



Amend

WAC 230-13-005 Amusement games authorized.

WAC 230-13-130 Display and exchange of amusement game prizes

Repeal

WAC 230-13-140 Price to play amusement games must be paid in cash or check.

- April 2016 – Final Action**
- March 2016 – Final Action**
- February 2016 – Further Discussion**
- January 2016 – Up for Discussion and Filing**
- December 2015 – No Meeting**
- November 2015 - Study Session**

ITEM 4: April 2016 Commission Meeting Agenda. Statutory Authority 9.46.070, 9.46.0201

Who proposed the rule changes?

WAC 230-13-005 Staff, licensed operators and stakeholders
 WAC 230-13-130 Staff
 WAC 230-13-140 Staff

Proposed Changes

Bold/ Underline = Changes made after the March 2016 Commission meeting:

In July 2015, the Commissioners authorized Group 12 amusement games to be played by persons 21 and over. With implementation of this new activity, staff has identified additional rule changes necessary to ensure effective regulation.

These rule changes include defining merchandise prizes, addressing the issuance of gift cards and gift certificates, awarding cash, replays of tokens or tickets awarded, and the participation in other gambling activities as a merchandise prize.

This rules package also:

- Codifies current practice of allowing tickets or tokens awarded as prizes to be put onto a card. These tokens or tickets cannot be replayed. (See subsection (7)).
- Repeals WAC 230-13-140 because it is contradictory to WAC 230-13-005(4).
- Does not allow charitable, nonprofit organizations to operated Group 12 amusement games without a license under RCW 9.46.0321 and RCW 9.46.0331.

Attachment:

Budget Proviso (the following language was included in the budget passed by the legislature):
“The commission is directed to review and reconsider, including repeal, rules adopted to authorize the amusement games classified as group 12 under WAC 230-13-067, recognizing the impact such games may have on state lottery revenues used to support public education programs.”

Policy Impacts

RCW 9.46.0201 defines an amusement game as a game played for entertainment in which only merchandise prizes are awarded.

Many of the questions, comments, and concerns from the public, licensees, and stakeholders have come about because there is not a definition of merchandise prizes in gambling rules or statutes. To provide clarity and consistency, the following areas related to merchandise prizes should be addressed (**See footnotes in rule for cross-references**):

- 1) Awarding gift certificates and gift cards as prizes;

- 2) Allowing pull-tabs and the ability to pay for entry into bingo games to be considered merchandise prizes;
- 3) Replaying tickets or tokens won; and
- 4) Food or beverage at the licensed location to be considered merchandise prizes.

As a starting point for discussion, staff has put together two rule package options for the Commissioners' consideration. After additional discussion and input from the public, the Commissioners may decide upon a different Option, incorporating parts of Option A and Option B, for example.

Option A

- Does *not* allow: additional plays as prizes, replay of tokens awarded, the issuance of gift cards or certificates, or cash to be awarded.
- Defines merchandise, which does *not* include participation in gambling activities.
- Changes made after the January meeting:
- WAC 230-13-005:
 - Subsection (6)(b): Language changed to clarify that pull-tabs and other gambling activities are not considered merchandise prizes and the word “prizes” was added.
 - Subsection (7): For clarification, “cash” was changed to “purchased credits”
 - Subsection (5): formatting corrected - (i), (ii) and (iii) changed to (a), 9b) and (c).
- WAC 230-13-130: The word “multiple” was removed.

Option A.1 - At the March 2016 meeting, the Commissioners asked staff to amend Option A to allow winnings from Group 12 amusement games to be played, either by playing tokens accumulated on an electronic token card, playing of tokens accumulated on the amusement game before redemption, and by accumulated tokens being reinserted for play.

Option B – The Commissioners withdrew Option B from further consideration at the February 2016 meeting, RCW 34.05.335.

Licensee Impacts

- Licensees have indicated that in order for Group 12 amusement games to be profitable they need to be able to award gift cards and gift certificates.
- Having the ability to award pull-tabs, participation in bingo games, and food and beverages will increase their sales.
- Issuing gift certificates or gift cards to other retail locations takes sales away from the business.

A Small Business Economic Impact Statement was prepared and is included with stakeholder comments.

Agency Impacts

Allowing or specifically prohibiting in rule the topics addressed above will provide clarity and consistency for licensees and the public and save staff time in addressing questions, complaints, and inquiries.

Statements Supporting or Opposing the Proposed Rule Change

At the March meeting, 8 people testified. Seven were in support of Group 12 amusement games and one wanted to focus on modernizing gambling activities. Of those in favor of Group 12 amusement games three testified on needing replays to keep the games viable, one wanted to give cash back by issuing gift cards up to \$40, one thought the ID stamps would provide revenue, and another stated that requiring the appearance of the games to be changed would be expensive.

At the February meeting, 13 people testified. Twelve were in support of Group 12 amusement games and one was against. Of the twelve that were in favor of Group 12 games, four testified that the replay of prizes won (sometimes referred to as "credits") was important; four said gift cards as prizes was important, as this encourages patrons to stay at the business.

At the January 2016 Commission meeting, 17 people testified; 15 said they would prefer no rule changes, but if there are changes, they would prefer Rules Package 3 Option B. (The Commissioners withdrew Option B from further consideration at the February 2016 meeting, RCW 34.05.335.) Two people testified with a variety of concerns about group 12 amusement games.

Staff Recommendation

Final Action.

Proposed Effective Date for Rule Change

If the Commissioners choose to file these rules, staff recommends an effective date of 31 days from filing the adopted rules.

Bold/Yellow Highlight – Changes made after the January 2016 Commission Meeting.

Option A

- *Does not allow: additional plays as prizes, replay of tokens awarded, the issuance of gift cards or certificates, or cash to be awarded.*
- *Defines merchandise, which would not include participation in gambling activities.*

Amended Section

WAC 230-13-005 Amusement games authorized.

(1) We authorize the approved groups of amusement games set forth in this chapter. Operators must only operate amusement games that meet the standards of at least one of the authorized groups.

(2) Commercial businesses or nonprofit or charitable organizations may apply for licenses for amusement games.

(3) Charitable or nonprofit organizations also may conduct Group 1 through 11 amusement games without a license when authorized to do so under RCW 9.46.0321 and 9.46.0331.

(4) Operators must operate amusement games as either:

(a) An attended amusement game.

(i) An "attended amusement game" means an amusement game that requires the presence or assistance of a person (attendant) in the regular operation of the game; and

(ii) These games must award a merchandise prize to players if players achieve the objective with one cost of play; and

(iii) An attendant accepts cash, check, tickets or scrip to play the amusement game. The tickets and scrip are not redeemable for cash and must show the name of the operator or sponsor;

or

(b) A coin or token activated amusement game.

(i) A "coin or token activated amusement game" means an amusement game that uses a mechanical, electronic, or electro-mechanical machine to allow the player to activate the game by inserting coins, cash, ~~or~~ tokens, or tokens on an electronic token card; and

(ii) These games may dispense merchandise prizes, or coupons, tickets ~~or~~ tokens, or tokens onto an electronic token card redeemable for merchandise prizes; and

(5) Amusement games must not:

(a) Award additional plays as prizes; or

(b) Allow coupons, tickets, tokens or tokens on electronic token cards that are awarded to be replayed¹; or

(c) Result in any cash payment being awarded.

(6) Amusement games must only award merchandise prizes.

(a) Merchandise prizes means non-cash prizes including toys, novelties, retail items such as electronic goods, clothing, accessories, as well as food, beverages and other items sold by the operator as a normal part of their business in compliance with all other state laws and regulations², except as provided in subsection (6)(b) of this section.

(b) Pull-tabs and other gambling activities³, gift certificates or gift cards do not constitute merchandise prizes⁴.

¹ Reference to Rules Summary Policy Impact 3) – replaying tickets or tokens won.

² Reference to Rules Summary Policy Impact 4) – food or beverage at the licensed location to be considered merchandise prizes.

³ Reference to Rules Summary Policy Impact 2) – allowing pull-tabs and the ability to pay for entry into bingo games to be considered merchandise prizes.

⁴ Reference to Rules Summary Policy Impact 1) – awarding gift certificates and gift cards as prizes.

(7) Electronic token card means a card issued by the operator that stores ~~the cash-purchased credits~~ available to play the amusement game separate from the coupons, tickets, or tokens awarded or dispensed as prizes from the play of the amusement game. Coupons, tickets, or tokens awarded as prizes cannot be used to play amusement games and must only be redeemed for merchandise prizes.

[Statutory Authority: RCW 9.46.070 and 9.46.0331. WSR 15-15-063 (Order 713), § 230-13-005, filed 7/10/15, effective 8/10/15. Statutory Authority: RCW 9.46.070. WSR 07-15-064 (Order 612), § 230-13-005, filed 7/16/07, effective 1/1/08.]

Option A

- *Does not allow: additional plays as prizes, replay of tokens awarded, the issuance of gift cards or certificates, or cash to be awarded.*
- *Defines merchandise, which would not include participation in any other gambling activity.*

Repealed

~~WAC 230-13-140 Price to play amusement games must be paid in cash or check.~~

~~(1) Amusement game operators must charge cash or check for playing.~~

~~(2) Operators may accept tokens, scrip, or tickets, but only if:~~

~~(a) The equivalent value in cash for each token, scrip, or ticket is printed on the token, ticket, or scrip; and~~

~~(b) Tokens, tickets or scrip are not redeemable for cash; and~~

~~(c) Tickets or scrip show the name of the operator or sponsor.~~

~~[Statutory Authority: RCW 9.46.070. WSR 07-15-064 (Order 612), § 230-13-140, filed 7/16/07, effective 1/1/08.]~~

Amended Section

WAC 230-13-130 Display and exchange of amusement game prizes.

(1) Amusement game operators must prominently display a sample of each type of prize available.

(2) Operators must only award prizes that are posted. However, after a player has won two or more prizes, operators may offer that player the opportunity to exchange those prizes for one or more other prizes, but only if that prize was on display during the play of the game.

(3) Operators must not allow winners to forfeit previously won prize(s) in exchange for another play.

(4) Operators may give winners tickets, coupons, tokens, or tokens stored on an electronic token card, which winners may combine with other tickets, coupons, tokens, or tokens on ~~multiple~~ electronic token cards won and redeem for a merchandise prize.

[Statutory Authority: RCW 9.46.070. WSR 07-15-064 (Order 612), § 230-13-130, filed 7/16/07, effective 1/1/08.]

This rule option was requested by the Commissioners at the March 2016 Commission Meeting.

Option A.1

- *Allows replay of winnings on a Group 12 amusement game.*
- *Does not allow: the issuance of gift cards or certificates or cash to be awarded.*
- *Defines merchandise, which would not include participation in any other gambling activity.*

Amended Section

WAC 230-13-005 Amusement games authorized.

(1) We authorize the approved groups of amusement games set forth in this chapter. Operators must only operate amusement games that meet the standards of at least one of the authorized groups.

(2) Commercial businesses or nonprofit or charitable organizations may apply for licenses for amusement games.

(3) Charitable or nonprofit organizations also may conduct Group 1 through 11 amusement games without a license when authorized to do so under RCW 9.46.0321 and 9.46.0331.

(4) Operators must operate amusement games as either:

(a) An attended amusement game.

(i) An "attended amusement game" means an amusement game that requires the presence or assistance of a person (attendant) in the regular operation of the game; and

(ii) These games must award a merchandise prize to players if players achieve the objective with one cost of play; and

(iii) An attendant accepts cash, check, tickets or scrip to play the amusement game. The tickets and scrip are not redeemable for cash and must show the name of the operator or sponsor;

or

(b) A coin or token activated amusement game.

(i) A "coin or token activated amusement game" means an amusement game that uses a mechanical, electronic, or electro-mechanical machine to allow the player to activate the game by inserting coins, cash, ~~or~~ tokens, or tokens on an electronic token card; and

(ii) These games may dispense merchandise prizes, or coupons, tickets ~~or~~ tokens, or tokens onto an electronic token card ("winnings") redeemable for merchandise prizes; and

(iii) Winnings from a Group 12 amusement game can be played on a Group 12 amusement game only by⁵:

(1) Playing tokens accumulated on an electronic token card; or

(2) Playing tokens accumulated on the amusement game before redemption; or

(3) Accumulated tokens being reinserted for play.

(5) Amusement games must not:

(a) Award additional plays as prizes; or

(b) Result in any cash payment being awarded.

(6) Amusement games must only award merchandise prizes.

(a) Merchandise prizes means non-cash prizes including toys, novelties, retail items such as electronic goods, clothing, accessories, as well as food, beverages and other items sold by the

⁵ Reference to Rules Summary Policy Impact 3) – replaying tickets or tokens won.

operator as a normal part of their business in compliance with all other state laws and regulations⁶, except as provided in subsection (6)(b) of this section.

(b) Pull-tabs and other gambling activities⁷, gift certificates or gift cards do not constitute merchandise prizes⁸.

(7) (a) For Group 1 through 11 amusement games, eElectronic token card means a card issued by the operator that stores purchased credits available to play the amusement game separate from the coupons, tickets, or tokens awarded or dispensed as prizes from the play of the amusement game. Coupons, tickets, or tokens awarded as prizes cannot be used to play amusement games and must only be redeemed for merchandise prizes.

(b) For Group 12 amusement games, electronic token card means a card issued by the operator that stores the purchased credits to play the amusement game and the coupons, tickets, or tokens awarded from the play of the amusement game.

[Statutory Authority: RCW 9.46.070 and 9.46.0331. WSR 15-15-063 (Order 713), § 230-13-005, filed 7/10/15, effective 8/10/15. Statutory Authority: RCW 9.46.070. WSR 07-15-064 (Order 612), § 230-13-005, filed 7/16/07, effective 1/1/08.]

⁶ Reference to Rules Summary Policy Impact 4) – food or beverage at the licensed location to be considered merchandise prizes.

⁷ Reference to Rules Summary Policy Impact 2) – pull-tabs and the ability to pay for entry into bingo games to be considered merchandise prizes.

⁸ Reference to Rules Summary Policy Impact 1) – awarding gift certificates and gift cards as prizes.

Repealed

WAC 230-13-140 Price to play amusement games must be paid in cash or check.

(1) Amusement game operators must charge cash or check for playing.

(2) Operators may accept tokens, scrip, or tickets, but only if:

(a) The equivalent value in cash for each token, scrip, or ticket is printed on the token, ticket, or scrip; and

(b) Tokens, tickets or scrip are not redeemable for cash; and

(c) Tickets or scrip show the name of the operator or sponsor.

[Statutory Authority: RCW 9.46.070. WSR 07-15-064 (Order 612), § 230-13-140, filed 7/16/07, effective 1/1/08.]

Amended Section

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(3) Operators must not allow winners to forfeit previously won prize(s) in exchange for another play.

(4) Operators may give winners tickets, coupons, tokens, or tokens stored on an electronic token card, which winners may combine with other tickets, coupons, tokens, or tokens on multiple-electronic token cards won and redeem for a merchandise prize.

[Statutory Authority: RCW 9.46.070. WSR 07-15-064 (Order 612), § 230-13-130, filed 7/16/07, effective 1/1/08.]

Budget Proviso

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 2376

FOR THE GAMBLING COMMISSION

State Lottery Account: For transfer to gambling revolving account \$1,000,000

The transfer in this section is subject to the following conditions and limitations:

- (1) (~~The commission shall maintain working capital reserves in the gambling revolving account of no more than five percent of projected expenses in the account~~) This funding is provided solely for the costs of enforcement of gambling activities, including but not limited to evaluation, analysis, and dissemination of information on individuals and groups who are suspected of being involved in illegal gambling and other associated crimes.
- (2) The commission shall not approve any electronic raffle systems to conduct fifty-fifty raffles until the legislature has reviewed all impacts to the state lottery.
- (3) The commission is directed to review and reconsider, including repeal, rules adopted to authorize the amusement games classified as group 12 under WAC 230-13-067, recognizing the impact such games may have on state lottery revenues used to support public education programs.