



GAMING BILLS

in the 2017 Legislative Session

By Maren Parry

The 79th (2017) Regular Session of the Nevada Legislature saw eight bills¹ related directly to gaming. Although three were ultimately rejected or received relatively little traction, five have been signed by Governor Sandoval to become law.



SUMMARY

Non-starters in 2017 included a proposal to reduce the legal gambling age to eighteen (Assembly Bill 86²) and a tax increase on gaming, alcohol, and tobacco to support substance abuse treatment programs (Senate Bill 181³). A proposal to create the position of “General Counsel” to represent the Nevada Gaming Control Board and Nevada Gaming Commission received a lot of press⁴ (Assembly Bill 513⁵), but eventually died after intense political scrutiny and public dialogue surrounding a conversation between Gaming Control Board Chairman A.G. Burnett and Attorney General Adam Laxalt.

Bills ultimately finding success in the 79th Regular Session were relatively non-controversial. Legislation proposed on behalf of the Gaming Control Board served primarily to update licensing and approval procedures without a major shift in policy (Assembly Bill 75⁶), and appropriated funding to allow the completion of on-going technology infrastructure projects for the Board (Assembly Bill 506⁷). Senate Bill 376⁸ served to provide additional comfort to applicants and licensees that information and data provided to the Board and Commission would remain confidential and privileged.

Assembly Bill 219⁹ amends laws related to the local regulation and establishment of Gaming Enterprise Districts—the designation of which is a pre-requisite to the approval of a nonrestricted gaming license. As introduced, Assembly Bill 219 revised the boundary of the Las Vegas Boulevard gaming corridor (a component of the Gaming Enterprise District analysis), but through amendment morphed into creating the Historic Las Vegas Gaming District and providing for an exemption for properties within that district from the application of certain provisions of law relating to Gaming Enterprise Districts.

Senate Bill 240¹⁰ updated the statutory concept of off-track pari-mutuel wagering to include a sporting event or “other events,” paving the way for pari-mutuel wagering on eSports and award ceremonies. The importance of Senate Bill 240 on wagering opportunities and the bill’s impact on the future development of the gaming industry as a whole is covered in more detail elsewhere in this publication.



Assembly Bill 75

Assembly Bill 75 was proposed on behalf of the Gaming Control Board and included a number of updates to Chapter 463 of the Nevada Revised Statutes (“NRS”). First, Assembly Bill 75 cleans up several sections of NRS 463 related to manufacturers, and also expands the definition of “Manufacture” to include as a separate subsection the assumption of responsibility for any of the following: (a) the manufacture, production, programming, design, controlling of design of or making modifications to a gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada; (b) the direction or control of the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada; or (c) the assembly, or control of the assembly of, a gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada. In addition, licensed manufacturers and distributors are exempted from separate licensing requirements when services or property are delivered or furnished in exchange for an interest in gaming or revenue. The bill further exempts certain persons from licensure if an existing manufacturer licensee assumes responsibility for the actions that would otherwise require that person’s licensure.

Also included in Assembly Bill 75 is the addition of a trustee of an employee stock ownership plan to the definition of “Fiduciary” found in NRS 463.175. This addition allows such a trustee of a profit-sharing plan that invests primarily in the employer’s stock to be eligible for an exemption by the Commission from certain licensing requirements typically reserved for banks.

Prior to Assembly Bill 75, once the Gaming Control Board made a final order of recommendation that a gaming application should be denied, the Commission was limited to voting to deny the application, remanding the application to the Board for further investigation and reconsideration, or approving the application by unanimous vote. Assembly Bill 75 added a new option allowing the Commission to “[r]eject the application,” where “[a] rejection of the application does not constitute a determination of the suitability of the applicant or a denial of the application. . . .” This new option provides the Commission with greater flexibility to permit an applicant to have its application terminated without further hearing before the Board or to suffer the consequences of being deemed unsuitable.



NRS 463.330 was also amended to provide that expenditures from the Revolving Account are now permitted to exceed the amount authorized by the Legislature under certain circumstances approved by the Chair if the Revolving Account is used to pass through expenses incurred by the Board while engaged in confidential investigations and enforcement proceedings, and the money for payment of the expenses is derived from state or federal forfeiture funds.

Finally, Assembly Bill 75 directs that the registration required by regulations adopted by the Commission for persons who manufacture or distribute associated equipment will now be with the Board rather than the Commission.



Assembly Bill 219

Assembly Bill 219 addressed certain zoning and locational aspects associated with the establishment of nonrestricted gaming uses. NRS 463 already contained certain prohibitions from approving nonrestricted gaming licenses within areas that had not been designated by local authorities as Gaming Enterprise Districts (GEDs) within counties with populations of over 700,000 (currently, only Clark County). If the location proposed for the establishment of nonrestricted gaming does not fall within certain areas defined by the statute (the Las Vegas Boulevard gaming corridor or the rural Clark County gaming zone), then NRS 463.3086 sets forth heightened requirements for obtaining the necessary approval to be considered part of the GED. Assembly Bill 219 revised the boundaries

of the Las Vegas Boulevard gaming corridor to remove the residential area commonly known as the Beverly Green neighborhood. The bill also provided for the October 1, 2017, expiration of any previously-approved GED designation existing within the area removed from the Las Vegas Boulevard gaming corridor.

An amendment to Assembly Bill 219 added a recognition of the importance of preserving elements of Nevada's past and a desire to foster "heritage tourism" as an unexploited sector of tourism in Nevada. The bill cites findings that heritage tourists spend more time and stay longer than other tourists, and that "[h]istoric preservation and redevelopment are both crucial to the vitality of our communities, and local governments should be allowed to determine the proper balance between our historic past and prospective development that will encourage the continued growth of our economy."

In furtherance of these stated ideals, the bill established the Historic Las Vegas Gaming District for an area within Downtown Las Vegas. "Qualified parcels" in this new district which can demonstrate that they (1) comprise an entire city block or at least 2.5 acres; (2) upon which is located a resort hotel with a minimum investment of \$100,000,000.00; and (3) which, before aggregation and development, includes a parcel upon which was located an establishment holding a nonrestricted license for a resort hotel since July 16, 1997, and which has not ceased gaming operations for more than 24 consecutive months, are exempt from the statutory requirements which would otherwise restrict the availability of a nonrestricted license outside a GED.

The geographic area addressed by Assembly Bill 219 is relatively small, but its potential impact on the downtown area of Las Vegas may prove to be significant.

Assembly Bill 506

Assembly Bill 506 appropriated \$2,091,590 from the General Fund for phase three of the Alpha Migration Project to upgrade the Board's information technology system.



Senate Bill 240

Senate Bill 240 made sporting and other events acceptable subjects for off-track pari-mutuel betting. The implications of Senate Bill 240 on eSports and associated wagering is more fully discussed in an article by Greg Gemignani dedicated specifically to it within this publication, but it is important to note here that this emerging area of gaming is expected to continue to develop and be embraced as part of the mainstream casino experience.

Senate Bill 376

Pre-existing law found in NRS 463.120 set forth that certain information provided by gaming applicants and licensees to state agencies that regulate gaming are confidential and privileged. Although Senate Bill 376 was originally drafted to provide for the unenforceability of agreements between “heir finders” and apparent heirs in the administration of estates during probate, the original text was completely deleted and replaced with late session amendments beefing up and expanding the gaming confidentiality provisions:¹¹

Notwithstanding any other provision of state law, if any applicant or licensee provides or communicates any information and data to an agent or employee of the Board or Commission in connection with its regulatory, investigative or enforcement authority:

- (a) All such information and data are confidential and privileged and the confidentiality and privilege are not waived if the information and data are shared or have been shared with an authorized agent of any agency of the United States

Government, any state or any political subdivision of a state or the government of any foreign country in connection with its regulatory, investigative or enforcement authority, regardless of whether such information and data are shared or have been shared either before or after being provided or communicated to an agent or employee of the Board or Commission; and

- (b) The applicant or licensee has a privilege to refuse to disclose, and to prevent any other person or governmental agent, employee or agency from disclosing, the privileged information and data.

For purposes of the new section, “information and data” includes information and data in any form, and specifically lists any document containing self-evaluative assessments, self-critical analysis, or self-appraisals of an applicant’s or licensee’s compliance with statutory or regulatory requirements. The codification of the protections found in the final version of Senate Bill 376 will serve to fortify the open line of communication between gaming regulators and licensees, a hallmark of Nevada’s system of gaming regulation.



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¹ For the sake of printing space, a link to each relevant bill will be included as a footnote at only its first reference within this article.
² <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4777/Text>
³ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5032/Text>
⁴ See, for example, <https://www.reviewjournal.com/news/2017-legislature/nevada-legislature-releases-ag-laxalt-recording-transcript/> and <https://thenevadaindependent.com/article/indy-primer-everything-you-need-to-know-about-the-laxalt-burnett-secret-recording>
⁵ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5821/Text>
⁶ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/4756/Text>
⁷ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5808/Text>
⁸ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5431/Text>
⁹ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5048/Text>
¹⁰ <https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bill/5154/Text>
¹¹ These amendments surfaced right about the same time Governor Sandoval suggested that it was time to move on from the discussion of Assembly Bill 513’s addition of independent legal counsel for gaming regulators, and address the subject of the underlying conversation between Laxalt and Burnett. <https://thenevadaindependent.com/article/sandoval-says-its-time-to-move-on-from-laxalt-burnett-issue-independent-counsel-for-gaming-board-unnecessary>