

ASSEMBLY BILL NO. 114—ASSEMBLYMEN HORNE, KIRKPATRICK, FRIERSON, HEALEY, BOBZIEN; PAUL ANDERSON, EISEN, ELLISON, FLORES, HARDY, HICKEY AND KIRNER

FEBRUARY 13, 2013

JOINT SPONSORS: SENATORS ATKINSON, KIHUEN, DENIS, SMITH, MANENDO; FORD, HAMMOND AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing interactive gaming. (BDR 41-97)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to gaming; defining certain terms related to interactive gaming; authorizing the Governor to enter into agreements with other states to conduct interactive gaming; revising provisions relating to the Gaming Policy Committee; prohibiting the issuance of licenses to operate interactive gaming to certain persons; revising provisions related to interactive gaming; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law authorizes certain gaming establishments to obtain a license to
- 2 operate interactive gaming. (NRS 463.750) **Sections 2-5** of this bill define certain
- 3 terms for the purposes of determining whether a person may be found suitable for a
- 4 license to operate interactive gaming. **Section 6** of this bill authorizes the Governor
- 5 to enter into agreements with other states to allow patrons of those states to
- 6 participate in interactive gaming.
- 7 Existing law establishes the Gaming Policy Committee and provides for the
- 8 composition and duties of the Committee. (NRS 463.021) **Section 8** of this bill: (1)
- 9 adds to the Committee a representative of academia who possesses knowledge of
- 10 matters related to gaming; (2) authorizes the Governor, as Chair of the Committee,
- 11 to appoint a subcommittee on gaming education; and (3) specifies the duties of the
- 12 subcommittee.



13 Existing law requires the Nevada Gaming Commission to establish by
14 regulation that a license to operate interstate interactive gaming does not become
15 effective until: (1) the passage of federal legislation authorizing interactive gaming;
16 or (2) the United States Department of Justice notifies the Commission or the State
17 Gaming Control Board that interactive gaming is permissible under federal law.
18 (NRS 463.750) **Section 10** of this bill removes the condition that a license to
19 operate interactive gaming does not become effective until the passage of federal
20 legislation or notice providing that interactive gaming is permissible under federal
21 law. **Section 10** also prohibits the issuance of a license to operate interactive
22 gaming for a period of 10 years after the effective date of this bill for certain
23 entities that, after December 31, 2006, operated interactive gaming involving
24 patrons located in the United States. Finally, **section 10** authorizes the Commission
25 to waive such prohibition if the Commission determines that those entities
26 complied with all applicable provisions of federal law or the law of any state when,
27 after December 31, 2006, those entities operated interactive gaming involving
28 patrons located in the United States.

29 **Section 11** of this bill increases the fees for the initial issuance and the renewal
30 of a license for an establishment to operate interactive gaming. (NRS 463.765)

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

1 **Section 1.** Chapter 463 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this
3 act.

4 **Sec. 2.** *“Covered asset” means any tangible or intangible*
5 *asset specifically designed for use in, and used in connection with,*
6 *the operation of an interactive gaming facility that, after*
7 *December 31, 2006, operated interactive gaming involving patrons*
8 *located in the United States, including, without limitation:*

9 1. *Any trademark, trade name, service mark or similar*
10 *intellectual property under which an interactive gaming facility*
11 *was identified to the patrons of the interactive gaming facility;*

12 2. *Any information regarding persons via a database,*
13 *customer list or any derivative of a database or customer list; and*

14 3. *Any software or hardware relating to the management,*
15 *administration, development, testing or control of an interactive*
16 *gaming facility.*

17 **Sec. 3.** 1. *“Covered person” means any person who:*

18 (a) *Has at any time owned, in whole or in significant part, an*
19 *interactive gaming facility or an entity operating an interactive*
20 *gaming facility that:*

21 (1) *After December 31, 2006, operated interactive gaming*
22 *involving patrons located in the United States; and*

23 (2) *Acted with knowledge of the fact that such operation of*
24 *interactive gaming involved patrons located in the United States;*



1 (b) After December 31, 2006, acted, or proposed to act, on
2 behalf of a person described in paragraph (a) and provided, or
3 proposed to provide, to such person any services as an interactive
4 gaming service provider, with knowledge that the interactive
5 gaming facility's operation of interactive gaming involved patrons
6 located in the United States; or

7 (c) Purchased or acquired, directly or indirectly:

8 (1) In whole or in significant part, a person described in
9 paragraph (a) or (b); or

10 (2) Any covered assets, in whole or in part, of such person.

11 2. As used in this section:

12 (a) "Interactive gaming service provider" has the meaning
13 ascribed to it in NRS 463.677.

14 (b) "Significant part" means with respect to ownership,
15 purchase or acquisition of an entity, interactive gaming facility or
16 person, holding 5 percent or more of the entity, interactive gaming
17 facility or person, or any amount of ownership that provides
18 control over the entity, interactive gaming facility or person.

19 **Sec. 4. 1. "Interactive gaming facility" means any Internet**
20 **website, or similar communications facility in which transmissions**
21 **may cross any state's boundaries, through which any person**
22 **operates interactive gaming through the use of communications**
23 **technology.**

24 2. As used in this section, "communications technology" has
25 the meaning ascribed to it in NRS 463.016425.

26 **Sec. 5. "Operate interactive gaming" means to operate, carry**
27 **on, conduct, maintain or expose for play interactive gaming.**

28 **Sec. 6. The Governor, on behalf of the State of Nevada, is**
29 **authorized to:**

30 1. Enter into agreements with other states, or authorized
31 agencies thereof, to enable patrons in the signatory states to
32 participate in interactive gaming offered by licensees in those
33 signatory states; and

34 2. Take all necessary actions to ensure that any agreement
35 entered into pursuant to this section becomes effective.

36 **Sec. 7. NRS 463.013 is hereby amended to read as follows:**

37 463.013 As used in this chapter, unless the context otherwise
38 requires, the words and terms defined in NRS 463.0133 to
39 463.01967, inclusive, **and sections 2 to 5, inclusive, of this act** have
40 the meanings ascribed to them in those sections.

41 **Sec. 8. NRS 463.021 is hereby amended to read as follows:**

42 463.021 1. The Gaming Policy Committee, consisting of the
43 Governor as Chair and ~~10~~ **11** members, is hereby created.

44 2. The Committee must be composed of:



1 (a) One member of the Commission, designated by the Chair of
2 the Commission;

3 (b) One member of the Board, designated by the Chair of the
4 Board;

5 (c) One member of the Senate appointed by the Legislative
6 Commission;

7 (d) One member of the Assembly appointed by the Legislative
8 Commission;

9 (e) One enrolled member of a Nevada Indian tribe appointed by
10 the Inter-Tribal Council of Nevada, Inc.; and

11 (f) Five members appointed by the Governor for terms of 2
12 years as follows:

13 (1) Two representatives of the general public;

14 (2) Two representatives of nonrestricted gaming licensees;

15 ~~and~~

16 (3) One representative of restricted gaming licensees **H** ;
17 *and*

18 *(4) One representative of academia who possesses*
19 *knowledge of matters related to gaming.*

20 3. Members who are appointed by the Governor serve at the
21 pleasure of the Governor.

22 4. Members who are Legislators serve terms beginning when
23 the Legislature convenes and continuing until the next regular
24 session of the Legislature is convened.

25 5. Except as otherwise provided in subsection 6, the Governor
26 may call meetings of the Gaming Policy Committee for the
27 exclusive purpose of discussing matters of gaming policy. The
28 recommendations concerning gaming policy made by the
29 Committee pursuant to this subsection are advisory and not binding
30 on the Board or the Commission in the performance of their duties
31 and functions.

32 6. An appeal filed pursuant to NRS 463.3088 may be
33 considered only by a Review Panel of the Committee. The Review
34 Panel must consist of the members of the Committee who are
35 identified in paragraphs (a), (b) and (e) of subsection 2 and
36 subparagraph (1) of paragraph (f) of subsection 2.

37 *7. The Governor, as Chair of the Committee, may appoint a*
38 *subcommittee on gaming education. A subcommittee appointed*
39 *pursuant to this subsection must:*

40 *(a) Contain not more than five members who serve at the*
41 *pleasure of the Governor; and*

42 *(b) Be chaired by the person selected by the Governor as chair*
43 *of the subcommittee.*

44 *8. A subcommittee created pursuant to subsection 7 shall:*



1 (a) Review and evaluate all public gaming-related educational
2 entities in this State, including, without limitation, the Institute for
3 the Study of Gambling and Commercial Gaming of the University
4 of Nevada, Reno, and the UNLV International Gaming Institute
5 of the William F. Harrah College of Hotel Administration of the
6 University of Nevada, Las Vegas, to determine how to align such
7 entities with the needs of the gaming industry in this State;

8 (b) Study and analyze the workforce and technology needs of
9 the gaming industry in this State to determine how the public
10 gaming-related educational entities may satisfy those needs;

11 (c) Study the potential for leveraging gaming-related
12 competencies and technologies developed by public gaming-
13 related educational entities into other industries; and

14 (d) Report any findings and recommendations to the
15 Committee.

16 **Sec. 9.** NRS 463.745 is hereby amended to read as follows:

17 463.745 The Legislature hereby finds and declares that:

18 1. The State of Nevada leads the nation in gaming regulation
19 and enforcement, such that the State of Nevada is uniquely
20 positioned to develop an effective and comprehensive regulatory
21 structure related to interactive gaming.

22 2. A comprehensive regulatory structure, coupled with strict
23 licensing standards, will ensure the protection of consumers,
24 *including minors and vulnerable persons*, prevent fraud, guard
25 against underage and problem gambling, *avoid unauthorized use*
26 *by persons located in jurisdictions that do not authorize interactive*
27 *gaming* and aid in law enforcement efforts.

28 3. To provide for licensed and regulated interactive gaming,
29 ~~and to prepare for possible federal legislation,~~ the State of Nevada
30 must develop the necessary structure for licensure, regulation and
31 enforcement.

32 **Sec. 10.** NRS 463.750 is hereby amended to read as follows:

33 463.750 1. The Commission shall, with the advice and
34 assistance of the Board, adopt regulations governing the licensing
35 and operation of interactive gaming.

36 2. The regulations adopted by the Commission pursuant to this
37 section must:

38 (a) Establish the investigation fees for:

39 (1) A license to operate interactive gaming;

40 (2) A license for a manufacturer of interactive gaming
41 systems;

42 (3) A license for a manufacturer of equipment associated
43 with interactive gaming; and

44 (4) A license for a service provider to perform the actions
45 described in paragraph (a) of subsection 5 of NRS 463.677.



1 (b) Provide that:

2 (1) A person must hold a license for a manufacturer of
3 interactive gaming systems to supply or provide any interactive
4 gaming system, including, without limitation, any piece of
5 proprietary software or hardware;

6 (2) A person may be required by the Commission to hold a
7 license for a manufacturer of equipment associated with interactive
8 gaming; and

9 (3) A person must hold a license for a service provider to
10 perform the actions described in paragraph (a) of subsection 5 of
11 NRS 463.677.

12 (c) ~~Set~~ *Except as otherwise provided in subsections 6 to 10,*
13 *inclusive, set* forth standards for the suitability of a person to be
14 licensed as a manufacturer of interactive gaming systems,
15 manufacturer of equipment associated with interactive gaming or a
16 service provider as described in paragraph (b) of subsection 5 of
17 NRS 463.677 that are as stringent as the standards for a
18 nonrestricted license.

19 (d) Set forth provisions governing:

20 (1) The initial fee for a license for a service provider as
21 described in paragraph (b) of subsection 5 of NRS 463.677.

22 (2) The fee for the renewal of such a license for such a
23 service provider and any renewal requirements for such a license.

24 (3) Any portion of the license fee paid by a person licensed
25 to operate interactive gaming, pursuant to subsection 1 of NRS
26 463.770, for which a service provider may be liable to the person
27 licensed to operate interactive gaming.

28 (e) Provide that gross revenue received by an establishment
29 from the operation of interactive gaming is subject to the same
30 license fee provisions of NRS 463.370 as the games and gaming
31 devices of the establishment . ~~Unless federal law otherwise~~
32 ~~provides for a similar fee or tax.~~

33 (f) Set forth standards for the location and security of the
34 computer system and for approval of hardware and software used in
35 connection with interactive gaming.

36 (g) Define “equipment associated with interactive gaming,”
37 “interactive gaming system,” “manufacturer of equipment
38 associated with interactive gaming,” “manufacturer of interactive
39 gaming systems,” “operate interactive gaming” and “proprietary
40 hardware and software” as the terms are used in this chapter.

41 ~~Provide that any license to operate interstate interactive~~
42 ~~gaming does not become effective until:~~

43 ~~(1) A federal law authorizing the specific type of interactive~~
44 ~~gaming for which the license was granted is enacted; or~~



~~(2) The United States Department of Justice notifies the Board or Commission in writing that it is permissible under federal law to operate the specific type of interactive gaming for which the license was granted.~~

3. Except as otherwise provided in subsections 4 and 5, the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 700,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is 45,000 or more but less than 700,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

4. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection 3;



1 (2) The affiliate is located in the same county as the
2 establishment; and

3 (3) The establishment has held a nonrestricted license for at
4 least 5 years before the date on which the application is filed; and

5 (b) Require an affiliate that receives a license pursuant to this
6 subsection to comply with any applicable provision of this chapter.

7 5. The Commission may issue a license to operate interactive
8 gaming to an applicant that meets any qualifications established by
9 federal law regulating the licensure of interactive gaming.

10 6. *Except as otherwise provided in subsections 7, 8 and 9:*

11 (a) *A covered person may not be found suitable for licensure*
12 *under this section within 10 years after the effective date of this*
13 *act;*

14 (b) *A covered person may not be found suitable for licensure*
15 *under this section unless such covered person expressly submits to*
16 *the jurisdiction of the United States and of each state in which*
17 *patrons of interactive gaming operated by such covered person*
18 *after December 31, 2006, were located, and agrees to waive any*
19 *statutes of limitation, equitable remedies or laches that otherwise*
20 *would preclude prosecution for a violation of any provision of*
21 *federal law or the law of any state in connection with such*
22 *operation of interactive gaming after that date;*

23 (c) *A person may not be found suitable for licensure under this*
24 *section within 10 years after the effective date of this act if such*
25 *person uses a covered asset for the operation of interactive*
26 *gaming; and*

27 (d) *Use of a covered asset is grounds for revocation of an*
28 *interactive gaming license, or a finding of suitability, issued under*
29 *this section.*

30 7. *The Commission, upon recommendation of the Board, may*
31 *waive the requirements of subsection 6 if the Commission*
32 *determines that:*

33 (a) *In the case of a covered person described in paragraphs (a)*
34 *and (b) of subsection 1 of section 3 of this act:*

35 (1) *The covered person did not violate, directly or indirectly,*
36 *any provision of federal law or the law of any state in connection*
37 *with the ownership and operation of, or provision of services to,*
38 *an interactive gaming facility that, after December 31, 2006,*
39 *operated interactive gaming involving patrons located in the*
40 *United States; and*

41 (2) *The assets to be used or that are being used by such*
42 *person were not used after that date in violation of any provision*
43 *of federal law or the law of any state;*

44 (b) *In the case of a covered person described in paragraph (c)*
45 *of subsection 1 of section 3 of this act, the assets that the person*



1 *will use in connection with interactive gaming for which the*
2 *covered person applies for a finding of suitability were not used*
3 *after December 31, 2006, in violation of any provision of federal*
4 *law or the law of any state; and*

5 *(c) In the case of a covered asset, the asset was not used after*
6 *December 31, 2006, in violation of any provision of federal law or*
7 *the law of any state, and the interactive gaming facility in*
8 *connection with which the asset was used was not used after that*
9 *date in violation of any provision of federal law or the law of any*
10 *state.*

11 *8. With respect to a person applying for a waiver pursuant to*
12 *subsection 7, the Commission shall initiate a proceeding to afford*
13 *the person an opportunity to be heard and present evidence. Such*
14 *proceeding must be conducted pursuant to NRS 463.3125 to*
15 *463.3145, inclusive, except to the extent inconsistent with this*
16 *subsection. The Commission shall act as finder of fact and is*
17 *entitled to evaluate the credibility of witnesses and persuasiveness*
18 *of the evidence. The affirmative votes of a majority of the whole*
19 *Commission are required to grant or deny such waiver. The Board*
20 *shall make appropriate investigations to determine any facts or*
21 *recommendations that it deems necessary or proper to aid the*
22 *Commission in making determinations pursuant to this subsection*
23 *and subsection 7.*

24 *9. The Commission shall make a determination pursuant to*
25 *subsections 7 and 8 with respect to a covered person or covered*
26 *asset without regard to whether the conduct of the covered person*
27 *or the use of the covered asset was ever the subject of a criminal*
28 *proceeding for a violation of any provision of federal law or the*
29 *law of any state, or whether the person has been prosecuted and*
30 *the prosecution terminated in a manner other than with a*
31 *conviction.*

32 *10. Any person applying for a waiver pursuant to subsection*
33 *7 may seek judicial review of the Commission's determination*
34 *pursuant to NRS 463.315 to 463.318, inclusive.*

35 *11. It is unlawful for any person, either as owner, lessee or*
36 *employee, whether for hire or not, either solely or in conjunction*
37 *with others, to operate interactive gaming:*

38 *(a) Until the Commission adopts regulations pursuant to this*
39 *section; and*

40 *(b) Unless the person first procures, and thereafter maintains in*
41 *effect, all appropriate licenses as required by the regulations adopted*
42 *by the Commission pursuant to this section.*

43 ~~11~~ *12. A person who violates subsection ~~10~~ 11 is guilty of a*
44 *category B felony and shall be punished by imprisonment in the*
45 *state prison for a minimum term of not less than 1 year and a*



1 maximum term of not more than 10 years or by a fine of not more
2 than \$50,000, or both.

3 **Sec. 11.** NRS 463.765 is hereby amended to read as follows:

4 463.765 1. Before issuing an initial license for an
5 establishment to operate interactive gaming, the Commission shall
6 charge and collect from the establishment a license fee of
7 ~~[\$500,000]~~ **\$1,000,000.**

8 2. Each initial license for an establishment to operate
9 interactive gaming must be issued for a 2-year period beginning on
10 January 1 of the first year and ending on December 31 of the second
11 year.

12 3. Notwithstanding the provisions of subsections 1 and 2 to the
13 contrary, a license for an establishment to operate interactive
14 gaming may be issued after January 1 of a calendar year for a period
15 beginning on the date of issuance of the license and ending on the
16 second December 31 following the date of issuance of the license.
17 Before issuing an initial license pursuant to this subsection, the
18 Commission shall charge and collect from the establishment a
19 license fee of ~~[\$500,000]~~ **\$1,000,000** prorated by 1/24 for each full
20 month between January 1 of the calendar year and the date of
21 issuance of the license.

22 4. Before renewing a license issued pursuant to this section, but
23 in no case later than the second December 31 after the license was
24 issued or previously renewed, the Commission shall charge and
25 collect a renewal fee of ~~[\$250,000]~~ **\$500,000** for the renewal of the
26 license for the immediately following 1-year period.

27 **Sec. 12.** NRS 463.770 is hereby amended to read as follows:

28 463.770 1. ~~{Unless federal law otherwise provides for a~~
29 ~~similar fee or tax, all}~~ **All** gross revenue from operating interactive
30 gaming received by an establishment licensed to operate interactive
31 gaming, regardless of whether any portion of the revenue is shared
32 with another person, must be attributed to the licensee and counted
33 as part of the gross revenue of the licensee for the purpose of
34 computing the license fee required by NRS 463.370.

35 2. A manufacturer of interactive gaming systems who is
36 authorized by an agreement to receive a share of the revenue from
37 an interactive gaming system from an establishment licensed to
38 operate interactive gaming is liable to the establishment for a
39 portion of the license fee paid pursuant to subsection 1. The portion
40 for which the manufacturer of interactive gaming systems is liable is
41 6.75 percent of the amount of revenue to which the manufacturer of
42 interactive gaming systems is entitled pursuant to the agreement.

43 3. For the purposes of subsection 2, the amount of revenue to
44 which the manufacturer of interactive gaming systems is entitled



1 pursuant to an agreement to share the revenue from an interactive
2 gaming system:

3 (a) Includes all revenue of the manufacturer of interactive
4 gaming systems that is the manufacturer of interactive gaming
5 systems' share of the revenue from the interactive gaming system
6 pursuant to the agreement; and

7 (b) Does not include revenue that is the fixed purchase price for
8 the sale of a component of the interactive gaming system.

9 **Sec. 13.** This act becomes effective upon passage and
10 approval.

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