to subsection 1, but who
19 otherwise must register with the Attorney General of the United States pursuant to
20 Title 15 of U.S.C., must submit to the Board a copy of such registration within 10
21 days after submission to the Attorney General of the United States.

22 ~~10-1~~ 12. It is unlawful for any person, either as owner, lessee or employee,
23 whether for hire or not, to knowingly distribute any gaming device, cashless
24 wagering system, mobile gaming system, interactive gaming system or associated
25 equipment from Nevada to any jurisdiction where the possession, ownership or use
26 of any such device, system or equipment is illegal.

27 ~~11-1~~ 13. As used in this section:

28 (a) "Antique gaming device" means a gaming device that was manufactured
29 before 1961.

30 (b) *"Assume responsibility" has the meaning ascribed to it in NRS*
31 *463.01715.*

32 (c) *"Control program" has the meaning ascribed to it in NRS 463.0155.*

33 (d) "Holding company" has the meaning ascribed to it in NRS 463.485.

34 (e) *"Independent contractor" has the meaning ascribed to it in NRS*
35 *463.01715.*

36 **Sec. 6.** NRS 463.665 is hereby amended to read as follows:

37 463.665 1. The Commission shall, with the advice and assistance of the
38 Board, adopt regulations prescribing:

39 (a) The manner and method for the approval of associated equipment by the
40 Board; and

41 (b) The method and form of any application required by paragraph (a).

42 2. Except as otherwise provided in subsection 4, the regulations adopted
43 pursuant to subsection 1 must:

44 (a) Require persons who manufacture or distribute associated equipment for
45 use in this State to be registered ~~by~~ with the ~~Commission~~ Board if such
46 associated equipment:

47 (1) Is directly used in gaming;

48 (2) Has the ability to add or subtract cash, cash equivalents or wagering
49 credits to a game, gaming device or cashless wagering system;

50 (3) Interfaces with and affects the operation of a game, gaming device,
51 cashless wagering system or other associated equipment;

52 (4) Is used directly or indirectly in the reporting of gross revenue;

1 (5) Records sales for use in an area subject to the tax imposed by NRS
2 368A.200; or

3 (6) Is otherwise determined by the ~~{Commission}~~ Board to create a risk to
4 the integrity of gaming and protection of the public if not regulated;

5 (b) Establish the degree of review an applicant for registration pursuant to this
6 section must undergo, which level may be different for different forms of
7 associated equipment; and

8 (c) Establish fees for the application, issuance and renewal of the registration
9 required pursuant to this section, which must not exceed \$1,000 per application,
10 issuance or renewal of such registration.

11 3. This section does not apply to:

12 (a) A licensee; or

13 (b) An affiliate of a licensee or an independent contractor as defined by NRS
14 463.01715.

15 4. In addition to requiring a manufacturer or distributor of associated
16 equipment to be registered as set forth in subsections 2 and 3, a manufacturer or
17 distributor of associated equipment who sells, transfers or offers the associated
18 equipment for use or play in Nevada may be required by the ~~{Commission, upon~~
19 ~~recommendation of the}~~ Board, ~~{}~~ to file an application for a finding of suitability to
20 be a manufacturer or distributor of associated equipment.

21 5. In addition to requiring a manufacturer or distributor of associated
22 equipment to be registered as set forth in subsections 2 and 3, any person who
23 directly or indirectly involves himself or herself in the sale, transfer or offering for
24 use or play in Nevada of such associated equipment who is not otherwise required
25 to be licensed as a manufacturer or distributor may be required by the
26 ~~{Commission, upon recommendation of the}~~ Board, ~~{}~~ to file an application for a
27 finding of suitability to be a manufacturer or distributor of associated equipment.

28 6. If an application for a finding of suitability is not submitted to the Board
29 within 30 days after demand by the ~~{Commission,}~~ Board, it may pursue any
30 remedy or combination of remedies provided in this chapter.

31 7. Any person who manufactures or distributes associated equipment who has
32 complied with all applicable regulations adopted by the Commission before
33 October 1, 2015, shall be deemed to be registered pursuant to this section.

34 **Sec. 7.** This act becomes effective on July 1, 2017.