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S.B. 218

SENATE BILL NO. 218—COMMITTEE ON JUDICIARY
(ON BEHALF OF THE STATE GAMING CONTROL BOARD)

MARCH 3, 2011

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the regulation of gaming. (BDR 41-991)

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; authorizing the Nevada Gaming Commission to provide by regulation for the operation of hosting centers and service providers; revising provisions relating to the transfer of certain ownership interests in a gaming operation; revising provisions relating to the licensing of persons who hold an ownership interest in certain business entities which hold a gaming license; authorizing the State Gaming Control Board to take certain actions regarding its operations without the approval of the Commission; making various other changes relating to the regulation of gaming; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the Nevada Gaming Commission and the State Gaming
2 Control Board are required to administer state gaming licenses and manufacturers’,
3 sellers’ and distributors’ licenses, and to perform various acts relating to the
4 regulation and control of gaming. (NRS 463.140) **Section 2** of this bill authorizes
5 the Commission to provide by regulation for the operation and registration of
6 hosting centers, which will serve as centers for the operation of certain gaming
7 systems. **Section 3** of this bill authorizes the Commission to provide by regulation
8 for the licensing of service providers, who will assist licensed gaming
9 establishments in providing services to the public with regard to the conduct and
10 exposure of certain games.

11 Existing law also provides that if the Commission approves the issuance of a
12 license for gaming operations at the same location, or locations if the license is for



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13 the operation of a slot machine route, for the purposes of certain taxes or fees, the
14 gaming license shall be deemed transferred within 30 days following certain
15 changes in the business entity, and the previously licensed operation shall be
16 deemed a continuing operation. (NRS 463.386) **Section 7** of this bill removes the
17 requirement that certain changes in the business entity must occur before the
18 license may be deemed transferred, and instead provides that if the Commission
19 approves such an issuance of a license, the Chair of the Board, in consultation with
20 the Chair of the Commission, may administratively determine that the gaming
21 license is transferred and the newly licensed operation is a continuing operation.

22 Additionally, existing law requires every limited partner of a limited
23 partnership and every member of a limited-liability company that holds a state
24 gaming license to be licensed individually. (NRS 463.569, 463.5735) **Sections 8**
25 **and 9** of this bill revise this requirement. **Section 8** provides that: (1) only limited
26 partners with more than a 5 percent ownership interest in a limited partnership must
27 be licensed individually; and (2) a limited partner generally must register with the
28 Board if such a limited partner holds a 5 percent or less ownership interest in a
29 limited partnership and holds or applies for a state gaming license. **Section 9**
30 applies such requirements to members of a limited-liability company.

31 Existing law further provides that it is unlawful for a person at a licensed
32 gaming establishment to use or possess with the intent to use a device to assist in
33 projecting the outcome of a game, keeping track of cards played, analyzing the
34 probability of the occurrence of an event relating to a game or analyzing the
35 strategy for playing or betting to be used in a game. (NRS 465.075) **Section 12** of
36 this bill describes in more detail the types of devices that are unlawful, and provides
37 that it is also unlawful to assist another person in using or possessing with the intent
38 to use any such device. **Section 12** also specifies that the use of any such device is
39 only unlawful when such use provides an advantage to a person participating in or
40 operating a game.

41 **Section 4** of this bill authorizes the Board to take certain actions without the
42 approval of the Commission with regard to: (1) certain operational activities and
43 functions of the Board; and (2) establishing a plan by regulation concerning certain
44 personnel provisions. **Section 5** of this bill requires the Commission to post a notice
45 on its website regarding any meeting at which the adoption, amendment or repeal
46 of a regulation is considered, and **section 6** of this bill removes the provision from
47 existing law which requires the Chair of the Board to present a claim to the State
48 Board of Examiners after an expenditure of money from the State Gaming Control
49 Board Revolving Account. **Sections 10 and 11** of this bill revise provisions
50 concerning certain documents of a publicly traded corporation that holds a gaming
51 license with which the Commission must be provided a copy under existing law.

52 **Section 13** of this bill clarifies existing law and specifies that service charges
53 which are collected and obtained by certain third parties are subject to the tax on
54 live entertainment. This provision applies retroactively from January 1, 2004, the
55 date on which the imposition of the tax on live entertainment became effective.

56 **Section 14** of this bill repeals provisions relating to the Account for Investigating
57 Cash Transactions of Gaming Licensees.

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 and 3 of this act.

3 **Sec. 2. 1. *The Legislature finds that:***



1 (a) To protect and promote the health, safety, morals, good
2 order and general welfare of the inhabitants of this State, and to
3 carry out the public policy declared in NRS 463.0129, it is
4 necessary that the Board and Commission be allowed to react to
5 rapidly evolving technological advances while maintaining strict
6 regulation and control of gaming.

7 (b) Technological advances have evolved which allow certain
8 parts of games, gaming devices, cashless wagering systems and
9 race book and sports pool operations to be conducted at locations
10 that are not on the premises of a licensed gaming establishment.

11 2. Except as otherwise provided in subsection 3, the
12 Commission may, with the advice and assistance of the Board,
13 provide by regulation for the operation and registration of hosting
14 centers and persons associated therewith. Such regulations may
15 include:

16 (a) Provisions relating to the operation and location of hosting
17 centers, including, without limitation, minimum internal and
18 operational control standards established by the Commission.

19 (b) Provisions relating to the registration of persons owning or
20 operating a hosting center and any persons having a significant
21 involvement with a hosting center, as determined by the
22 Commission.

23 (c) A provision that a person owning, operating or having a
24 significant involvement with a hosting center may be required by
25 the Commission to be found suitable to be associated with licensed
26 gaming, including race book or sports pool operations.

27 (d) Additional matters which the Commission deems necessary
28 and appropriate to carry out the provisions of this section and
29 which are consistent with the public policy of this State pursuant
30 to NRS 463.0129.

31 3. The Commission may not adopt regulations pursuant to
32 this section until the Commission first determines that hosting
33 centers are secure and reliable, do not pose a threat to the integrity
34 of gaming and are consistent with the public policy of this State
35 pursuant to NRS 463.0129.

36 4. Regulations adopted by the Commission pursuant to this
37 section must:

38 (a) Define "hosting center."

39 (b) Provide that the premises on which the hosting center is
40 located is subject to the power and authority of the Board and
41 Commission pursuant to NRS 463.140, as though the premises is
42 where gaming is conducted and the hosting center is a gaming
43 licensee.

44 **Sec. 3. 1. The Legislature finds that:**



1 (a) *Technological advances have evolved which allow licensed*
2 *gaming establishments to expose games, including, without*
3 *limitation, system-based and system-supported games, gaming*
4 *devices, mobile gaming systems, interactive gaming, cashless*
5 *wagering systems or race books and sports pools, and to be*
6 *assisted by a service provider who provides important services to*
7 *the public with regard to the conduct and exposure of such games.*

8 (b) *To protect and promote the health, safety, morals, good*
9 *order and general welfare of the inhabitants of this State, and to*
10 *carry out the public policy declared in NRS 463.0129, it is*
11 *necessary that the Board and Commission have the ability to*
12 *license service providers by maintaining strict regulation and*
13 *control of the operation of such service providers and all persons*
14 *and locations associated therewith.*

15 2. *Except as otherwise provided in subsection 3, the*
16 *Commission may, with the advice and assistance of the Board,*
17 *provide by regulation for the licensing and operation of a service*
18 *provider and all persons, locations and matters associated*
19 *therewith. Such regulations may include, without limitation:*

20 (a) *Provisions requiring the service provider to meet the*
21 *qualifications for licensing pursuant to NRS 463.170, in addition*
22 *to any other qualifications established by the Commission, and to*
23 *be licensed regardless of whether the service provider holds any*
24 *other license.*

25 (b) *Criteria regarding the location from which the service*
26 *provider conducts its operations, including, without limitation,*
27 *minimum internal and operational control standards established*
28 *by the Commission.*

29 (c) *Provisions relating to the licensing of persons owning or*
30 *operating a service provider, and any persons having a significant*
31 *involvement therewith, as determined by the Commission.*

32 (d) *A provision that a person owning, operating or having*
33 *significant involvement with a service provider, as determined by*
34 *the Commission, may be required by the Commission to be found*
35 *suitable to be associated with licensed gaming, including race*
36 *book or sports pool operations.*

37 (e) *Additional matters which the Commission deems necessary*
38 *and appropriate to carry out the provisions of this section and*
39 *which are consistent with the public policy of this State pursuant*
40 *to NRS 463.0129, including that a service provider must be liable*
41 *to the licensee on whose behalf the services are provided for the*
42 *service provider's proportionate share of the fees and taxes paid by*
43 *the licensee.*

44 3. *The Commission may not adopt regulations pursuant to*
45 *this section until the Commission first determines that service*



1 *providers are secure and reliable, do not pose a threat to the*
2 *integrity of gaming and are consistent with the public policy of*
3 *this State pursuant to NRS 463.0129.*

4 *4. Regulations adopted by the Commission pursuant to this*
5 *section must provide that the premises on which a service provider*
6 *conducts its operations is subject to the power and authority of the*
7 *Board and Commission pursuant to NRS 463.140, as though the*
8 *premises is where gaming is conducted and the service provider is*
9 *a gaming licensee.*

10 *5. As used in this section, "service provider" means a person*
11 *who:*

12 *(a) Acts on behalf of another licensed person who conducts*
13 *nonrestricted gaming operations, and who assists, manages,*
14 *administers or controls wagers or games, or maintains or operates*
15 *the software or hardware of games on behalf of such a licensed*
16 *person;*

17 *(b) Is authorized to share in the revenue from games without*
18 *being licensed to conduct gaming at an establishment; and*

19 *(c) Meets such other or additional criteria as the Commission*
20 *may establish by regulation.*

21 **Sec. 4.** NRS 463.080 is hereby amended to read as follows:

22 463.080 1. The Board ~~[, with the approval of the~~
23 ~~Commission,]~~ may:

24 (a) Establish, and from time to time alter, such a plan of
25 organization as it may deem expedient.

26 (b) Acquire such furnishings, equipment, supplies, stationery,
27 books, motor vehicles and other things as it may deem necessary or
28 desirable in carrying out its functions.

29 (c) Incur such other expenses, within the limit of money
30 available to it, as it may deem necessary.

31 2. Except as otherwise provided in this chapter, all costs of
32 administration incurred by the Board must be paid out on claims
33 from the State General Fund in the same manner as other claims
34 against the State are paid.

35 3. The Board shall, within the limits of legislative
36 appropriations or authorizations, employ and fix the salaries of or
37 contract for the services of such professional, technical and
38 operational personnel and consultants as the execution of its duties
39 and the operation of the Board and Commission may require.

40 4. The members of the Board and all the personnel of the
41 Board, except clerical employees and employees described in NRS
42 284.148, are exempt from the provisions of chapter 284 of NRS.
43 They are entitled to such leaves of absence as the Board prescribes,
44 but such leaves must not be of lesser duration than those provided
45 for other state employees pursuant to chapter 284 of NRS.



1 Employees described in NRS 284.148 are subject to the limitations
2 specified in that section.

3 5. Clerical employees of the Board are in the classified service
4 but are exempt from the provisions of chapter 284 of NRS for
5 purposes of removal. They are entitled to receive an annual salary
6 which must be fixed in accordance with the pay plan adopted under
7 the provisions of that chapter.

8 6. The Board ~~[and the Commission]~~ shall ~~[, by suitable~~
9 ~~regulations.]~~ establish, *and modify as necessary*, a comprehensive
10 plan governing employment, job classifications and performance
11 standards, and retention or discharge of employees to assure that
12 termination or other adverse action is not taken against such
13 employees except for cause. The ~~[regulations]~~ *plan* must include
14 provisions for hearings in personnel matters and for review of
15 adverse actions taken in those matters.

16 **Sec. 5.** NRS 463.145 is hereby amended to read as follows:

17 463.145 1. Except as otherwise provided in NRS 368A.140,
18 the Commission shall, pursuant to NRS 463.150, adopt, amend and
19 repeal regulations in accordance with the following procedures:

20 (a) At least 30 days before ~~[the initial]~~ *a* meeting of the
21 Commission ~~[and 20 days before any subsequent meeting]~~ at which
22 the adoption, amendment or repeal of a regulation is considered,
23 notice of the proposed action must be:

24 (1) ~~[Published in such newspaper as the Commission~~
25 ~~prescribes;]~~ *Posted on the Commission's Internet website;*

26 (2) Mailed to every person who has filed a request therefor
27 with the Commission; and

28 (3) When the Commission deems advisable, mailed to any
29 person whom the Commission believes would be interested in the
30 proposed action, and published in such additional form and manner
31 as the Commission prescribes.

32 (b) The notice of proposed adoption, amendment or repeal must
33 include:

34 (1) A statement of the time, place and nature of the
35 proceedings for adoption, amendment or repeal;

36 (2) Reference to the authority under which the action is
37 proposed; and

38 (3) Either the express terms or an informative summary of
39 the proposed action.

40 (c) On the date and at the time and place designated in the
41 notice, the Commission shall afford any interested person or his or
42 her authorized representative, or both, the opportunity to present
43 statements, arguments or contentions in writing, with or without
44 opportunity to present them orally. The Commission shall consider



1 all relevant matter presented to it before adopting, amending or
2 repealing any regulation.

3 (d) Any interested person may file a petition with the
4 Commission requesting the adoption, amendment or repeal of a
5 regulation. The petition must state, clearly and concisely:

6 (1) The substance or nature of the regulation, amendment or
7 repeal requested;

8 (2) The reasons for the request; and

9 (3) Reference to the authority of the Commission to take the
10 action requested.

11 ➔ Upon receipt of the petition, the Commission shall within 45 days
12 deny the request in writing or schedule the matter for action
13 pursuant to this subsection.

14 (e) In emergencies, the Commission may summarily adopt,
15 amend or repeal any regulation if at the same time it files a finding
16 that such action is necessary for the immediate preservation of the
17 public peace, health, safety, morals, good order or general welfare,
18 together with a statement of the facts constituting the emergency.

19 2. In any hearing held pursuant to this section, the Commission
20 or its authorized representative may administer oaths or
21 affirmations, and may continue or postpone the hearing from time to
22 time and at such places as it prescribes.

23 3. The Commission may request the advice and assistance of
24 the Board in carrying out the provisions of this section.

25 **Sec. 6.** NRS 463.330 is hereby amended to read as follows:

26 463.330 1. Costs of administration of this chapter incurred by
27 the Commission and the State Gaming Control Board must be paid
28 from the State General Fund on claims presented by the
29 Commission and the Board, respectively, and approved and paid as
30 other claims against the State are paid. The Commission and the
31 Board shall comply with the provisions of the State Budget Act in
32 order that legislative authorization for budgeted expenditures may
33 be provided.

34 2. In order to facilitate the confidential investigation of
35 violations of this chapter and the regulations adopted by the
36 Commission pursuant to this chapter, there is hereby created the
37 State Gaming Control Board Revolving Account. Upon the written
38 request of the Chair of the Board, the State Controller shall draw a
39 warrant in favor of the Chair in the amount of \$10,000, and upon
40 presentation of the warrant to the State Treasurer, the State
41 Treasurer shall pay it. When the warrant is paid, the Chair shall
42 deposit the \$10,000 in a bank or credit union of reputable standing
43 which shall secure the deposit with a depository bond satisfactory to
44 the State Board of Examiners.



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

8 ~~4. [After the expenditure of money from the Revolving~~
9 ~~Account, the Chair of the Board shall present a claim to the State~~
10 ~~Board of Examiners for the amount of the expenditure to be~~
11 ~~replaced in the Revolving Account. The claim must be allowed and~~
12 ~~paid as are other claims against the State, but the claim must not~~
13 ~~detail the investigation made as to the agent or employee making the~~
14 ~~investigation or the person or persons investigated. If the State~~
15 ~~Board of Examiners is not satisfied with the claim, the members~~
16 ~~thereof may orally examine the Chair concerning the claim.~~

17 ~~—5.] Expenditures from the Revolving Account may not exceed~~
18 ~~the amount authorized by the Legislature in any fiscal year.~~

19 **Sec. 7.** NRS 463.386 is hereby amended to read as follows:

20 463.386 1. If the Commission approves the issuance of a
21 license for gaming operations at the same location ~~[.]~~ *that is*
22 *currently licensed*, or locations *that are currently licensed* if the
23 license is for the operation of a slot machine route, ~~[within 30 days~~
24 ~~following a change described in subsection 2,] the Chair of the~~
25 *Board, in consultation with the Chair of the Commission, may*
26 *administratively determine that*, for the purposes of NRS 463.370
27 and 463.373 to 463.3855, inclusive, the gaming license shall be
28 deemed transferred, ~~[and]~~ the previously licensed operation shall be
29 deemed a continuing operation ~~[.]~~ *and credit must be granted for*
30 *prepaid license fees, if the Chair of the Board makes a written*
31 *finding that such determination is consistent with the public policy*
32 *of this State pursuant to NRS 463.0129.*

33 2. ~~[Credit must be granted for prepaid license fees as described~~
34 ~~in subsection 1 if:~~

35 ~~—(a) The securities of a corporate gaming licensee are or become~~
36 ~~publicly held or publicly traded and the gaming operations of that~~
37 ~~corporation are transferred to a wholly owned subsidiary~~
38 ~~corporation;~~

39 ~~—(b) A corporate gaming licensee is merged with another~~
40 ~~corporation which is the surviving entity and at least 80 percent of~~
41 ~~the surviving entity is owned by shareholders of the former licensee;~~

42 ~~—(c) A corporate gaming licensee is dissolved, and the parent~~
43 ~~corporation of the dissolved corporation or a subsidiary corporation~~
44 ~~of the parent corporation, at least 80 percent of which is owned by~~
45 ~~the parent corporation, becomes the gaming licensee;~~



- 1 ~~—(d) A corporate gaming licensee or a gaming licensee which is a~~
2 ~~partnership or limited partnership is reorganized pursuant to a plan~~
3 ~~of reorganization approved by the Commission, and a limited~~
4 ~~partnership or limited liability company is the surviving entity;~~
5 ~~—(e) The assets of a gaming licensee who is a sole proprietorship~~
6 ~~are transferred to:~~
7 ~~— (1) A corporation and at least 80 percent of the stock of the~~
8 ~~corporation is held by the former sole proprietor; or~~
9 ~~— (2) A limited liability company and at least 80 percent of the~~
10 ~~interests in the limited liability company are held by the former sole~~
11 ~~proprietor;~~
12 ~~—(f) A corporate gaming licensee is dissolved and the assets of~~
13 ~~the gaming establishment are transferred to:~~
14 ~~— (1) A sole proprietorship in which the sole proprietor owned~~
15 ~~at least 80 percent of the stock of the former corporation; or~~
16 ~~— (2) A limited liability company in which at least 80 percent~~
17 ~~of the interests are owned by a person who owned at least 80 percent~~
18 ~~of the stock of the former corporation;~~
19 ~~—(g) A licensed gaming partnership or limited partnership is~~
20 ~~dissolved and the assets of the gaming establishment are transferred~~
21 ~~to a sole proprietorship in which the sole proprietor owned at least~~
22 ~~80 percent of the former partnership or limited partnership interests;~~
23 ~~—(h) The assets of a gaming licensee who is a sole proprietorship~~
24 ~~are transferred to a partnership or limited partnership in which at~~
25 ~~least 80 percent of the ownership of the partnership or limited~~
26 ~~partnership interests are held by the former sole proprietor;~~
27 ~~—(i) A licensed gaming partnership, limited partnership or~~
28 ~~limited liability company is dissolved and the assets of the gaming~~
29 ~~establishment are transferred to a corporation, at least 80 percent of~~
30 ~~the stock of which is held by persons who held interests in the~~
31 ~~former partnership, limited partnership or limited liability company;~~
32 ~~—(j) A licensed gaming partnership or limited partnership is~~
33 ~~dissolved or reorganized and the assets of the gaming establishment~~
34 ~~are transferred to a partnership, limited partnership or limited-~~
35 ~~liability company, at least 80 percent of the ownership of which is~~
36 ~~held by the former partnership interests; or~~
37 ~~—(k) A trustee, receiver, assignee for the benefit of a creditor or a~~
38 ~~fiduciary is approved to continue the operation of a licensed~~
39 ~~establishment and the Commission deems the operation to continue~~
40 ~~pursuant to the existing license of the establishment.~~
41 ~~—3.]~~ *The Chair of the Board may refer a request for*
42 *administrative determination pursuant to this section to the Board*
43 *and the Commission for consideration, or may deny the request*
44 *for any reasonable cause. A denial may be submitted for review by*
45 *the Board and the Commission in the manner set forth by the*



1 *regulations adopted by the Commission which pertain to the*
2 *review of administrative approval decisions.*

3 3. Except as otherwise provided in this section, no credit or
4 refund of fees or taxes may be made because a gaming
5 establishment ceases operation.

6 4. *The Commission may, with the advice and assistance of the*
7 *Board, adopt regulations consistent with the policy, objects and*
8 *purposes of this chapter as it may deem necessary to carry out the*
9 *provisions of this section.*

10 **Sec. 8.** NRS 463.569 is hereby amended to read as follows:

11 463.569 1. Every general partner *of*, and *every* limited
12 partner ~~of~~ *with more than a 5 percent ownership interest in*, a
13 limited partnership which holds a state gaming license must be
14 licensed individually, according to the provisions of this chapter,
15 and if, in the judgment of the Commission, the public interest will
16 be served by requiring *any other limited partners or* any or all of
17 the limited partnership's lenders, holders of evidence of
18 indebtedness, underwriters, key executives, agents or employees to
19 be licensed, the limited partnership shall require those persons to
20 apply for a license in accordance with the laws and requirements in
21 effect at the time the Commission requires the licensing. Publicly
22 traded corporations which are limited partners of limited
23 partnerships are not required to be licensed, but shall comply with
24 NRS 463.635 to 463.645, inclusive. A person who is required to be
25 licensed by this section as a general or limited partner shall not
26 receive that position until the person secures the required approval
27 of the Commission. A person who is required to be licensed
28 pursuant to a decision of the Commission shall apply for a license
29 within 30 days after the Commission requests the person to do so.

30 2. *All limited partners holding a 5 percent or less ownership*
31 *interest in a limited partnership, other than a publicly traded*
32 *limited partnership, which hold or apply for a state gaming*
33 *license, must register in that capacity with the Board and submit to*
34 *the Board's jurisdiction. Such registration must be made on forms*
35 *prescribed by the Chair of the Board. The Chair of the Board may*
36 *require a registrant to apply for licensure at any time in the*
37 *Chair's discretion. A person who is required to be registered by*
38 *this section shall apply for registration within 30 days after the*
39 *person becomes a limited partner holding a 5 percent or less*
40 *ownership interest in a limited partnership.*

41 3. *The Commission may, with the advice and assistance of the*
42 *Board, adopt such regulations as it deems necessary to carry out*
43 *the provisions of subsection 2.*



1 **Sec. 9.** NRS 463.5735 is hereby amended to read as follows:

2 463.5735 1. Every member ~~§~~ *and* transferee of a member's
3 interest *with more than a 5 percent ownership interest* in a limited-
4 liability company, *and every* director and manager of a limited-
5 liability company which holds or applies for a state gaming license,
6 must be licensed individually ~~§~~ according to the provisions of this
7 chapter.

8 2. *All members holding a 5 percent or less ownership interest*
9 *in a limited-liability company, other than a publicly traded limited-*
10 *liability company, which hold or apply for a state gaming license,*
11 *must register in that capacity with the Board and submit to the*
12 *Board's jurisdiction. Such registration must be made on forms*
13 *prescribed by the Chair of the Board. The Chair of the Board may*
14 *require a registrant to apply for licensure at any time in the*
15 *Chair's discretion. A person who is required to be registered by*
16 *this section shall apply for registration within 30 days after the*
17 *person becomes a member holding a 5 percent or less ownership*
18 *interest in a limited-liability company.*

19 3. If, in the judgment of the Commission, the public interest
20 will be served by requiring *any members with a 5 percent or less*
21 *ownership interest in a limited-liability company, or* any of the
22 limited-liability company's lenders, holders of evidence of
23 indebtedness, underwriters, key executives, agents or employees to
24 be licensed:

25 (a) The limited-liability company shall require those persons to
26 apply for a license in accordance with the laws and requirements in
27 effect at the time the Commission requires the licensing; and

28 (b) Those persons shall apply for a license within 30 days after
29 being requested to do so by the Commission.

30 ~~§-1~~ 4. A publicly traded corporation which is a member of a
31 limited-liability company is not required to be licensed, but shall
32 comply with NRS 463.635 to 463.645, inclusive.

33 ~~§-1~~ 5. No person may become a member or a transferee of a
34 member's interest in a limited-liability company which holds a
35 license until the person secures the required approval of the
36 Commission.

37 ~~§-1~~ 6. A director or manager of a limited-liability company
38 shall apply for a license within 30 days after assuming office.

39 7. *The Commission may, with the advice and assistance of the*
40 *Board, adopt such regulations as it deems necessary to carry out*
41 *the provisions of subsection 2.*

42 **Sec. 10.** NRS 463.639 is hereby amended to read as follows:

43 463.639 1. Except as otherwise provided in subsection 2,
44 after a publicly traded corporation has registered pursuant to this
45 chapter, and while the publicly traded corporation or any of its



1 affiliated or intermediary companies holds a gaming license, the
2 publicly traded corporation shall:

3 (a) Report promptly to the Commission in writing any change in
4 its officers, directors or employees who are actively and directly
5 engaged in the administration or supervision of the gaming activities
6 of the corporation or any of its affiliated or intermediary companies.

7 (b) Each year furnish to the Commission a profit and loss
8 statement and a balance sheet of the publicly traded corporation as
9 of the end of the year, and, upon request of the Commission
10 therefor, a copy of the publicly traded corporation's federal income
11 tax return within 30 days after the return is filed with the Federal
12 Government. All profit and loss statements and balance sheets must
13 be submitted within 120 days after the close of the fiscal year to
14 which they relate, and may be those filed by the publicly traded
15 corporation with or furnished by it to the Securities and Exchange
16 Commission.

17 (c) ~~Mail~~ *Upon request of the Chair of the Board, mail* to the
18 Commission a copy of any statement, or amendment thereto,
19 received from a stockholder or group of stockholders pursuant to
20 section 13(d) of the Securities Exchange Act of 1934, as amended,
21 within 10 days after receiving the statement or amendment thereto,
22 and report promptly to the Commission in writing any changes in
23 ownership of record of its equity securities which indicate that any
24 person has become the owner of record of more than 10 percent of
25 its outstanding equity securities of any class.

26 (d) Upon request of the ~~Commission,~~ *Chair of the Board,*
27 furnish to ~~the Commission~~ *a copy of any document filed by the*
28 publicly traded corporation with the Securities and Exchange
29 Commission or with any national or regional securities exchange,
30 including documents considered to be confidential in nature, or any
31 document furnished by it to any of its equity security holders of any
32 class.

33 2. A publicly traded corporation which was created under the
34 laws of a foreign country shall, instead of complying with
35 subsection 1:

36 (a) Each year furnish to the Commission a profit and loss
37 statement and a balance sheet of the publicly traded corporation as
38 of the end of the year, and, upon request of the Commission
39 therefor, a copy of the publicly traded corporation's federal income
40 tax return within 30 days after the return is filed with the Federal
41 Government. All profit and loss statements and balance sheets must
42 be submitted within 120 days after the close of the fiscal year to
43 which they relate, and may be those filed by the publicly traded
44 corporation with or furnished by it to the foreign governmental
45 agency that regulates the sale of its securities.



1 (b) ~~[Mail]~~ *Upon request of the Chair of the Board, mail* to the
2 Commission a copy of any statement, or amendment thereto,
3 received from a stockholder or group of stockholders pursuant to
4 law, within 10 days after receiving the statement or amendment
5 thereto, and report promptly to the Commission in writing any
6 changes in ownership of record of its equity securities which
7 indicate that any person has become the owner of record of more
8 than 10 percent of its outstanding equity securities of any class.

9 (c) Upon request of the ~~[Commission,]~~ *Chair of the Board,*
10 furnish to ~~[it]~~ *the Commission* a copy of any document filed by the
11 publicly traded corporation with the foreign governmental agency
12 that regulates the sale of its securities or with any national or
13 regional securities exchange, including documents considered to be
14 confidential in nature, or any document furnished by it to any of its
15 equity security holders of any class.

16 **Sec. 11.** NRS 463.643 is hereby amended to read as follows:

17 463.643 1. Each person who acquires, directly or indirectly:

18 (a) Beneficial ownership of any voting security; or

19 (b) Beneficial or record ownership of any nonvoting security,

20 *in a publicly traded corporation which is registered with the*
21 *Commission may be required to be found suitable if the*
22 *Commission has reason to believe that the person's acquisition of*
23 *that ownership would otherwise be inconsistent with the declared*
24 *policy of this state.*

25 2. Each person who acquires, directly or indirectly, beneficial
26 or record ownership of any debt security in a publicly traded
27 corporation which is registered with the Commission may be
28 required to be found suitable if the Commission has reason to
29 believe that the person's acquisition of the debt security would
30 otherwise be inconsistent with the declared policy of this state.

31 3. Each person who, individually or in association with others,
32 acquires, directly or indirectly, beneficial ownership of more than 5
33 percent of any class of voting securities of a publicly traded
34 corporation registered with the Nevada Gaming Commission, and
35 who is required to report, or voluntarily reports, the acquisition to
36 the Securities and Exchange Commission pursuant to section
37 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as
38 amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively,
39 shall, ~~[file a copy of that report, and any amendments thereto, with~~
40 ~~[the Nevada Gaming Commission]~~ within 10 days after filing ~~[that]~~
41 *the report and any amendment thereto* with the Securities and
42 Exchange Commission ~~[it]~~, *notify the Nevada Gaming Commission*
43 *in the manner prescribed by the Chair of the Board that the report*
44 *has been filed with the Securities and Exchange Commission.*



1 4. Each person who, individually or in association with others,
2 acquires, directly or indirectly, the beneficial ownership of more
3 than 10 percent of any class of voting securities of a publicly traded
4 corporation registered with the Commission, or who is required to
5 report, or voluntarily reports, such acquisition pursuant to section
6 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as
7 amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively,
8 shall apply to the Commission for a finding of suitability within 30
9 days after the Chair of the Board mails the written notice.

10 5. A person who acquires, directly or indirectly:

11 (a) Beneficial ownership of any voting security; or

12 (b) Beneficial or record ownership of any nonvoting security or
13 debt security,

14 ➔ in a publicly traded corporation created under the laws of a
15 foreign country which is registered with the Commission shall file
16 such reports and is subject to such a finding of suitability as the
17 Commission may prescribe.

18 6. Any person required by the Commission or by this section to
19 be found suitable shall:

20 (a) Except as otherwise required in subsection 4, apply for a
21 finding of suitability within 30 days after the Commission requests
22 that the person do so; and

23 (b) Together with the application, deposit with the Board a sum
24 of money which, in the opinion of the Board, will be adequate to
25 pay the anticipated costs and charges incurred in the investigation
26 and processing of the application, and deposit such additional sums
27 as are required by the Board to pay final costs and charges.

28 7. Any person required by the Commission or this section to be
29 found suitable who is found unsuitable by the Commission shall not
30 hold directly or indirectly the:

31 (a) Beneficial ownership of any voting security; or

32 (b) Beneficial or record ownership of any nonvoting security or
33 debt security,

34 ➔ of a publicly traded corporation which is registered with the
35 Commission beyond the time prescribed by the Commission.

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

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

42 **Sec. 12.** NRS 465.075 is hereby amended to read as follows:

43 465.075 **1.** It is unlawful for any person [~~at a licensed gaming~~
44 ~~establishment~~] to use, [~~or~~] possess with the intent to use [~~;~~] **or assist**



1 *another person in using or possessing with the intent to use* any
2 *computerized, electronic, electrical or mechanical* device ~~to assist~~
3 ~~1. In projecting~~ *which is designed, constructed, altered or*
4 *programmed to obtain an advantage at playing any game in a*
5 *licensed gaming establishment, including, without limitation, a*
6 *device that:*

7 (a) *Projects* the outcome of the game;

8 ~~2. In keeping~~

9 (b) *Keeps* track of ~~the~~ cards played ~~;~~

10 ~~3. In analyzing~~ *or cards prepared for play;*

11 (c) *Analyzes* the probability of the occurrence of an event
12 relating to ~~the~~ a game; or

13 ~~4. In analyzing~~

14 (d) *Analyzes* the strategy for playing or betting to be used in the
15 game,

16 ↪ except as permitted by the Commission.

17 2. *As used in this section, "advantage" means a benefit*
18 *obtained by one or more participants in a game through*
19 *information or knowledge that is not made available as part of the*
20 *game as approved by the Board or Commission.*

21 **Sec. 13.** NRS 368A.200 is hereby amended to read as follows:

22 368A.200 1. Except as otherwise provided in this section,
23 there is hereby imposed an excise tax on admission to any facility in
24 this State where live entertainment is provided. If the live
25 entertainment is provided at a facility with a maximum occupancy
26 of:

27 (a) Less than 7,500 persons, the rate of the tax is 10 percent of
28 the admission charge to the facility plus 10 percent of any amounts
29 paid for food, refreshments and merchandise purchased at the
30 facility.

31 (b) At least 7,500 persons, the rate of the tax is 5 percent of the
32 admission charge to the facility.

33 2. Amounts paid for:

34 (a) Admission charges collected and retained by a nonprofit
35 religious, charitable, fraternal or other organization that qualifies as
36 a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a
37 nonprofit corporation organized or existing under the provisions of
38 chapter 82 of NRS, are not taxable pursuant to this section.

39 (b) Gratuities directly or indirectly remitted to persons employed
40 at a facility where live entertainment is provided or for service
41 charges, including those imposed in connection with the use of
42 credit cards or debit cards, which are collected and retained by
43 persons other than the taxpayer, *the operator of the entertainment*
44 *facility or an affiliate of the taxpayer or the operator,* are not



1 taxable pursuant to this section. *As used in this paragraph,*
2 *“affiliate” has the meaning ascribed to it in NRS 463.0133.*

3 3. A business entity that collects any amount that is taxable
4 pursuant to subsection 1 is liable for the tax imposed, but is entitled
5 to collect reimbursement from any person paying that amount.

6 4. Any ticket for live entertainment must state whether the tax
7 imposed by this section is included in the price of the ticket. If the
8 ticket does not include such a statement, the taxpayer shall pay the
9 tax based on the face amount of the ticket.

10 5. The tax imposed by subsection 1 does not apply to:

11 (a) Live entertainment that this State is prohibited from taxing
12 under the Constitution, laws or treaties of the United States or the
13 Nevada Constitution.

14 (b) Live entertainment that is provided by or entirely for the
15 benefit of a nonprofit religious, charitable, fraternal or other
16 organization that qualifies as a tax-exempt organization pursuant to
17 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing
18 under the provisions of chapter 82 of NRS.

19 (c) Any boxing contest or exhibition governed by the provisions
20 of chapter 467 of NRS.

21 (d) Live entertainment that is not provided at a licensed gaming
22 establishment if the facility in which the live entertainment is
23 provided has a maximum occupancy of less than 200 persons.

24 (e) Live entertainment that is provided at a licensed gaming
25 establishment that is licensed for less than 51 slot machines, less
26 than 6 games, or any combination of slot machines and games
27 within those respective limits, if the facility in which the live
28 entertainment is provided has a maximum occupancy of less than
29 200 persons.

30 (f) Merchandise sold outside the facility in which the live
31 entertainment is provided, unless the purchase of the merchandise
32 entitles the purchaser to admission to the entertainment.

33 (g) Live entertainment that is provided at a trade show.

34 (h) Music performed by musicians who move constantly
35 through the audience if no other form of live entertainment is
36 afforded to the patrons.

37 (i) Live entertainment that is provided at a licensed gaming
38 establishment at private meetings or dinners attended by members of
39 a particular organization or by a casual assemblage if the purpose of
40 the event is not primarily for entertainment.

41 (j) Live entertainment that is provided in the common area of a
42 shopping mall, unless the entertainment is provided in a facility
43 located within the mall.



1 (k) Food and product demonstrations provided at a shopping
2 mall, a craft show or an establishment that sells grocery products,
3 housewares, hardware or other supplies for the home.

4 (l) Live entertainment that is incidental to an amusement ride, a
5 motion simulator or a similar digital, electronic, mechanical or
6 electromechanical attraction. For the purposes of this paragraph, live
7 entertainment shall be deemed to be incidental to an amusement
8 ride, a motion simulator or a similar digital, electronic, mechanical
9 or electromechanical attraction if the live entertainment is:

10 (1) Not the predominant element of the attraction; and

11 (2) Not the primary purpose for which the public rides,
12 attends or otherwise participates in the attraction.

13 (m) Live entertainment that is provided to the public in an
14 outdoor area, without any requirements for the payment of an
15 admission charge or the purchase of any food, refreshments or
16 merchandise.

17 (n) An outdoor concert, unless the concert is provided on the
18 premises of a licensed gaming establishment.

19 (o) Beginning July 1, 2007, race events scheduled at a race track
20 in this State as a part of the National Association for Stock Car Auto
21 Racing Nextel Cup Series, or its successor racing series, and all
22 races associated therewith.

23 (p) Beginning July 1, 2007, a baseball contest, event or
24 exhibition conducted by professional minor league baseball players
25 at a stadium in this State.

26 (q) Live entertainment provided in a restaurant which is
27 incidental to any other activities conducted in the restaurant or
28 which only serves as ambience so long as there is no charge to the
29 patrons for that entertainment.

30 6. The Commission may adopt regulations establishing a
31 procedure whereby a taxpayer that is a licensed gaming
32 establishment may request an exemption from the tax pursuant to
33 paragraph (q) of subsection 5. The regulations must require
34 the taxpayer to seek an administrative ruling from the Chair of the
35 Board, provide a procedure for appealing that ruling to the
36 Commission and further describe the forms of incidental or ambient
37 entertainment exempted pursuant to that paragraph.

38 7. As used in this section, "maximum occupancy" means, in
39 the following order of priority:

40 (a) The maximum occupancy of the facility in which live
41 entertainment is provided, as determined by the State Fire Marshal
42 or the local governmental agency that has the authority to determine
43 the maximum occupancy of the facility;



1 (b) If such a maximum occupancy has not been determined, the
2 maximum occupancy of the facility designated in any permit
3 required to be obtained in order to provide the live entertainment; or

4 (c) If such a permit does not designate the maximum occupancy
5 of the facility, the actual seating capacity of the facility in which the
6 live entertainment is provided.

7 **Sec. 14.** NRS 463.332 is hereby repealed.

8 **Sec. 15.** 1. This section and sections 1 to 12, inclusive, and
9 14 of this act become effective upon passage and approval.

10 2. Section 13 of this act becomes effective upon passage and
11 approval and applies retroactively from January 1, 2004.

TEXT OF REPEALED SECTION

463.332 Account for Investigating Cash Transactions of Gaming Licensees: Creation; use; claims.

1. The Account for Investigating Cash Transactions of Gaming Licensees is hereby created in the Investigative Fund. The Account is a continuing account and its money does not revert to the State General Fund at any time.

2. The money in the Account must be used by the Board to conduct undercover investigations related to alleged or suspected violations of regulations concerning cash transactions of gaming licensees.

3. Claims against the Account which are approved by the Board must be paid as other claims against the State are paid.

