MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY

Eighty-first Session
April 22, 2021

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:00 p.m. on Thursday, April 22, 2021, Online and in Room 2135 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator James Ohrenschall
Senator Dallas Harris
Senator James A. Settelmeyer
Senator Ira Hansen
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT

Assemblywoman Susie Martinez (Assembly District No. 12)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Sophia Romero, Legal Aid Center of Southern Nevada
Bailey Bortolin, Nevada Coalition of Legal Service Providers
Warren Hardy, Nevada Pic A Part
Michael Morton, Senior Research Specialist, Nevada Gaming Control Board

CHAIR SCHEIBLE:
I will now open the hearing on Assembly Bill (A.B.) 284.

ASSEMBLY BILL 284 (1st Reprint): Revises provisions relating to statutory liens on motor vehicles. (BDR 9-761)

ASSEMBLYWOMAN SUSIE MARTINEZ (Assembly District No. 12):
This bill is intended to include in statute a mechanism to challenge storage and repair liens for motor vehicles. The lien statute, *Nevada Revised Statutes* (NRS) 108, provides for a way to challenge potentially frivolous liens on real property and mobile homes, but it does not supply any mechanism for a person's vehicle. Second to a home, a person's vehicle is the most expensive purchase the person will make. If a person takes the car to a mechanic, the mechanic is required to provide a written estimate for the cost of the repairs which the consumer must sign. If the repair costs more than $100 or 20 percent over the written estimate, the repair shop is required to get additional authorization from the customer. If this does not happen, the result is a surprise billing that the customer cannot afford.

Another issue is the mechanic will put off doing the work and then charge the customer storage fees for the time the vehicle was in the shop, even prior to the repairs being made. If a customer cannot pay, or there is a dispute over the amount of the bill, the shop will put a repair lien or a storage lien on the vehicle. Then they sell the vehicle. There is no formal way to challenge this type of lien.

This bill will provide a statutory mechanism to challenge frivolous liens to protect people from losing their vehicles improperly. This is good for consumers, but it will also help protect finance companies. Consumers are much more likely to default on loans when they no longer have the vehicles that were sold by their mechanic.

SOPHIA ROMERO (Legal Aid Center of Southern Nevada):
This bill specifically challenges frivolous liens placed on vehicles as one would a lien on a home or mobile home.

Section 1 of the bill mirrors the process already found in statute to challenge a frivolous mobile home lien. It gives a person challenging the lien the right to file a notice of opposition in the justice court and requires it to be served on the Department of Motor Vehicles (DMV). Once the notice of opposition is filed, the court will set a hearing within 14 calendar days after service. A court decision must be made so the lien or the amount of the lien is valid prior to the vehicle

being sold. This section also makes it clear that it does not affect the rights of the lender.

Section 3 sets forth the requirements of the notice of lien. It requires notice to the consumer of the amount necessary to satisfy the lien and a description of the process to challenge the lien.

Section 4 sets forth that the vehicle lien expires within six months of when it is filed with the DMV. This time frame is shorter than that for a mobile home lien because when a lien is placed on a mobile home, the owner is still in possession and using it. This is different than vehicles because when a vehicle is in the possession of a mechanic's shop, the owner of the vehicle is not in possession. Vehicles depreciate much more quickly than mobile homes do, especially if they are sitting in a lot not being used.

Throughout the bill there is language excluding tow cars as they have a certificate of public convenience and are governed by NRS 706.4463. The fees are set and are governed by Nevada Transportation Authority. Tow cars are routinely used by law enforcement.

SENATOR PICKARD:
I defended a repair shop over a disputed claim, and there is a mechanism to contest the liens. An administrative objection to the bond is made to the DMV because it has jurisdiction over the bond. The DMV moves forward with the litigation. The shop owner was able to demonstrate the repairs were requested, performed and the balance due, and the vehicle owner filed in justice court to prevent the sale of the automobile. That process allows the repair shop to have two remedies, one at the DMV level and one at the justice court level.

My concern is that the bill provides that liens expire by operation of law after six months and the process we went through took nearly a year. Unless there is a provision that allows for tolling of that statutory period during active litigation, the lienholders lose their rights after six months and the mechanic shops are left without remedy. Am I missing something? Is there a mechanism that is not expressly stated in the bill allowing a mechanic's shop to preserve the lien through the course of the litigation, or does this bill mean that the shop only has six months, and if it takes more than six months to resolve it, the shop loses the lien rights?

MS. ROMERO:
This limits the time frames so that once somebody files that notice of objection to the lien, the justice court has 14 days to set a hearing. It is one hearing. The court decides if the lien is valid or if the amount is valid. It would not take months to resolve. This is being proposed to avoid a situation like you are describing, and to streamline the process.

SENATOR PICKARD:
Do I understand that this would preclude an administrative remedy? The shop could not go to the bond for the same purpose? The justice court in my case refused to hear the matter until the administrative remedies were exhausted. The courts will regularly ignore the time constraints if they cannot handle them. If the justice court is backed up for a month, even though it says 14 days and we have to prioritize this, the court may take criminal matters over this because constitutionally it will be required to do so. The court may not be able to meet the 14-day requirement.

I am not antagonistic to the concept of the bill. I think there are many reasons why this should be passed. My concern is that we will hurt the mechanic shops that have done legitimate repairs and now have a customer who just does not want to pay. I would be happy to talk to the sponsor of this bill to maybe tighten up the language.

BAILEY BORTOLIN (Nevada Coalition of Legal Service Providers):
Andrew MacKay from the Nevada Franchised Auto Dealers Association asked me to put on the record that he could not be here but that the Association supports this bill.

WARREN HARDY (Nevada Pic A Part):
When we first saw this bill we noticed that it required a process that seemed reasonable. We subsequently learned from people that help us to process liens that the six-month limit is potentially problematic. I have spoken with the sponsor and the proponents of the bill and look forward to continuing to work with them. We have a different model than what the average tow companies have. We do not pursue the money in the lien, we pursue the vehicle as part of the pick-a-part industry so that we can repurpose those and process them for selling used parts. The majority of our tows are consensual. Occasionally, we will pick up and pay for a vehicle from an individual who wants it off their property, but they will not have the title or ownership of the vehicle. It is illegal

to buy a vehicle without ownership, so we will go into the lien process to perfect that. We are subject to the same law enforcement holds and other regulations that the tow industry testified to, and we look forward to the opportunity to continue talking with the sponsor.

CHAIR SCHEIBLE:
We will close the hearing on A.B. 284 and open the hearing on A.B. 7.

ASSEMBLY BILL 7 (1st Reprint): Revises provisions related to gaming. (BDR 41-279)

MICHAEL MORTON (Senior Research Specialist, Nevada Gaming Control Board):
The first reprint of A.B. 7 proposes five changes to the Gaming Control Act. I will present each subject from the bill and the proposed amendment (Exhibit B) the Board has submitted rather than go through the sections of the bill in chronological order.

The first proposed change is to a specific type of license currently in statute. Section 7 of the bill contains the definition of a "nonrestricted license," listing the four types of nonrestricted licenses issued by the Nevada Gaming Commission. Section 7 deletes the required licensure for the operation of an inter-casino linked system. Instead, section 2 amends the definition of "associated equipment" to include inter-casino linked systems. Pursuant to NRS 463.665, manufacturers and distributors of associated equipment register with the Nevada Gaming Control Board rather than seek licensure. Section 1.5, paragraph (c); and sections 4, 6, 7, 8, 10, 11, 12, 13, 15, 16, 17, 18, 19, 21 and 23 of the bill make conforming changes by removing other references to inter-casino linked systems, as the term is now just included in the definition of "associated equipment." The only other specific reference to inter-casino linked systems is in section 9 of the bill, amending NRS 463.15993 and giving the Commission authority to regulate inter-casino linked systems.

The Board is proposing this change for registration of inter-casino linked systems as associated equipment, rather than full licensure, as a recognition of technological advancements—both in the industry and at the Board. These advancements have assured the Board the technology involved with the operation of inter-casino linked systems no longer poses any potential danger to the gaming industry requiring the full investigation involved in the issuance of a

gaming license. This will allow for quicker deployment of new or modified inter-casino linked systems onto the gaming floor.

The last change related to inter-casino linked systems is in section 20 of the bill. This section requires the registration of those associated with the manufacture and distribution of associated equipment. The Board is proposing changes to section 20 that mirror other registrations the Board currently issues. This allows the Board to set the registration fee in regulation, just as with all other registrations, and extend the renewal period to match all other Board registrations.

Sections 1 and 3 of A.B. 7 make changes to the way new games are approved for play by the Board and the Commission. A new game cannot be deployed onto a gaming floor for use unless it has been granted an approval by the Commission. Section 1 allows a game to be deployed upon a positive recommendation of the Board, while giving the Commission 60 days to make a final disposition on the application for a new game. The Board is proposing this change to the approval of new games to ensure the proper vetting of them while also ensuring they can be deployed as quickly and safely as possible.

The definitions of "game" and "gambling game" found in NRS 463.0152 contain terms that are racially offensive. While the Board has traditionally deferred policy decisions related to gaming to the Legislature, members also have a duty to ensure that regulated gaming in Nevada is not offensive to its own residents. Section 3 of A.B. 7 removes the terms.

Sections 2, 3 and 5 of this bill remove the word "electromechanical" from various portions of definitions in NRS 463, as the word is obsolete relating to the definitions.

Section 23 repeals NRS 463.800, enacted in 2015 to authorize entity wagering. As written, NRS 463.800 authorizes a race book or sports pool to accept wagers from a business entity that established a wagering account. In practice, business entities were created to pool individuals' money in hopes of a return on the "investment." However, since becoming effective in 2015, entity wagering has proven to be a black mark on the industry, leading to federal investigations and indictments related to entity wagering as Ponzi schemes. The Board is proposing full repeal of this provision.

As discussed in both the hearing and work session for this bill in the Assembly, the Board has continued to work with the Department of Taxation on an issue that affects gaming licensees and certain large third-party ticket sellers. The Board is proposing that NRS 368A.200, subsection 3, be amended to remove the requirement to display the admission charge on a ticket for an event that is subject to the Live Entertainment Tax, Exhibit B.

On the surface, the term "admission charge" appears to be a simple number. In practice, admission charges become very complicated and can be comprised of many components involving the ticket price, multiple service charges and other fees. Due to the limitations of some ticketing systems, such as Ticketmaster, the ticket price, service charges and fees must all be displayed as individual line items on the ticket in order for the system reports to classify each item into the proper category on accounting reports. Therefore, these components may not be lumped together into one admission charge number for ticket display purposes. The categorization becomes even more challenging when service charges and fees are split between parties. The taxability of that split will depend on who implemented the fee and what parties retain a portion thereof. Because only a portion of that fee is taxable and therefore part of the total admission charge, displaying this split charge is sometimes impossible for gaming licensees.

State statute requires the Board and the Department of Taxation (DT) to collaborate on the collection of the Live Entertainment Tax. The DT has informed the Board that it supports this proposal. This does not change the calculation or collection of the Live Entertainment Tax in any way. Rather, it simply removes the requirement to display the technically defined admission charge on the face of a ticket.

SENATOR OHRENSCHALL:
Regarding section 1, in terms of inaction by the Commission on a new game, will that be a major change in policy if there is a new game or something new has come to market? Please give us more information about the proposed change in section 1.

MR. MORTON:
When an application for a new game is submitted to the Board, the Technology Division reviews the application and the technology, and the new game is submitted for a field trial. Under the supervision of the Technology Division, the

game is deployed onto certain gaming floors, usually one or two different casinos. The Technology Division tracks the performance of that machine, making sure that the game is working properly according to the application. The Technology Division will submit that information to the Board, and the Board will make its recommendation to the Commission. The application for the new game will be placed on the next Commission agenda. In practice, all new games for many years have been on the consent agenda for both the Board and the Commission. This proposal allows the game to be fully deployed for use on the gaming room floor after the positive Board recommendation. This proposal gets the game to market quickly for both the applicant and licensee. The actual internal practice is not changing much.

SENATOR HARRIS:
Can you tell me a little bit about the necessity for the proposals in this bill? What prompted the Board to come forward and request these changes?

MR. MORTON:
The bill covers a broad range of subjects, so I will start with how I presented it beginning with inter-casino linked systems. When those systems were created, probably two decades ago, it was new technology linking machines between casinos—sometimes casinos not owned by the same licensee. At that point, technology in the gaming industry was nascent, so we required full licensure of that technology. Full licensure at the Board is an arduous process. The application and investigations cost tens of thousands of dollars on average, sometimes upward of six figures, to be granted a privileged Nevada gaming license. As the Board and the industry improved on their technological standards, this technology no longer poses a threat that would necessitate a new or modified inter-casino linked system expending that amount of money to become licensed and to the market.

For new game approvals, as the Board and the industry have advanced technologically, we can now study, review and approve new games much faster. These are ways to get new products onto casino floors and make sure that the industry in Nevada remains the gold standard as gaming expands nationally and internationally.

Considering entity wagering, this was a new concept in 2015. The Board had concerns about this concept and this industry. Then the FBI stepped in and indicted people and businesses for doing entity wagering illegally, making it into

a Ponzi scheme. The Board feels that it is best to repeal this section to make sure Nevada is held to the highest standards.

We are trying to streamline the processes of the Live Entertainment Tax for both licensees and consumers, especially now that most tickets are bought online. Consumers know exactly what they pay when they press purchase, so we are trying to ensure that the Board is not citing licensees for technical violations they cannot fix.

SENATOR HARRIS:
I know this is not a fiscal committee, but I noted that the fiscal note is zero. It sounds like you expect to streamline some processes based on this bill. Do you estimate that there would be some savings from this legislation? If so, why is that not reflected on the fiscal note?

MR. MORTON:
The Board's budget is unique in that we are not fully funded by the General Fund. The Board is required to raise about one-third of its own budget in investigative fees for licensure. Those can be done through investigative fees for new applicants or for current applicants that hold licenses and have a revolving account with the Board as we do with our regular investigations. Working with the Board's fiscal staff, we found that the difference between licensure and registration for the seven inter-casino linked systems licensees would not affect the budget since all of them hold other nonrestricted gaming licenses. The Board's fiscal staff did not see a material fiscal impact for this bill.

SENATOR HANSEN:
We had a bill on esports. Does this have anything to do whatever with esports or anything like that? We are talking about revising the definition of game and gambling games.

MR. MORTON:
That is correct.

CHAIR SCHEIBLE:
In section 3 concerning the definition of "game," help us understand what makes something a whole new game as opposed to a new brand or new format. I will admit to sitting down at a bar with video poker before, and there is not just one video poker option, there are many, including Deuces and Hold 'Em. I

do not see those listed here. What makes something a new game versus a subset of an approved game?

MR. MORTON:
If you are sitting at a video poker machine, the actual machine is the game box. A game box can have up to 30 different games loaded onto it. Each game will have to come forward as a new application.

CHAIR SCHEIBLE:
Those specifically mentioned, like "Deuces," are not listed in section 3, so they will have to apply for one of these approvals?

MR. MORTON:
Correct. The definition of games or gambling game is historical. Reading the statutory definition, some of those that are specifically called out are still played, and some you have probably never heard of before. This is a definition that was actually used across multiple states when gaming started to become legalized. Many of them were the illegal gambling games that were done in the early twentieth century. Listing out the games is probably obsolete. The keywords are "is it a game of chance played for money, property, checks, credit or anything of value." Whether it is listed or not, any game that is taking money and is purely a game of chance is a defined game. Any game that is a game of chance cannot be deployed onto the gaming floor unless it gains approval by the Commission, whether it is on the list or not.

CHAIR SCHEIBLE:
Is there an existing list of approved games?

MR. MORTON:
I believe our Technology Division keeps that list. The only thing this bill changes related to new game approvals is the efficiency with which the approval happens. Right now, the Board makes a recommendation just like for all different types of approvals and licenses, and it goes to the Commission. The Commission has to give final approval before anything can happen. Based on Board efficiency, we believe that it is safe enough that upon recommendation of the Board, the game can be deployed.

SENATOR PICKARD:
Can you explain how the inter-linked systems were problematic and why we are taking those out?

MR. MORTON:
They were never problematic, but when the technology was created, they were new. The Board wanted to ensure under their statutory duties that this new technology was going to be safe for the consumer. In the ensuing years, we have received new applications for modifications of inter-casino linked systems. The Technology Division has assured the Board that this technology no longer poses such a risk that we need to call them forward for full licensure.

SENATOR PICKARD:
We are not eliminating these forms, we are taking them out of statute and rolling them into the general list of approved gaming systems. Correct?

MR. MORTON:
Instead of full licensure, they will register with the Board. The definition of associated equipment is equipment that is associated with gaming but tangentially. Associated equipment registered with the Board in section 2 of the bill go through a much more streamlined process for that registration. We still regularly inspect and review this equipment just like anything with a full license. This proposal is a quicker deployment onto the gaming floor for associated equipment.

CHAIR SCHEIBLE:
I will close the hearing on A.B. 7 and open the hearing on A.B. 8.

ASSEMBLY BILL 8: (1st Reprint): Makes various changes relating to gaming. (BDR 41-278)

MR. MORTON:
The first reprint of A.B. 8 proposes changes to the Gaming Control Act. I will present each change from the bill and the proposed amendment (Exhibit C) by subject, rather than go through the sections of the bill in chronological order.

Sections 1 and 5 of the bill allow for the use of electronic signatures on credit instruments issued by gaming licensees. The definition of "credit instrument" in NRS 463.01467 requires the instrument to be evidenced by a writing. Changing

the word "writing" to "record" will allow for electronic credit instruments, specifically known in the industry as markers. Additionally, section 5, subsection 9 provides authority to the Commission to adopt regulations relating to the use and validity of electronic signatures on credit instruments used in gaming.

Section 2 of this bill adds to the definition of "gaming employee" in NRS 463.0157 to include those employees who are required to register with the Board to operate as cash access and wagering instrument service providers. It also amends those who the Commission determines by regulation are required to register. While this appears to be an expansion of those persons who have to register with the Board, the cash access and wagering instrument service provider employees already have to register but were never included in the definition of "gaming employee." The catchall provision being added is the same provision that exists in the definition of "gaming employee" in NRS 463A.020. Therefore, this bill is making the definitions more similar between the chapters.

Sections 6 and 8 amend the definition of "slot machine wagering voucher" to account for the facts that wagering vouchers are utilized on more than just slot machines, and the vouchers can be evidenced in digital forms, such as "QR," or quick response, codes.

Section 4 of A.B. 8 removes a longstanding and inadvertent conflict within NRS 463.080. From the creation of the Board, it has been required to create its own comprehensive plan of employment pursuant to subsection 6 of NRS 463.080. When State law was amended to comply with the Fair Labor Standards Act in 1993, amendments were made to all employment-related provisions of NRS. This included those of the Board, hindering the Board from implementing its required plan of employment. The proposal in section 4 fixes this issue.

Section 3 amends the definition of "gross revenue" to clarify the types of entry fees for contests and tournaments that are included in the calculation of a licensee's monthly gross revenue. The proposed amendment to A.B. 8 would make a small change to this definition to ensure that all types of casino payments are captured, including entry fees to contests and tournaments.

The final portion of this bill addresses how a licensee accounts for the final payment on credit instruments issued by the licensee upon closure of a gaming

operation. When a licensee concludes gaming operations, they must either pay a fee on the final tax return of the licensee based on the outstanding value of all outstanding credit instruments or a monthly payment based on all compensation received on paid credit instruments. Section 7 removes the option to pay monthly since it is an obsolete provision that has not been used by licensees that cease gaming operations.

SENATOR PICKARD:
Section 2, subsection 1 through to paragraph (cc) of the bill takes a couple of pages to go over the different types of gaming employees. Then we have a catch-all provision in this section of the bill that covers somebody we know about who is missed. This seems like a really broad statement that applies to all of those listed and to every other employee, and I suspect that is not the intent. Can you tell me who we are trying to anticipate we have not specified?

MR. MORTON:
There is a lot in NRS 463. The Legislature designates broad authority to the Board to regulate large and discrete sections of the gaming industry, for example, service providers that are dealt with in statute. As the different segments of the industry expand or contract, new types of employees may be added by the industry. This gives the Commission the ability to decide whether the new types of employees must register as gaming employees. A potential example—as technology advances and credit instruments are expanded in casinos, we are proposing that they are allowed to be done electronically.

A nascent industry may pop up to further the specific issuance of electronic markers. This provision would give the Commission the ability to adopt regulations regarding registering the employees in that industry if they find their position has a lot of authority over what they are issuing, how they are issuing the markers and the technology surrounding how it is issued. This eliminates a two-year wait for new legislation while the industry grows and the Commission has no authority over them.

SENATOR PICKARD:
My thought is that we have given the Commission authority to regulate who is and who is not under its purview. This is a catchall that gives the Commission the ability to pick and choose who they are going to require to register without eliminating any of the others. We seem to be listing a large number of specific people and then giving the Commission the ability to catch anybody else it

wants rather than just giving it, through this section, the authority to do that without having a specific list. Why are we not giving the authority that is in this bill?

MR. MORTON:
A good example of how this has worked—and I do not intend to speak for former Legislatures—but section 2 also includes a new specific type of employees for cash access and wagering service providers. You may remember that last Session the Board had a bill that bifurcated different types of service providers. This type of employer was never in this section since the employer had to be licensed. It is the understanding of the industry, and of the Board and the Commission, that cash access and wagering service providers' employees have to be registered gaming employees because they are employees of the licensee. Then they became a registered entity rather than licensees and we are coming back to add them to this section.

It is a two-year process. New segments and new ideas come up in the gaming industry, and the Commission has the opportunity to determine whether registrations of the employees are necessary. In two years, the Commission comes back to the Legislature and adds the new companies and their employees specifically into the statutes.

SENATOR PICKARD:
That makes sense. This gives them the ability to, in the short term, identify those that need to be licensed with the intent to come back in a subsequent legislative session and add them into the expressed inclusions.

Finally, in section 3, subsection 1, paragraph (d), where we are deleting contests or tournaments in conjunction with interactive gaming from this subsection, these are not synonymous, typically, so why are we removing these?

MR. MORTON:
The definition of gross revenue has been amended a few times in other sessions. Interactive gaming in the statutes is dealt with differently from a tax perspective. Those licensees pay a large up-front cost. When interactive gaming was introduced in statute, this was never removed. They are regulated and taxed in a different way than the gross revenue definition that goes to the percentage fee licensees pay every month.

SENATOR PICKARD:
This is eliminating a double-whammy where, because we changed the taxation, arguably they would be taxed twice on the same dollar.

MR. MORTON:
That has never happened, but yes, that is what this will fix. In the amendment document that only deals with section 3, Exhibit C, the change from cash to cash plus cash equivalents deals with consumers who may pay with checks, a digital wallet or something else.

SENATOR OHRENSCHALL:
Regarding section 1, the new definition of credit instrument at NRS 463.01467, do you think the Board or the Commission is going to adopt any new precautions for the problem gamblers who now may find it easier to rack up markers and get deeper in debt? This changes the current requirements when they must sign a paper to get that credit. If this passes, it will be easier for someone to get credit and get deeper in debt when it is done electronically. I wonder if the Board or the Commission has any position on that.

MR. MORTON:
In general, yes. The Board does intend to adopt regulations surrounding the electronic credit instruments. From a practical point of view, signatures in general have evolved. This would require a wet signature and would allow for a customer signing an iPad. There is new technology licensees have deployed that would allow for contactless markers and credit instruments. The application and approval for credit is not changing. The licensee will decide to grant the credit to the consumer.

CHAIR SCHEIBLE:
I will now close the hearing on A.B. 8. The meeting is adjourned at 1:59 p.m.

RESPECTFULLY SUBMITTED:

Sally Ramm,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit Letter**	**Begins on Page**	**Witness / Entity**	**Description**
	A	1		Agenda
A.B. 7	B	1	Nevada Gaming Control Board	Proposed Amendment
A.B. 8	C	1	Nevada Gaming Control Board	Proposed Amendment