

ASSEMBLY BILL NO. 578—COMMITTEE ON JUDICIARY

(ON BEHALF OF GAMING CONTROL BOARD)

MARCH 26, 2001

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to gaming. (BDR 41-531)

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

~

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

AN ACT relating to gaming; revising the definition of “manufacturer” for the purposes of the Nevada Gaming Control Act; revising the computation of interest payable by the Nevada gaming commission on the overpayment of certain fees and taxes; revising provisions relating to persons who acquire a certain beneficial ownership in a publicly traded corporation registered with the commission; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 463.0172 is hereby amended to read as follows:
2 463.0172 “Manufacturer” means a person who:
3 1. Manufactures, assembles, programs or makes modifications to a
4 gaming device or cashless wagering system; or
5 2. Designs, *assumes responsibility for the design of*, controls the
6 design or assembly *of*, or maintains a copyright over the design of , a
7 mechanism, electronic circuit or computer program which cannot be
8 reasonably demonstrated to have any application other than in a gaming
9 device or in a cashless wagering system, for use or play in this state or for
10 distribution outside of this state.
11 **Sec. 2.** NRS 463.370 is hereby amended to read as follows:
12 463.370 1. Except as otherwise provided in NRS 463.373, the
13 commission shall charge and collect from each licensee a license fee based
14 upon all the gross revenue of the licensee as follows:
15 *(a)* Three percent of all the gross revenue of the licensee which does not
16 exceed \$50,000 per calendar month;



1 (b) Four percent of all the gross revenue of the licensee which exceeds
2 \$50,000 per calendar month and does not exceed \$134,000 per calendar
3 month; and

4 (c) Six and one-quarter percent of all the gross revenue of the licensee
5 which exceeds \$134,000 per calendar month.

6 2. Unless the licensee has been operating for less than a full calendar
7 month, the commission shall charge and collect the fee prescribed in
8 subsection 1, based upon the gross revenue for the preceding calendar
9 month, on or before the 24th day of the following month. Except for the fee
10 based on the first full month of operation, the fee is an estimated payment
11 of the license fee for the third month following the month whose gross
12 revenue is used as its basis.

13 3. When a licensee has been operating for less than a full calendar
14 month, the commission shall charge and collect the fee prescribed in
15 subsection 1, based on the gross revenue received during that month, on or
16 before the 24th day of the following calendar month of operation. After the
17 first full calendar month of operation, the commission shall charge and
18 collect the fee based on the gross revenue received during that month, on or
19 before the 24th day of the following calendar month. The payment of the
20 fee due for the first full calendar month of operation must be accompanied
21 by the payment of a fee equal to three times the fee for the first full
22 calendar month. This additional amount is an estimated payment of the
23 license fees for the next 3 calendar months. Thereafter, each license fee
24 must be paid in the manner described in subsection 2. Any deposit held by
25 the commission on July 1, 1969, must be treated as an advance estimated
26 payment.

27 4. All revenue received from any game or gaming device which is
28 operated on the premises of a licensee, regardless of whether any portion of
29 the revenue is shared with any other person, must be attributed to the
30 licensee for the purposes of this section and counted as part of the gross
31 revenue of the licensee. Any other person, including, without limitation, an
32 operator of an inter-casino linked system, who is authorized to receive a
33 share of the revenue from any game, gaming device or inter-casino linked
34 system that is operated on the premises of a licensee is liable to the licensee
35 for that person's proportionate share of the license fees paid by the licensee
36 pursuant to this section and shall remit or credit the full proportionate share
37 to the licensee on or before the 24th day of each calendar month. The
38 proportionate share of an operator of an inter-casino linked system must be
39 based on all compensation and other consideration received by the operator
40 of the inter-casino linked system, including, without limitation, amounts
41 that accrue to the meter of the primary progressive jackpot of the inter-
42 casino linked system and amounts that fund the reserves of such a jackpot,
43 subject to all appropriate adjustments for deductions, credits, offsets and
44 exclusions that the licensee is entitled to take or receive pursuant to the
45 provisions of this chapter. A licensee is not liable to any other person
46 authorized to receive a share of the licensee's revenue from any game,
47 gaming device or inter-casino linked system that is operated on the
48 premises of the licensee for that person's proportionate share of the license



1 fees to be remitted or credited to the licensee by that person pursuant to this
2 section.

3 5. An operator of an inter-casino linked system shall not enter into any
4 agreement or arrangement with a licensee that provides for the operator of
5 the inter-casino linked system to be liable to the licensee for less than its
6 full proportionate share of the license fees paid by the licensee pursuant to
7 this section, whether accomplished through a rebate, refund, charge-back
8 or otherwise.

9 6. Any person required to pay a fee pursuant to this section shall file
10 with the commission, on or before the 24th day of each calendar month, a
11 report showing the amount of all gross revenue received during the
12 preceding calendar month. Each report must be accompanied by:

13 (a) The fee due based on the revenue of the month covered by the
14 report; and

15 (b) An adjustment for the difference between the estimated fee
16 previously paid for the month covered by the report, if any, and the fee due
17 for the actual gross revenue earned in that month. If the adjustment is less
18 than zero, a credit must be applied to the estimated fee due with that report.

19 7. If the amount of license fees required to be reported and paid
20 pursuant to this section is later determined to be greater or less than the
21 amount actually reported and paid, the commission shall:

22 (a) Charge and collect the additional license fees determined to be due,
23 with interest thereon until paid; or

24 (b) Refund any overpayment to the person entitled thereto pursuant to
25 this chapter, with interest thereon.

26 Interest *pursuant to paragraph (a)* must be computed at the rate prescribed
27 in NRS 17.130 from the first day of the first month following ~~either~~ the
28 due date of the additional license fees ~~for the date of overpayment~~ until
29 paid. *Interest pursuant to paragraph (b) must be computed at one-half*
30 *the rate prescribed in NRS 17.130 from the first day of the first month*
31 *following the date of overpayment until paid.*

32 8. Failure to pay the fees provided for in this section shall be deemed a
33 surrender of the license at the expiration of the period for which the
34 estimated payment of fees has been made, as established in subsection 2.

35 9. Except as otherwise provided in NRS 463.386, the amount of the
36 fee prescribed in subsection 1 must not be prorated.

37 10. Except as otherwise provided in NRS 463.386, if a licensee ceases
38 operation, the commission shall:

39 (a) Charge and collect the additional license fees determined to be due
40 with interest ~~+~~ *computed pursuant to paragraph (a) of subsection 7*; or

41 (b) Refund any overpayment ~~+, with interest thereon, +~~ to the licensee ~~+~~
42 *with interest computed pursuant to paragraph (b) of subsection 7*,
43 based upon the gross revenue of the licensee during the last 3 months
44 immediately preceding the cessation of operation, or portions of those last
45 3 months.

46 11. If in any month, the amount of gross revenue is less than zero, the
47 licensee may offset the loss against gross revenue in succeeding months
48 until the loss has been fully offset.



1 12. If in any month, the amount of the license fee due is less than zero,
2 the licensee is entitled to receive a credit against any license fees due in
3 succeeding months until the credit has been fully offset.

4 **Sec. 3.** NRS 463.387 is hereby amended to read as follows:

5 463.387 1. State gaming license fees or taxes paid in excess of the
6 amount required to be reported and paid may be refunded, upon the
7 approval of the commission, as other claims against the state are paid.

8 2. Within 90 days after the mailing of the notice of the commission's
9 action upon a claim for refund filed pursuant to this chapter, the claimant
10 may bring an action against the commission on the grounds set forth in the
11 claim in any court of competent jurisdiction for the recovery of the whole
12 or any part of the amount with respect to which the claim has been
13 disallowed.

14 3. Failure to bring an action within the time specified in subsection 2
15 constitutes a waiver of any demand against the state on account of alleged
16 overpayments.

17 4. Within 20 days after the mailing of the notice of the commission's
18 action upon a claim for refund filed pursuant to this chapter, the claimant
19 may file a motion for rehearing with the commission. The commission
20 must take action on the motion for rehearing within 50 days after it has
21 been filed with the commission. If the motion for rehearing is granted, the
22 commission's earlier action upon the claim for refund is rescinded and the
23 90-day period specified in subsection 2 does not begin until the
24 commission mails notice of its action upon the claim following the
25 rehearing.

26 5. If the commission fails to mail its notice of action on a claim within
27 6 months after the claim is filed or reheard, the claimant may consider the
28 claim disallowed and bring an action against the commission on the
29 grounds set forth in the claim for the recovery of the whole or any part of
30 the amount claimed as an overpayment.

31 6. In any case where a refund is granted, interest must be allowed at
32 *one-half* the rate prescribed in NRS 17.130 upon the amount found to have
33 been erroneously paid from the first day of the first month following the
34 date of overpayment until paid. The commission may in its discretion deny
35 or limit the payment of interest if it finds that the claimant has failed to file
36 a claim for a refund within 90 days after receiving written notification of
37 overpayment from the board or has impeded the board's ability to process
38 the claim in a timely manner.

39 7. Notwithstanding the provisions of NRS 353.115, any claim for
40 refund of state gaming license fees or taxes paid in excess of the amount
41 required to be reported and paid ~~H~~ must be filed with the commission
42 within 5 years after the date of overpayment and not thereafter.

43 8. The provisions of this chapter must not be construed to permit the
44 proration of state gaming taxes or license fees for purposes of a refund.

45 **Sec. 4.** NRS 463.403 is hereby amended to read as follows:

46 463.403 1. Every person required to pay the tax imposed by NRS
47 463.401 shall file with the commission, on or before the 24th day of each
48 month, a report showing the amount of all taxable receipts for the
49 preceding month.



1 2. Each report must be accompanied by the amount of tax which is due
2 for the month covered by the report.

3 3. If the amount of tax required to be reported and paid pursuant to
4 NRS 463.401 is later determined to be greater or less than the amount
5 actually reported and paid, the commission shall:

6 (a) Charge and collect the additional tax determined to be due, with
7 interest thereon until paid; or

8 (b) Refund any overpayment to the person entitled thereto pursuant to
9 this chapter, with interest thereon.

10 Interest ~~is~~ *pursuant to paragraph (a) must be* computed at the rate
11 prescribed in NRS 17.130 from the first day of the first month following
12 ~~either~~ the due date of the additional tax ~~for the date of overpayment~~ until
13 paid. *Interest pursuant to paragraph (b) must be computed at one-half*
14 *the rate prescribed in NRS 17.130 from the first day of the first month*
15 *following the date of overpayment until paid.*

16 **Sec. 5.** NRS 463.450 is hereby amended to read as follows:

17 463.450 1. Any disseminator of such information obtaining a license
18 under NRS 463.430 to 463.480, inclusive, shall pay to the commission a
19 fee of 4.25 percent of the total fees collected from users each calendar
20 month for the dissemination of live broadcasts.

21 2. The commission shall collect the fee on or before the last day of
22 each calendar month for the preceding calendar month.

23 3. If the amount of the fee required by this section to be reported and
24 paid is determined to be different than the amount reported or paid by the
25 licensee, the commission shall:

26 (a) Charge and collect any additional fee determined to be due, with
27 interest thereon until paid; or

28 (b) Refund any overpaid fees to the person entitled thereto pursuant to
29 this chapter, with interest thereon.

30 Interest ~~is~~ *pursuant to paragraph (a) must be* computed at the rate
31 prescribed in NRS 17.130 from the first day of the first calendar month
32 following ~~either~~ the due date of the additional license fees ~~for the date of~~
33 ~~overpayment~~ until paid. *Interest pursuant to paragraph (b) must be*
34 *computed at one-half the rate prescribed in NRS 17.130 from the first*
35 *day of the first month following the date of overpayment until paid.*

36 4. The commission shall remit all fees collected, less any fees refunded
37 pursuant to subsection 3, to the state treasurer for deposit to the credit of
38 the state general fund.

39 **Sec. 6.** NRS 463.643 is hereby amended to read as follows:

40 463.643 1. Each person who acquires, directly or indirectly,
41 beneficial ownership of any voting security in a publicly traded corporation
42 which is registered with the commission may be required to be found
43 suitable if the commission has reason to believe that his acquisition of
44 ~~such~~ *that* ownership would otherwise be inconsistent with the declared
45 policy of this state.

46 2. Each person who acquires, directly or indirectly, beneficial
47 ownership of any debt security in a publicly traded corporation which is
48 registered with the commission may be required to be found suitable if the
49 commission has reason to believe that his acquisition of ~~such~~ *the* debt



* A B 5 7 8 *

1 security would otherwise be inconsistent with the declared policy of this
2 state.

3 3. Each person who, individually or in association with others,
4 acquires, directly or indirectly, beneficial ownership of more than 5 percent
5 of any class of voting securities of a publicly traded corporation registered
6 with the Nevada gaming commission, and who is required to report, or
7 voluntarily reports, ~~such~~ *the* acquisition to the Securities and Exchange
8 Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities
9 Exchange Act of 1934, as amended, ~~15~~ 15 U.S.C. §§ 78m(d)(1), 78m(g)
10 and 78p(a), respectively, ~~it~~ shall file a copy of that report, and any
11 amendments thereto, with the Nevada gaming commission within 10 days
12 after filing that report with the Securities and Exchange Commission.

13 4. Each person who, individually or in association with others,
14 acquires, directly or indirectly, the beneficial ownership of more than 10
15 percent of any class of voting securities of a publicly traded corporation
16 registered with the commission, ~~and~~ *or* who is required to report, or
17 voluntarily reports, the acquisition pursuant to section 13(d)(1), 13(g) or
18 16(a) of the Securities Exchange Act of 1934, as amended, ~~15~~ 15 U.S.C.
19 §§ 78m(d)(1), 78m(g) and 78p(a), respectively, ~~it~~ shall apply to the
20 commission for a finding of suitability within 30 days after the chairman of
21 the board mails the written notice.

22 5. A person who acquires beneficial ownership of any voting security
23 or debt security in a publicly traded corporation created under the laws of a
24 foreign country which is registered with the commission shall file such
25 reports and is subject to such a finding of suitability as the commission
26 may prescribe.

27 6. Any person required by the commission or by this section to be
28 found suitable shall:

29 (a) Except as otherwise required in subsection 4, apply for a finding of
30 suitability within 30 days after the commission requests that he do so; and

31 (b) Together with the application, deposit with the board a sum of
32 money which, in the opinion of the board, will be adequate to pay the
33 anticipated costs and charges incurred in the investigation and processing
34 of the application, and deposit such additional sums as are required by the
35 board to pay final costs and charges.

36 7. Any person required by the commission or this section to be found
37 suitable who is found unsuitable by the commission shall not hold directly
38 or indirectly the beneficial ownership of any voting security or debt
39 security of a publicly traded corporation which is registered with the
40 commission beyond the time prescribed by the commission.

41 8. The violation of subsection 6 or 7 is a gross misdemeanor.

42 9. As used in this section, "debt security" means any instrument
43 generally recognized as a corporate security representing money owed and
44 reflected as debt on the financial statement of a publicly traded corporation,
45 including, but not limited to, bonds, notes and debentures.

46 **Sec. 7.** This act becomes effective on July 1, 2001.

