

Proposed Rule Change:

Amendatory Section: WAC 230-15-685 Restrictions on progressive jackpots.



August 2015 – Up for Discussion and Possible Filing
July 2015 – Study Session

ITEM 4(a): August 2015 Commission Meeting Agenda.
Statutory Authority: RCW 9.46.070 and 9.46.0282

Who proposed the rule change?

Bally Gaming, a licensed manufacturer.

Proposed Change

The petitioner is requesting that house-banked card game licensees be allowed to connect progressive jackpots from different card games on multiple tables within the card room. The games must have the same probability of winning the jackpot prize and the same winning hands.

The petitioner uses the example of poker based games such as Let it Ride, Mississippi Stud, and Ultimate Texas Hold'em. All are poker based games with progressive jackpots. Even though the underlying game is played differently the odds of obtaining a 5-card royal flush to win the progressive jackpot is the same since they are all played with a single 52 card deck.

Currently, progressive jackpots can only be connected for the same card game within the same card room.

Attachments:

- Letter, petition and supporting documents from Bally dated May 19, 2015.
- One letter in support.

History of Rule

In 2013, the Commissioner did not approve a petition for rule change to WAC 230-15-685 that would have authorized the house banked card game licensees to:

- Connect progressive jackpots on multiple tables of different types of card games, such as a poker based card game and a blackjack based card game, within the same licensed location; and
- Award a progressive jackpot based on a different winning hand on the card games connected, such as a royal flush on the poker based card game and pair of queen of hearts on the blackjack based game.

There were concerns about connecting different types of games where the probability of winning the progressive jackpot was not the same on all the card games and that there would be differing rates of play for the different types of card games; such as poker and blackjack. Instead, the Commissioners opted to approve only allowing house-banked card game licensees to connect progressive jackpots offered on the same card game on multiple tables within the same licensed location.

These concerns have been addressed in this petition as it:

- Only authorizes connecting card games with same base card game to a progressive jackpot, such as a poker based card game to other poker based card games or a blackjack based card game to other blackjack based card games; and

- Requires the probability of getting a qualifying hand to win the progressive jackpot to be the same on all the connected card games, such as a royal flush on each of the card games.

Impact of the Proposed Change

According to the petitioner, this rule amendment will allow operators to link card games to a common progressive jackpot prize. It will provide operators with more choice, flexibility, and excitement when offering progressive jackpots to players.

Only one progressive jackpot may be operated on a card game at a time and the card games must:

- All be from the same licensed manufacturer; and
- Have the same probability of winning the jackpot prize; and
- Have the same winning hand; and
- Have a progressive meter on each table that increases incrementally each time a wager is made.

Other Jurisdictions:

The petitioner stated to staff that linked progressive jackpots are allowed in eleven other states and two providences. We contacted three of the jurisdictions about linking progressive jackpots.

Nevada:

Allows linked progressive jackpots for different card games. There have not been any problems. Video surveillance is available if further information is needed to determine when a win occurred. They were not aware of any problems in this area.

Kansas:

Allows linked progressive jackpots for different card games. No issues have been reported and they have not received any player complaints.

Iowa:

Allows linked progressive jackpots for different card games. They haven't experienced any problems and do not have any concerns with using them.

Tribal Gaming:

If the Commissioners allow progressive jackpots from different card games on multiple tables within a card room to be connected, the Tribes may be authorized to offer the same depending on terms in their Compact.

A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on any licensees.

Regulatory Concerns

Staff does not anticipate additional regulatory concerns.

Resource Impacts

Staff will review both the card game and equipment used to operate the game. Staff time for reviews is paid for by the manufacturer.

- Card game rules will take approximately 2-3 hours to review and approve.
- Equipment used to link games will need to be tested. The amount of time to review and approve the equipment will vary depending on the submission.
- The games will be regulated the same as existing progressive jackpot games and current records will be used.

Policy Consideration
None.
Statements Supporting the Proposed Rule Change
Victor Mena, Chief Operating Officer, Vice President Washington Operations for Nevada Gold.
Statements Opposing the Proposed Rule Change
None.
Licensees/Stakeholders Directly Impacted By the Change
House-banked card game licensees and card game manufacturers.
Staff Recommendation
File for further discussion.
Proposed Effective Date for Rule Change
31 days from filing the adopted rule.

Amendatory Section:

WAC 230-15-685 Restrictions on progressive jackpots.

House-banked card game licensees operating progressive jackpots must follow these restrictions and procedures:

- (1) Progressive jackpot funds must accrue according to the rules of the game; and
- (2) At each gambling table, licensees must prominently post the amount of the progressive jackpot that players can win; and
- (3) Licensees must record the beginning amount of each progressive jackpot offered, including explanations for any increases or decreases in the prize amount offered. Licensees must keep this documentation with the progressive jackpot records; and
- (4) Licensees may establish a maximum limit on a progressive jackpot prize. If licensees establish a limit, they must make the amount equal to, or greater than, the amount of the jackpot when they imposed the limit. They must prominently post a notice of the limit at or near the game; and
- (5) Licensees may connect progressive jackpots offered on the same card game on multiple tables within the same licensed location.
- (6) Licensees may connect progressive jackpots on different card games on multiple tables within the same licensed location when the following requirements are met. Only one progressive jackpot may be operated on a card game at a time and the card games must:

- (a) All be from the same licensed manufacturer; and
- (b) Have the same probability of winning the jackpot prize; and
- (c) Have the same winning hand; and
- (d) Have a progressive meter on each table that increases incrementally each time a wager is made.

Proposed Rule Change:

Amendatory Section: WAC 230-07-051 Accumulating excessive reserves.



**August 2015 – Up for Discussion and Possible Filing
July 2015 – Study Session**

ITEM 5 (a): August 2015 Commission Meeting Agenda.

Statutory authority: RCW 9.46.070 (1),(10), (16) and RCW 9.46.0209(1)(b)(iii)

Who proposed the rule change?

Staff.

Proposed Change

Commission staff regularly evaluates our regulatory processes to ensure they add value and that we do not place unnecessary burdens on licensed organizations. This is in line with one of our agency goals of “anticipating and responding to the evolving gambling industry.”

As part of our regulatory reform process, staff is proposing two changes that will save nonprofit licensees money and time by no longer requiring them to set up an endowment or a restricted trust fund when they want to accumulate excessive reserves to use for future capital projects or start new programs (such as a new HVAC system or soccer field). With the rule change:

- Licensees could accumulate these funds with the approval of a majority of the organization’s membership rather than setting up an endowment or restricted trust fund; and
- The threshold amount was increased from \$2 million to \$4 million. As part of our stakeholder outreach, a licensee suggested increasing the threshold.

Each year staff verifies that the charitable and nonprofit licensees who have combined annual gross gambling receipts in excess of \$3 million are not accumulating excessive reserves but spending the monies made from their gambling activities on their programs to further their stated purpose.

All other restrictions on accumulating excessive reserves remain in effect, such as making sure the funds are saved according to a plan approved by the organization’s officers or board of directors. The plan must include the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used. Commission staff approves the plan, which would exclude these restricted funds from the excessive reserves calculation.

Attachments:

- WAC 230-07-05 Defining “excessive reserves.”
- Stakeholder notification letter dated July 13, 2015, sent to charitable and nonprofit bingo, raffle, and punch board/pull-tab licensees
- Two e-mails from stakeholders.

History of Rule

The excessive reserves requirement was put into place in 1989.

In 1994, after a nine-month process between staff and industry, language was added to the rule, which:

- Provided a formula for calculating excessive reserves; and
- Allowed funds transferred to an endowment or specifically restricted trust fund for the purpose of funding new programs or capital projects and did not exceed \$2 million to be exempt if approved by us.

In 1996, the rule was updated and streamlined to specifically define certain allowable expenses and to reduce reporting requirements to certain classes of nonprofit licensees. The new rule took out the complicated formula for excessive reserves and added that the funds would be calculated using financial data filed with the Commission.
Impact of the Proposed Change
Setting up an endowment or trust fund can be costly, approximately \$1,000 or more, and takes monies away from the charitable or nonprofit organizations' programs.
The industry has changed significantly since the rule was first introduced. Between 1996 and 2013: <ul style="list-style-type: none"> • Bingo licensees have declined 56% (473 licensees to 206); and • Non-profit punch board/pull-tab licensees have declined 43% (403 licensees to 230). We have received three requests in the past three years.
Between 2003 and 2008, there were 18 administrative cases on licensees who violated this rule; of those, seven resulted in suspensions and four licensees surrendered their license. Since 2008, there have not been any violations but we have licensees asking to set monies aside for new programs or capital projects. In order to do so and not be in violation of the rule, they must set an endowment or trust fund.
A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on any licensees.
Regulatory Concerns
Staff does not have regulatory concerns with this rule change.
Resource Impacts
This rule change will save staff time. Currently, staff spends time working with the charitable and nonprofit officers explaining to them that the monies have to be moved to an endowment or trust fund. Then, staff works with their accountants and attorneys to make sure the endowment or trust fund is set up in accordance with the rule requirements.
Policy Consideration
None.
Statements About the Proposed Rule Change
Rotary Club of Columbia Center (see attached email). Sister Rebecca Berghoff Foundation (see attached email).
Licensees/Stakeholders Directly Impacted By the Change
This change will only affect nonprofit licensees with annual gross receipts over \$3,000,000. Currently, nine of our licensee's fall into this category. Each of the licensees were contacted via email on July 13, 2015, and given the opportunity to share their thoughts on the proposed change.
Staff Recommendation
File for further discussion.
Proposed Effective Date for Rule Change
31 days from filing the adopted rule.

Amendatory Section:

WAC 230-07-051 Accumulating excessive reserves.

A charitable or nonprofit organization must not accumulate excessive reserves. Organizations accumulating excessive reserves may be deemed as organized primarily for purposes of gambling. Reserves must be computed by using the financial data most recently filed with us. We will not treat funds transferred to an endowment or specifically restricted trust fund will not be treated as excessive reserves if the following restrictions are met:

(1) A majority of the organization's membership~~The endowment or dedicated trust fund is either legally irrevocable or restricted in a manner that~~ approval the accumulation of excessive reserves is required by a majority of the membership prior to use or transfer of the endowment or dedicated trust principal; and

(2) The funds are expressly dedicated for funding new programs, capital projects, or to endow service-providing activities; and

(3) The funds are saved according to a plan that includes the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used; and

(4) The organization's officers or board of director's approves the plan~~is approved by the organization's officers or board of directors and documentation for the endowment or trust fund is submitted to us for review and approval;~~ and

(5) The organization submits the plan to us for review and approval; and

(5)6 The total amount of ~~net gambling income that is transferred to endowment or trust funds~~ the excessive reserves may exceed ~~two~~ four million dollars only if the organization petitions the director to exceed this limitation and the director approves the petition. The director may disapprove with written comments or approve a modified level based on facts presented. The director's decision may be appealed to the commission. Appeal of this decision will be heard at a regular public meeting of the commission. The commission's decision shall be final. Petitions for relief must include:

(a) The reason for the request, including whether the increased reserves are for charitable or nonprofit purposes and planned timelines for use; and

(b) The total amount of reserves requested; and

(c) The impact on programs if the petition is denied; and

(d) Alternative sources of funding available.

WAC 230-07-050

Defining "excessive reserves."

(1) "Excessive reserves" means the total amount of the licensee's cash, cash equivalents, and other assets that would not normally be associated with providing programs or fund-raising activities is greater than the sum of:

(a) The licensee's current liabilities, which means debts due within one year; plus

(b) Total functional expenses during the most recently completed fiscal year; plus

(c) The average net income or loss from combined gambling and retail sales conducted in conjunction with gambling activities for a three-month period. This average is calculated by dividing annual net gambling and retail sales income or loss by four.

(2) However, we may approve the exclusion of funds reserved to start or expand specific programs from the computation of excessive reserves.

[Statutory Authority: RCW [9.46.070](#). WSR 07-10-032 (Order 609), § 230-07-050, filed 4/24/07, effective 1/1/08.]