MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Seventy-ninth Session
April 27, 2017

The Senate Committee on Judiciary was called to order by Vice Chair Nicole J. Cannizzaro at 1:39 p.m. on Thursday, April 27, 2017, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Nicole J. Cannizzaro, Vice Chair
Senator Moises Denis
Senator Aaron D. Ford
Senator Don Gustavson
Senator Michael Roberson
Senator Becky Harris

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom, Chair (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Lesley E. Cohen, Assembly District No. 29
Assemblyman Keith Pickard, Assembly District No. 22

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nick Anthony, Counsel
Pat Devereux, Committee Secretary

OTHERS PRESENT:

A.G. Burnett, Chair, Nevada Gaming Control Board
Tony Alamo, Chair, Nevada Gaming Commission

Kimberly Surratt, Nevada Justice Association

VICE CHAIR CANNIZZARO:
We will open the hearing on Assembly Bill (A.B.) 75.

ASSEMBLY BILL 75 (1st Reprint): Revises provisions governing the licensing and control of gaming. (BDR 41-264)

A.G. BURNETT (Chair, Nevada Gaming Control Board):
Assembly Bill 75 is a cleanup bill concerning the manufacture and distribution of gaming devices. The Legislature tasked us in the Seventy-eighth Legislative Session with allowing manufacturers and operators to put new games on gaming floors as quickly as possible. The bill includes provisions to facilitate that. After its hearing by the Assembly Committee on Judiciary, a friendly amendment was proposed by the Nevada Gaming Commission. Those changes were incorporated into the bill before you.

Sections 1 and 5 of A.B. 75 are part of a single concept. In the Seventy-sixth Legislative Session, a concept was discussed whereby manufacturers assume responsibility for activities of certain independent contractors or other companies manufacturing gaming devices to allow the contractors to manufacture the devices. However, the manufacturer assuming responsibility for the contractor's actions had to be a licensed entity in the State.

Under *Nevada Revised Statutes* (NRS) 463.01715, section 1, subsection 1, paragraphs (a, (b) and (c) of the bill define "manufacture" of gaming devices. The Gaming Control Board put the change regarding responsibility into paragraph (b) into the bill that passed in 2011. Since then, there has arisen a need and desire on the part of licensed gaming manufacturers to allow other companies to conduct some of the activities found in paragraphs (a) and (c).

Assembly Bill 75 adds section 1, subsection 1, paragraph (d), which provides that as long as a manufacturer assumes responsibility for the three activities in paragraphs (a), (b) and (c), the contractor need not be licensed.

In section 5, NRS 463.650 provides that manufacturers who qualify under section 1 must be licensed. Section 5, subsection 6 adds details to the

provisions in section 1, subsection 7 specifies requirements for independent contractors used by manufacturers.

SENATOR HARRIS:
The practical reality of the change is licensed manufacturers will put their Gaming Control Board license on the line to extend opportunities for other companies that do not have the means or wherewithal to seek full licensure because of time and expense. The products can then be brought to market more expeditiously. The risk is the original manufacturers may lose their licenses here and in other states. Accountability is thus created.

MR. BURNETT:
That is correct. In section 1, subsection 2, paragraph (a) of A.B. 75, "Assume responsibility" is defined. That is unchanged from the original NRS. The burden will remain on the gaming licensee to assume responsibility through contracts, which the Board will analyze. Speed to market is the goal. If a large manufacturer wanted a small company to provide a component of a gaming device defined in the bill, the small entity would have to be licensed, which can take up to six months. Now, if a manufacturer meets with the Board and we are comfortable with the parties involved, it can happen within a few months.

Section 1.5 of A.B. 75 is a cleanup matter driven when Jamie Black, Senior Research Analyst, Gaming Control Board, and the Legislative Counsel Bureau discovered the need to remove the provisions of NRS 463.660. In section 2, NRS 463.162 requires licensure for certain activities. Manufacturers and distributors needed a second license for the activities in this section. In section 2, subsection 2, paragraph (d), once you have a manufacturer or distributor license, you can do anything in the remainder of NRS 463.650.

In NRS 463.162, provisions deal with lending and space leasing arrangements manufacturers have with gaming operators. A licensed manufacturer would get tripped up without obtaining separate approval from the Board. There is no need for us, as regulators and from a policy standpoint, to require separate licensure when a manufacturer already has a license. The former section 2, subsection 2, paragraph (d) only spoke to distributors. We added the term "manufacturer."

Section 3 of A.B. 75 relates to a gaming law concept in which banks come in to fiduciary holdings of gaming licensee's ownership. If the bank is in a trustee fiduciary capacity, it can apply for a waiver of basic licensing requirements.

Banks do not want to get a gaming license just because they hold passive, noncontrolling shares. The exemption was established many years ago. Employee stock ownership plans (ESOP) acted in a similar capacity and had similar fiduciary burdens if they came into ownership of a gaming licensee for employees. Small privately held companies may want to enact an ESOP, in which shares are held on behalf of workers. However, under gaming law, employees may have to become licensed. If the ESOP holds shares, it, too, may have to become licensed. This is essentially an ESOP-held trusteeship in a fiduciary capacity with no controlling abilities over the gaming operation. We added ESOP to the bank exception in NRS 463.175.

Section 3.5 of A.B. 75 was crafted in conjunction with the Nevada Gaming Commission. Nevada has a two-tiered regulatory process in which the Board has hearings to review gaming license applicants' suitability at the beginning of each month. A couple of weeks later, the Commission takes our recommendations and votes on applications. If the Board denies the application of an entity or individual, there are far-reaching repercussions. The options of the Commission are then somewhat limited. The person or entity can appeal the denial before the Board using the list of options in NRS 463.220 subsection 4.

After the Board's final recommendation of denial, the Commission had three options: deny the application, remand the matter back to the Board for further investigations or grant the application outright. In A.B. 75 section 3.5, subsection 4, paragraph (b), the Commission adds a fourth option: reject the application outright; paragraph (d) states rejection does not constitute determination of suitability for denial of the application.

SENATOR HARRIS:
Would you explain the difference between a license rejection and a denial? Are they the same, with a "pause button" while the applicant gets affairs in order to not be rejected for unsuitability or be subjected to conditions imposed by the Board or Commission?

TONY ALAMO (Chair, Nevada Gaming Commissioner):
Denial has overreaching potential beyond what the candidate's situation should cause. One issue resulting from application denial is the ability to work with current licensees. A denied applicant may have a company that delivers paper products to a hotel casino. The application rejection language in A.B. 75 was

copied from and made congruent with existing language. The Commission has the option, through preliminary finding of suitability, to reject applications.

SENATOR HARRIS:
I am looking for the clear-cut differences between denial and rejection. The two seem to be the same, but a rejection allows applicants to continue to do business with licensees because it is not an outright denial. Is there a difference between rejection and denial?

MR. ALAMO:
If applicants are not denied, they do not go on the Board's denied applicant list. It is simply another option, the key to which is not to be on that list.

SENATOR HARRIS:
Is the practical outcome to give denied applicants time to change or clean up some circumstances so as to later become acceptable? We are not denying them the ability to do business with the industry forever.

MR. ALAMO:
Yes.

MR. BURNETT:
Section 4 of A.B. 75 amends NRS 463.330 and its Revolving Account established by the Legislature for the Board to use for confidential investigations. It is not a true revolving account in that it is a one-time deposit into an account to fund investigations conducted between Legislative Sessions. It is not continually replenished.

Since 2015, the Board has ramped up its confidential investigations, mainly into ensuring the integrity of sports betting, and keeping bad people out of it. We are also investigating nightclubs. The Board has found it cannot necessarily use the Revolving Account because the funds are depleted too quickly. Section 4, subsection 4 of A.B. 75 designates the use of forfeiture funds mainly received because of investigations of cases worked in conjunction with federal investigators. Substantial amounts of money may be collected, which would be passed through the Revolving Account.

The original language of NRS 463.330, subsection 4 provided expenditures from the Revolving Account cannot exceed the amount authorized by the Legislature

in any fiscal year. The change is that it may exceed that amount only if the Account is used for confidential investigations and derived from forfeiture funds.

Section 6 of A.B. 75 deals with approvals of associated equipment versus of gaming devices. The former is used in conjunction with gaming activity, and the Board helps regulate it. The bill's language streamlines the process so associated equipment manufacturers and distributors can go through the Board, not the Commission, for registration. When an entity or person manufacturing associated equipment comes forward for approval, disciplinary action or further vetting, the Board makes the determination. For all intents and purposes, that already happens, so the bill codifies it.

VICE CHAIR CANNIZZARO:
We will close the hearing on A.B. 75 and open the hearing on A.B. 191.

ASSEMBLY BILL 191: Revises provisions governing parentage. (BDR 11-761)

ASSEMBLYWOMAN LESLEY E. COHEN (Assembly District No. 29):
Assembly Bill 191 gives added consistency to Nevada families. Over the last few Legislative Sessions, piecemeal changes have been made regarding parentage and children's issues in different NRS chapters that the bill will make consistent and clean up.

Assembly Bill 191 deals with the verification of paternity or parentage (VAT) form, gestational carrier agreements and jurisdictions concerning adoptions; that is, Nevada will maintain jurisdiction of children under the age of six until they are adopted. Federal law requires all states to have the VAT form in place. It is a simple civil process for voluntarily acknowledging parentage signed by a man and woman declaring the child's paternity. After a rescinding period has lapsed, the VAT form is treated as a judicial acknowledgement of parentage. States are required to give full faith and credit to that determination. With VAT forms, unmarried parents do not have to go to court to establish parentage. The VAT system was created for the establishment of child support collection for nonmarital children and has become the most common method of determining parentage.

KIMBERLY SURRATT (Nevada Justice Association):
I am a Reno family law attorney and a member of the Family Law Section Executive Council for the State Bar of Nevada. The three main issues in

A.B. 191 are part of the cleanup work family law attorneys have worked toward. Nevada has a solid fix on what constitutes a parent, but sometimes the issue of court jurisdiction is murky. The first part of A.B. 191 tweaks the definition of the "voluntary acknowledgement of paternity" to paternity or parentage.

Several Legislative Sessions ago, a comprehensive bill passed involving assisted reproduction. Fathers, mothers or both parents consent to embryo, egg or sperm donations with a signed record of consent to parentage through medical procedures. However, that signed record was not codified. I created a document for my clients that mimics the VAT form but added "parentage" to cover assisted reproductive technology.

The word "paternity" has not been removed from A.B. 191 because the federal government requires states to use VAT forms with consistent terminology. We do not want the bill to cause unintended consequences by haphazardly removing familiar terminology. Sections 3 and 11 speak to assisted reproductive technology. The conforming sections are 1, 2, 9, 10, 12 and 13, in which we added "parentage."

Section 4 of A.B. 191 deals with gestational carrier agreements for parentage orders. In the Seventy-seventh Legislative Session, a comprehensive reproduction bill passed, but family law attorneys recognized it had ambiguities. In gestational carrier agreements, a woman carries a baby for a couple. Many doctors use that NRS as a guide for their medical procedures. There was a very narrow window of how that law was used by physicians to create a child and then designate its parents. The bill expands the definition of "parent" and creates clarity based on different scenarios and circumstances of parenting.

Section 5 of A.B. 191 deals with when the State has control over adoptions. The family law arena has a well-recognized and well-utilized concept of the six-month home state of the child. Within that period, Nevada has control over the child for purposes of custody decisions as long as the child resides here. After the child leaves the State, residency here continues for six months. This is to prevent shopping for foreign children, kidnapping and people seeking more lenient adoption laws in other states.

The Uniform Child Custody Jurisdiction and Enforcement Act of 1968 uses the six-month residency requirement. The bill brings the same concept into the

adoption arena because of confusion and problems when a child is born in Nevada, an adoption agency takes custody of it and places it with potential adopting parents in, say, Michigan. Now, Michigan is scrambling to process the adoption within six months because until then, Nevada is the home state of the child.

Section 7 of A.B. 191 also deals with adoptions, with provisions about when prospective parents can file petitions to adopt in the State. The prior requirement was petitioners had to reside in the State unless the adoption was through a child welfare service. Family law attorneys have struggled with two different requirements. We are child-centric, and when we look at the six-month window, we do not consider where the petitioners reside because Nevada is overseeing the child's circumstances. It works well when the adoption is through a child welfare service and petitioners are not required to reside here because then adoption rates rise significantly. The section cleans up where and when attorneys control such adoptions. Section 8 also deletes the provision to coincide with section 7.

ASSEMBLYMAN KEITH PICKARD (Assembly District No. 22):
As a family law practitioner, I see great value in A.B. 191.

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VICE CHAIR CANNIZZARO:
We will close the hearing on A.B. 191. Seeing no more business before the Senate Committee on Judiciary, this meeting is adjourned at 2:12 p.m.

RESPECTFULLY SUBMITTED:

Pat Devereux,
Committee Secretary

APPROVED BY:

Nicole J. Cannizzaro, Vice Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	1		Agenda
	B	3		Attendance Roster