



Proposed Amendment to
WAC 230-17-137
Guidelines for imposing penalties in disciplinary actions.

August 2009 – Final Action
July 2009 – Study Session
June 2009 – No Commission Meeting
May 2009 – Filed for Discussion

ITEM 8 (a) on the August 14, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff	
Proposed Change	
<p>This is a housekeeping change to subsection (1)(L) to change “Commissioners” to “presiding officer”.</p> <p>When this rule was adopted in February 2009, an inadvertent error in subsection (1)(L) listed the “Commissioners” rather than the “presiding officer” as the person that may consider the factors listed in the rule when determining administrative penalties.</p>	
History of Rule	
<p>This rule requires that, upon the request of any party, the presiding officer may consider a list of 14 aggravating and mitigating factors when determining whether to modify a penalty sought by Commission staff.</p> <p>In 2006, at the request of the Coalition for Responsible Gaming and Regulation (“Coalition”), staff began discussions on a draft version of this rule. The Coalition is a group that includes manufacturers, distributors, charitable/nonprofit organizations, and commercial operators. During these meetings, the parties discussed the Coalition’s concerns about some aspects of the administrative case process and worked on a rules proposal. However, an agreement satisfactory to both parties was not reached.</p> <p>In October 2008, the Commission filed a Petition For Rule Change submitted by the Coalition requesting a new rule to require the Commission and/or the presiding officer to consider a list of aggravating and mitigating circumstances when imposing administrative penalties. After months of discussion and several changes to the initial WAC language, the Commission adopted this version of the rule at their February 2009 meeting, to become effective March 20, 2009.</p>	
Impact of the Proposed Change	
<p>The change clarifies that the “presiding officer” rather than the “Commissioners” may consider any other aggravating and mitigating circumstances when imposing administrative penalties.</p> <p>A small business economic impact statement was not prepared because the rule change would not impose additional costs on businesses.</p>	
Regulatory Concerns	
None.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Statements Supporting the Proposed Rule Change	
None.	
Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
Applicants and licensees.	

Staff Recommendation
Adoption.
Proposed Effective Date for Rule Change
31 days from adoption.

Amendatory Section:

WAC 230-17-137 Guidelines for imposing penalties in disciplinary actions.

(1) Without in any manner limiting the authority granted to the commission under chapter 9.46 RCW or other applicable law to impose the level and type of discipline it may deem appropriate, at the request of any party, the presiding officer may consider the following factors, along with such others as he or she deems relevant, in determining the administrative penalty to be assessed for the violation of a statute or rule:

- (a) The risk posed to the public health, safety, or welfare by the violation;
- (b) Whether there are special policy implications relating to the violation, for example, those regarding underage gambling;
- (c) Whether, and how, the violations impacted players, for example, failure to pay a player, and player-supported jackpot violations;
- (d) Whether the applicant, licensee, or permittee:
 - (i) Knew, or reasonably should have known, the action complained of was a violation of any law, regulation, or condition of their license;
 - (ii) Previously received a verbal warning, written warning, notice of infraction, notice of violation and settlement (NOVAS), or administrative charges from the commission for similar violations;
 - (iii) Made, or attempted to make, a financial gain from the violation;
 - (iv) Had an existing compliance program related to the violation; or
 - (v) Has subsequently initiated remedial measures to prevent similar violations from reoccurring;
- (e) Whether the violations were intentional, willful, or grossly negligent;
- (f) Whether requiring the applicant, licensee or permittee to implement a written self-enforcement and compliance program would assist in ensuring future compliance with relevant laws, regulations, and license conditions;
- (g) If the violation was caused by an officer or employee of the applicant, licensee, or permittee:
 - (i) Whether the individual who caused the violation acted within the scope of authority granted to him or her by the applicant, licensee or permittee; or
 - (ii) Whether the individual violated company policies, procedures, or other standards;

(h) The adequacy of any relevant training programs the applicant, licensee or permittee previously offered or made available to its employees;

(i) Whether and the extent to which the applicant, licensee or permittee cooperated with the commission during the investigation of the violation;

(j) The penalties imposed on other applicants, licensees or permittees for similar violations;

(k) Whether the applicant, licensee, or permittee reasonably relied upon professional advice from an accountant or other recognized professional, which was relevant to the conduct or action resulting in the violation; or

(l) Any other aggravating or mitigating circumstances the ~~commissioners~~ presiding officer deems relevant.

(2) A party intending to rely on any aggravating or mitigating factors must raise them at the initial hearing before the presiding officer in order to preserve them for any subsequent hearings before a reviewing officer.

(3) In the spring of 2011, staff will report to the commission on the impacts of this rule, if any.

[Statutory Authority: RCW [9.46.070](#). 09-05-084 (Order 641), § 230-17-137, filed 2/17/09, effective 3/20/09.]



Proposed Amendment to
WAC 230-10-380
Relief reduction for minimum annual adjusted cash flow.

August 2009 – Amended Version Up for Final Action
July 2009 – Study Session
June 2009 – No Commission Meeting
May 2009 – Filed for Discussion

ITEM 9 (a) on the August 14, 2009, Commission Meeting Agenda. Statutory Authority 9.46.070

Who proposed the rule change?

Clyde Bock, licensed bingo manager, Ruth Dykeman Children's Center.

Proposed Change

The petitioner is requesting that bingo licensees have the ability to apply up to 49% of gambling taxes paid to local governments as a credit when computing expenses for adjusted cash flow requirements.

Staff recommends a housekeeping amendment to change "license" year to "calendar" year to reflect current agency practice.

The purpose of the change is to help bingo licensees that maintain a positive cash flow throughout the year to remain in compliance, when gambling taxes paid to local governments push them out of compliance.

The petitioner verbally stated to staff that last year he paid \$78,000 in gambling taxes. In contrast, some jurisdictions do not charge charitable/nonprofit organizations a gambling tax. Mr. Bock stated that his organization pays 10% gambling tax on pull-tab net receipts and 2.5% on bingo net receipts. Until recently, he was paying 5% tax on bingo net receipts. The petitioner stated the rule change allows him to receive some recognition for taxes paid and brings his cash flow requirements more in line with bingo licensees that do not pay gambling taxes.

Changes made after the May 2009 Commission Meeting are in bold:

- **Language in subsection (1) was amended for clarification.**
- **After further review, it was determined that neither "license" or "calendar" year are needed in subsections (1) and (3).**
- **Language was added to subsection (3) to make it clear that the tax credit can be given annually while the 25% reduction is limited to once every five years.**
- **Language was added to subsection (2) to make it clear that the 25% reduction cannot be combined with the tax credit.**
- **At the July 2009 Commission meeting, Keith Schuster, Special Agent Supervisor, Financial Investigations Unit, gave a presentation regarding cash flow and significant progress (PowerPoint Presentation attached).**
- **Following are three examples of how the calculations would work. These scenarios are attached behind the rule summary and are included in the presentation given by Special Agent Supervisor Schuster at the July 2009 Commission meeting.**
 - Scenario #1: Bingo licensee is in compliance without any relief allowed.
 - Scenario #2: Bingo licensee is in compliance after receiving the gambling tax credit proposed by Mr. Bock.
 - Scenario #3: Bingo licensee is in compliance after receiving the 25% reduction granted by the director.
- **At the May 2009 meeting, Mr. Bock testified that there are two areas in this state this applies to: Yakima that has two games; and those in Renton and Tukwila that are within three or four miles of each other. The tax rates in those two areas are vastly different, which has created a competitive situation that he is trying to address.**

- **Staff researched these four local ordinances and found the following:**
 - **Yakima and Union Gap tax bingo at 5% of net gambling receipts.**
 - **In February 2009, Renton reduced their bingo tax from 5% to 2.5% for nonprofit organizations who provide basic health, education, and welfare services, such as the Ruth Dykeman Children’s Center.**
 - **Tukwila taxes bingo at 5% of net gambling receipts; however, the city waives the tax if 70% of the potential tax is used or donated for basic health, education, welfare or other community needs.**

Attachments (bold = additions made after the May 2009 Commission meeting):

- **Excerpt Slides (Scenarios #1, #2, and #3) from the PowerPoint presentation given by Keith Schuster, Special Agent Supervisor at the July 2009 Commission meeting.**
- **Proposed amendment to WAC 230-10-380 Up for Adoption at the August 2009 Meeting.**
- **Petitioner’s original proposed change to WAC 230-10-380 which was filed at the May 2009 meeting.**
- **Petition for Rule Change received April 1, 2009.**
- **WAC 230-10-365, WAC 230-10-370, WAC 230-10-375, WAC 230-10-380.**
- **Letter sent to thirteen bingo licensees notifying them of the proposed rule change. As of the date the August 2009 agenda was published, we have not received any responses.**
- **Full PowerPoint Presentation given by Keith Schuster, Special Agent Supervisor, at the July 2009 Commission meeting.**
- **Excerpts from 2004 “Charitable and Nonprofit Gambling in Washington” Report**

History of Rule

This rule allows the director to automatically grant up to a 25% reduction to the annual dollar amount required for annual adjusted cash flow for bingo licensees that fail to meet the minimum requirements. This automatic reduction can be granted once every four years.

In 2004, the Commission contracted with Sally Perkins of Practical Solutions to prepare a report on “Charitable and Nonprofit Gambling in Washington.” Excerpts from Ms. Perkins’ report, as well as a description of Ms. Perkins’ background, are attached. Among other things, Ms. Perkins was asked to review the adjusted cash flow rules and determine whether implementation of these rules had been successful in ensuring that funds were directed towards the stated purposes of the charitable/nonprofit organizations. If not, Ms. Perkins was asked to make recommendations.

Ms. Perkins found that the Commission had made nine rule changes in this area since 1983 and “has bent over backwards to assist licensees, especially the largest licensees, to be profitable and comply with income/cash rules.” She noted that the changes have “reduced the required cash flow for the largest licensees by 58%, a dramatic and probably unintended result.” She recommended the Commission re-examine standards related to adjusted cash flow and that the Commission “should consider increasing the adjusted cash flow requirement to increase the amount of funds required to be applied to the stated purposes.”

The excerpts explain the various changes the Commission made to the rules and whether taxes were included in the cash flow calculation. Generally, taxes have not been considered in the calculation. Pages 145 to 147 show how the amount required for net income/cash flow for a “typical extra-large” licensee has decreased under the various rules from a required net income of \$645,650 in 1983 for a licensee with gross receipts of \$4.3 M. to a required cash flow of \$307,745 in 2001 for the same licensee.

Impact of the Proposed Change

This amendment would give bingo licensees that pay taxes to local governments the ability to meet adjusted cash flow requirements without using the 25% relief that may be granted by the director once every four years.

Bingo licensees that maintain a positive cash flow throughout the year would be able to apply up to 49% of gambling taxes paid to local jurisdictions toward their adjusted cash flow requirements. The gambling tax credit would not be automatic; it will only be used if the licensee did not meet adjusted cash flow requirements. If the organization has a negative cash flow, they would not be able to apply the tax credit to their adjusted cash flow calculation.

The petitioner stated that gambling taxes are a tangible benefit to local governments and that the proposed change would make their cash flow requirements more consistent with licensees that do not pay gambling taxes.

A small business economic impact statement was not prepared because the rule change would not impose additional costs on businesses.

Regulatory Concerns

None.

Resource Impacts

None.

Policy Consideration

None.

Statements Supporting the Proposed Rule Change

At the May 2009 meeting, Mr. Bock testified in support of his petition. He noted there are only 14 bingo games left in this state that fall under this rule. At one time there were in excess of 60 and he is trying to create an additional safety net in advance of when it would be needed.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

Bingo licensees that pay gambling taxes.

Staff Recommendation

Final Action.

Proposed Effective Date for Rule Change

The petitioner verbally requested an effective date of 31 days from adoption.

**Amended Petition
Up for Adoption at the August 2009 Commission Meeting**

Amendatory Section:

WAC 230-10-380 Relief reduction for minimum annual adjusted cash flow.

(1) If a bingo licensee fails to meet the minimum annual adjusted cash flow requirements for any license calendar year and has maintained a positive cash flow, the licensee may apply as a credit against the required adjusted cash flow up to forty-nine percent of gambling taxes paid to local governments when computing expenses for adjusted cash flow.

(2) If the licensee is still out of compliance, the director automatically grants relief, allowing ((a)) up to twenty-five percent reduction to the annual dollar amount of required adjusted cash flow for the year, excluding the relief available in subsection (1) of this section, in which the licensee is out of compliance.

(3) (2) No licensee granted relief is eligible to receive relief for any of the four license years following the license calendar year for which the director granted the relief, pursuant to subsection (2) of this section.

Highlight/Bold = changes made after the May 2009 Commission Meeting.



Proposed Amendment to:
WAC 230-15-040
Requirements for authorized card games.

August 2009 – Final Action
July 2009 – Petitioner’s Amendment #1 Filed for Discussion
June 2009 – No Commission Meeting
May 2009 – Petitioner’s Original Proposal Filed for Discussion

ITEM 10 (a) on the August 14, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Robert Saucier, Galaxy Gaming, Inc.	
Proposed Change	
<p>The petitioner is requesting that the maximum number of games allowed within a single hand of cards be increased from three to six. He has stated verbally to staff that he wants the rule change because he plans to request approval of a new type of card game. The petitioner states the reason for the rule change is that WAC 230-15-040 is no longer needed.</p> <p>Staff understands the proposed card games feature four games within a single hand. Emperor’s Challenge is one of these games and it has been approved for use at tribal casinos using four games within a hand. Emperor’s Challenge using three games within a hand has been approved for use at house-banked card rooms.</p> <p>At the April 2009 meeting, the Commission continued the petition for additional action at the May meeting.</p> <p>Petitioner’s Original Proposal: At the May 2009 meeting, the Commission filed the petitioner’s original proposal. At the May meeting, Mr. Saucier stated that his intent was not to increase the wager limit and he would be open to amending his petition to limit total wagers.</p> <p>Petitioner’s Amendment #1: At the July 2009 meeting, the Commission filed the petitioner’s Amendment #1 that would limit three of the six games to wagers of five dollars each or less. Additionally a small housekeeping change was made by staff: “Card” was added to subsection (1) to distinguish between a card game and a game played within a hand of cards.</p> <p>Attachments (bold = addition made after the July Commission meeting):</p> <ol style="list-style-type: none">1) Petitioner’s Amendment #1 filed at the July 2009 Commission meeting.2) Original Proposed amendment to WAC 230-15-040 filed at the May 2009 Commission meeting.3) Petition received February 19, 2009.4) Staff’s PowerPoint presentation given at the July 2009 Commission meeting.5) Petitioner’s PowerPoint presentation given at the May 2009 Commission meeting.6) Commission meeting minutes from April 2007 and July 2007 regarding Shuffle Master’s Petition.	
History of Rule	
<p>Up until December 31, 2007, no more than two separate games were allowed to be played within a single hand of cards (WAC 230-40-010). Bonus features and progressive jackpots associated with a house-banked table game are considered separate games. An example of a house-banked table game with at least two separate games within a single hand of cards is Fortune Pai Gow. In the game Fortune Pai Gow, a player can place two separate wagers: standard wager and bonus wager. A player could place a maximum wager on each betting spot for a total wager of \$600 per hand.</p> <p>The Commission considered a request to increase the number of games played in a hand of cards in 2007. In March 2007, Shuffle Master Gaming submitted a Petition for Rule Change to increase the maximum number of games allowed within a single hand of cards from two to three. The rule amendment was approved and became effective January 1, 2008. Approximately ten card games with three games within a single hand have been approved by staff. An example of a house-banked table game with at least three</p>	

separate games within a single hand of cards is Progressive Fortune Pai Gow. In the game Progressive Fortune Pai Gow, a player can place three separate wagers: standard wager, bonus wager, and progressive jackpot wager (Commission meeting minutes from April 2007 and July 2007 attached).

Tribal casinos do not have restrictions on the number of games allowed within a single hand. There is currently a card game approved for play, but not currently in play, in tribal casinos that offers thirteen separate wagers in a single hand.

Impact of the Proposed Change

Impact on House-Banked Card Room Licensees

If the petition for rule change is approved, house-banked card room licensees will be able to offer games where a player could place six separate wagers within a single hand of cards. House-banked card room licensees will be able to offer players a different set of games that they have not seen before. This new game mix may attract players to the card rooms.

In many games, the additional games (betting spots) result in an increased hold for the house.

Impact on Commission

See regulatory concerns and resource impacts.

A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees.

Regulatory Concerns

If house-banked card room licensees offer games with more than three wagers (games) within a single hand of cards, there may be an increase in dealer procedural errors (misdeal or incorrect payouts) and/or cheating or theft (cap a bet, pinch bet, switch cards, etc.). Dealers will have to watch more games on one hand. As the number of games within a single hand of cards increases, so do the number of additional payouts to memorize and more bets/chips on the table to track.

Resource Impacts

Additional staff time will be needed to review new games submitted for approval. If the games prove to be popular, additional staff training and regulatory time will be needed.

Policy Consideration

Petitioner's Original Version: The petitioner's request that was filed at the May 2009 meeting had the potential to double the maximum wager amount in a single hand.

Petitioner's Amendment #1: The petitioner proposes that no more than three of the games offer a wager that exceeds five dollars each.

The petitioner has described a game that uses four games within a hand, but has requested an amendment to six, without describing what types of games may result from the increase.

The Commission increased the:

- Number of games in a single hand from two to three, effective January 1, 2008.
- House-banked card game wager limits from \$200 to \$300, effective January 1, 2009.
- Number of players at a house-banked card table from seven to nine, effective January 1, 2009.

Statements Supporting the Proposed Rule Change

At the May and July 2009 Commission meetings, Mr. Saucier testified in support of his petition.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

House-banked card game licensees.

Staff Recommendation

Because the petitioner has described a game that uses four games within a hand, but has requested an amendment to six without describing what types of games may result from the increase, staff recommends not adopting the proposed change.

If the Commission chooses to increase the number of games played in a hand in order to allow the game described by the petitioner (Emperor's Challenge), staff recommends changing petitioner's Amendment #1 from six games to four.

Proposed Effective Date for Rule Change

The petitioner requests an effective date of 31 days after adoption. However, if the Commission chooses to adopt the rule change, staff recommends an effective date of January 1, 2010.

Petitioner's Amendment #1
Filed at the July 2009 Commission Meeting

Amendatory Section:

WAC 230-15-040 Requirements for authorized card games.

(1) In order for a card game to be authorized, the card game must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than ~~three~~ six separate games with a single hand of cards. **However, no more than three of the games may offer a wager that exceeds five dollars each.** We consider bonus features and progressive jackpots separate games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

(ii) An "envy" or "share the wealth" wager which allows a player to receive a prize if another player wins a jackpot or odds-based wager; or

(iii) A tip wager made on behalf of a dealer.

(4) Mini-Baccarat is authorized when operated in the manner explained for Baccarat in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Encyclopedia of Card Games*, or similar authoritative book on card games we have approved. However:

(a) Card game licensees may make immaterial modifications to the game; and

(b) Subsection (3) of this section does not apply; and

(c) The number of players is limited under WAC 230-15-055.

(5) A player's win or loss must be determined during the course of play of a single card game.

Bold = Petitioner's amended language.



Pull-Tab Rules:

Amendatory Sections

WAC 230-05-030 Fees for other businesses.

WAC 230-14-065 One flare per punch board or pull-tab series.

WAC 230-14-080 Prize limits and percentage of winners required.

WAC 230-14-265 Retention requirements for punch boards and pull-tab series.

New Sections

WAC 230-14-320 Defining a cumulative prize pool pull-tab game.

WAC 230-14-325 Defining a cumulative prize pool pull-tab board.

WAC 230-14-330 Defining a cumulative prize pool pull-tab series.

WAC 230-14-335 Operating requirements for cumulative prize pool pull-tab series.

Amended version of WAC 230-14-335 Up for Final Action at the August 2009 Commission meeting.

Manufacturing Rules:

Amendatory Section

WAC 230-16-052 Standards for flares.

New Sections

WAC 230-16-102 Cumulative prize pool pull-tab games.

WAC 230-16-104 Cumulative prize pool pull-tab series flare.

August 2009 – Final Action

July 2009 – Study Session

June 2009 – No Commission Meeting

May 2009 – Filed for Discussion

ITEM 11 (a) on the August 14, 2009, Commission Meeting Agenda. Statutory Authority 9.46.070

Who proposed the rule change?

Richard Norris, President Bonanza Press Inc.

Proposed Change

The petitioner is requesting the Commission authorize a new type of pull-tab game called a cumulative prize pool pull-tab game. The cumulative prize pool pull-tab game is two or more separate games packaged together, each with a unique serial number. Each separate game awards one chance to open a seal on the cumulative prize pool board (flare). The petitioner has proposed the following new rules:

- A definition of a cumulative prize pull-tab game and cumulative prize pool pull-tab board.
- A definition of a cumulative prize pool pull-tab series.
- Operating requirements for cumulative prize pool pull-tab series.
- Manufacturing standards for cumulative prize pool pull-tab games.
- Manufacturing requirements for cumulative prize pool pull-tab series flares.

In addition, the petitioner is requesting the following WAC amendments:

- WAC 230-05-030 – Fees for other businesses. The proposed change would add a requirement for Washington State Identification Stamps on cumulative prize pool pull-tab games.
- WAC 230-14-065 – One flare per punchboard pull-tab series. The proposed change would allow cumulative prize pool pull tab games to have a cumulative prize pool pull tab board and a flare.

- WAC 230-14-080 - Prize limits and percentage of winners required. The proposed change would allow manufacturers of cumulative prize pool pull-tab games to calculate the sixty percent prize payout requirement based on the total amount of prizes from the cumulative prize pool board and the instant winners from each series, divided by the number of series contained in the game.
- WAC 230-14-265 - Retention requirements for punch boards and pull-tab series. The proposed rule specifies requirements for retaining cumulative prize pool pull-tab games.
- WAC 230-16-052 – Standards for flares. The proposed change describes the standards for flares for cumulative prize pool pull-tab games.

On February 3, 2009, Bonanza Press submitted their initial petition requesting that cumulative prize pool pull-tab games be authorized. After reviewing the proposed rule changes, staff asked the petitioner to withdraw their request and work with staff to develop rules that would better meet the intent of his request. A letter withdrawing the petition was received February 19, 2009. Staff worked with the petitioner and on March 16, 2009, the petitioner submitted a second petition. Staff had concerns about the proposed language and has worked with the petitioner to develop the attached rules package that meets the needs of both the petitioner and staff to authorize the requested pull-tab game.

Changes made after the May 2009 Commission Meeting:

Housekeeping change: Amended version of WAC 230-14-335 Up for Final Action at the August 2009 Commission meeting.

Attachments:

- 1) **Amended version of WAC 230-14-335**
- 2) **Staff’s notification letter to manufacturers and distributors regarding the Petition.**
- 3) **Six letters dated April 30, 2009, supporting the Petition**
- 4) **E-mail dated May 14, 2009, from John Lowman, licensed distributor representative, opposing the petition.**
- 5) **Petition received March 17, 2009, and proposed rule changes.**

History of Rule

The following types of pull-tab games are authorized: progressive, carry over, event, bonus, and seal card pull-tab games. The new game the petitioner is requesting is similar to seal card pull-tab games.

Seal Card Pull-Tab Games

In seal card pull-tab games, there are a predetermined number of winning pull-tabs that allow players to put their name on a list on the flare. When the name list is full, the operator opens a sealed window on the flare to reveal which player wins the seal card pull-tab prize. Pull-tab operators must:

- Gather player contact information.
- Contact the seal card pull-tab winner within two business days of the end of the series.
- Allow the winner 14 days after being contacted to collect the prize.
- Award the seal card pull-tab prize.
- Disclose the method of choosing alternative winners, if a game is not sold out.

Cumulative Prize Pool Pull-Tab Games

In a cumulative prize pool pull-tab game, the tabs from one pull-tab game are broken out into two or more series; each has the same name and a unique serial number. Each series has its own flare, and sign-up list. In addition to the series flares, the game includes a cumulative prize pool pull-tab flare (cumulative prize pool board) with the same name. The cumulative prize pool board has the same number of seal card prizes as the number of series in the game.

Players purchase pull-tabs from the cumulative prize pool pull-tab series for the chance to instantly win a prize or to put their name on a sign-up list on the series flare. After each sign-up list is full, a sealed window is opened to determine which person on the list will open a seal on the cumulative prize pool board.

For example, one cumulative prize pool pull-tab game that contains 20 cumulative prize pool pull-tab series will have a cumulative prize pool board containing 20 seal card prizes available. Each series can be played individually or more than one series may be in play at a time. After each individual series is completed, the seal card winner will open a window on the cumulative prize pool board. Each one of these 20 series will have one winner for one of the 20 prizes displayed on the cumulative prize pool pull-tab board.

Impact of the Proposed Change

Impact on licensees

- Pull-tab licensees may be able to increase pull-tab sales with this new style of play.
- Pull-tab manufacturers may increase their sales since they would be able to offer a new type of game.

The petitioner stated to staff that several manufacturers licensed in Washington State are manufacturing these games (Universal, Arrow/Specialty, International Gamco, and Bonanza Press).

Impact on agency

- Staff training will be needed to ensure staff is familiar with this new type of pull-tab game.
- Some licensee training may be needed.

Regulatory Concerns

60% Payout Requirement: WAC 230-14-080 states that each individual pull-tab game must be capable of paying out sixty percent of the total gross gambling receipts. The cumulative prize pool pull-tab game will be capable of paying out 60% or more but the proposed change would allow for a different method for calculating the 60% payout requirement. The proposed change allows manufacturers to calculate the sixty percent prize payout based on the total amount of prizes from the cumulative prize pool board and the instant winners from each series divided by the number of series contained in the game.

For example, on the game staff reviewed, the 60% payout was calculated by adding the total amount of prizes available on the cumulative prize pool board (\$2,375) and dividing it by the number of individual series (20) in the cumulative prize pool pull-tab game (\$2,375 divided by 20 = \$118.75). The amount of \$118.75 (average cumulative prize amount) is added to the total instant winner prizes to get the total amount of prizes available (\$168.75). The total prizes available is then divided by the amount of possible gross receipts for that individual series (\$168.75 total prizes divided by \$226.00 total gross receipts = 75% payout for each series).

Other Jurisdictions

Cumulative pull-tab games are allowed in several other states including: Minnesota, Kentucky, Virginia, and Texas. Staff was able to make contact with a staff person at the gaming regulatory agencies in Minnesota, Virginia, and Texas. They noted the games range in popularity and there have not been any significant regulatory problems.

Resource Impacts

- Staff training will be needed to ensure staff is familiar with this new type of pull-tab game.
- Staff would likely be asked by licensees to provide training on the new games.

Policy Consideration

None.

Statements Supporting the Proposed Rule Change

- **Six letters supporting the Petition.**
- **At the May meeting, the petitioner testified in support of his petition and gave a demonstration how the Pull-Tab game would work.**

Statements Opposing the Proposed Rule Change

E-mail dated May 14, 2009, from John Lowman, licensed distributor representative, opposing the petition.

Licensees Directly Impacted By the Change

Commercial and nonprofit pull-tab licensees and pull-tab manufacturers.

Staff Recommendation

Final Action.

Proposed Effective Date for Rule Change

The petitioner did not request an effective date. Staff recommends an effective date of January 1, 2010.

Amendatory Section:

WAC 230-05-030 Fees for other businesses.

All other business license applicants must pay the following fees to us when applying for gambling licenses, miscellaneous changes, or inspection services:

1. Commercial amusement games

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	*\$327/\$150
Class B	Up to \$50,000	\$460
Class C	Up to \$100,000	\$1,184
Class D	Up to \$250,000	\$2,644
Class E	Up to \$500,000	\$4,640
Class F	Up to \$1,000,000	\$7,968
Class G	Over \$1,000,000	\$9,970

*We reduce the license fee by \$177 when you apply for additional licenses at the same business premises, apply for multiple licenses at the same business premises, or a licensee is renewing an annual license.

2. Distributor

License	Annual Gross Sales	Fee
Class A	Nonpunch board/pull-tab only	\$659
Class B	Up to \$250,000	\$1,318
Class C	Up to \$500,000	\$1,980
Class D	Up to \$1,000,000	\$2,644
Class E	Up to \$2,500,000	\$3,446
Class F	Over \$2,500,000	\$4,242

3. Fund-raising event equipment distributor

License	Description	Fee
Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$260
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$659

4. Gambling service supplier

License	Fee
Annual	\$687
Financing, consulting, and management contract review	\$143

5. Linked bingo prize provider

License	Fee
Annual	\$4,414

6. Manufacturer

License	Annual Gross Sales	Fee
Class A	Pull-tab dispensing devices only	\$659
Class B	Up to \$250,000	\$1,318
Class C	Up to \$500,000	\$1,980
Class D	Up to \$1,000,000	\$2,644
Class E	Up to \$2,500,000	\$3,446
Class F	Over \$2,500,000	\$4,242

7. Permits

Type	Description	Fee
Agricultural fair	One location and event only	\$27
Agricultural fair annual permit	Annual permit for specified different events and locations	\$189
Recreational gaming activity		\$59
Manufacturer's special sales permit		\$211
Punch board and pull-tab service business permit	Initial application fee	\$236
Punch board and pull-tab service business permit	Renewal	\$56

8. Changes

Application	Description	Fee
Name		\$27
Location		\$27
Business classification	Same owners	\$59
Exceeding license class	New class fee, less previous fee paid, plus	\$27
Duplicate license		\$27
Corporate stock/limited liability company shares/units		\$59
License transfers		\$59

9. Other fees

Type	Fee
Defective punch board/pull-tab cost recovery fees	Up to \$100
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$27
Review of gambling equipment, supplies, services, or games	Cost reimbursement

10. Identification stamps

Type	Fee	
(a) Punch boards and pull-tabs		
(i) Standard	Wagers fifty cents and below	\$.28
	Wagers over fifty cents	\$1.11
(ii) Progressive jackpot pull-tab series	Per series	\$11.19
(iii) Pull-tab series with carry-over jackpots <u>and cumulative prize pool pull-tab series.</u>	Per series	\$1.11
(b) Pull-tab dispensing devices		
(i) Mechanical and electro-mechanical		\$.28
(ii) Electronic	Dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull-tabs, accounting for income or prizes	\$112.04 annually
Replacement of identification stamps		\$26
(c) Disposable bingo cards		
(i) Single game sets of individual cards or sheets of cards		\$.28
(ii) Multigame card packets		\$1.22
(iii) Cards used to	Fee per 250 cards	\$.44

play for linked bingo prizes		
(iv) Cards used to play for linked bingo prizes	Fee per 5,000 cards	\$8.96
(d) Coin or token-activated amusement games		
Annually - operated at any Class A amusement game license location		\$28.00
(e) Electronic bingo card daubers		
Annual		\$11.19
(f) Electronic card facsimile table		
Annual		\$381.50

11. Two-part payment plan participation

Annual participation		\$27
----------------------	--	------

Amendatory Section:

WAC 230-14-065 ~~One Flare~~ per for punch board or pull-tab series.

- 1) Punch board and pull-tab licensees must have in public view only one flare per punch board or pull-tab series. Flares must have a ~~Washington state identification~~ an I.D. stamp number and series number on their face.
- 2) Cumulative prize pool pull-tab games must have a cumulative prize pool board and a unique flare for each series.

Amendatory Section:

WAC 230-14-080 Prize limits and percentage of winners required.

Punch board or pull-tab operators must not possess, display, put out for play, sell, or otherwise transfer punch boards or pull-tab series that:

- (1) Have a total payout of less than sixty percent of the total gross gambling receipts of the board or series, except in cumulative prize pool pull-tab games. In cumulative prize pool pull-tab games, the sixty percent prize payout requirement will be calculated based on the total amount of prizes from the cumulative prize pool board and the instant winners from each series, divided by the number of series contained in the game; ~~or~~ and
- (2) Offer boards or series, except for progressive series or carry-over jackpots, with a single cash prize that is more than twenty-five hundred dollars; or
- (3) Offer a single merchandise prize that is more than twenty-five hundred dollars including markup; or
- (4) Have a single pull-tab or punch with multiple winning combinations that are more than the prize limit; or
- (5) Offer prizes for purchasing the last pull-tab or last punch (last sale) that are more than:
 - (a) One hundred dollars cash; or
 - (b) Merchandise that costs the licensee more than one hundred dollars; or
 - (c) The highest prize offered, whichever is less; or
- (6) Series that have a key to any winning numbers or symbols.

Amendatory Section:

WAC 230-14-265 Retention requirements for punch boards and pull-tab series.

(1) Punch board and pull-tab operators must keep all punch boards or pull-tab series removed from play, including, at least:

- (a) All prize flares; and
- (b) All unplayed tabs; and
- (c) All winning punches or tabs.

(2) Operators must make the items in subsection (1) of this section available on the licensed premises for us, local law enforcement, or local tax agencies to inspect.

(3) If stored off premises, operators must produce the game for inspection on demand.

(4) Operators must retain punch board or pull-tab series removed from play for:

(a) **Charitable or nonprofit operators** - Four months following the last day of the month in which the board or series was removed from play; and

(b) **Commercial operators** -

(i) Two months following the last day of the month in which they removed the board or series from play; and

(ii) Three months following the day they removed the board or series from play for winning punches or pull-tabs over twenty dollars. Operators must also retain the flare for these games; and

(c) **Carry-over jackpot series** - For four months after the last day of the month in which the carry-over jackpot was won; and

(d) **Progressive pull-tab series** - For one year. After the retention period, operators must destroy unsold progressive pull-tab series tabs in such a way that no one may find and use unopened winning tabs later; and

(e) **Cumulative prize pool pull-tab games** – for four months, following the last day of the month, in which the last seal is opened on the cumulative prize pool pull-tab game board.

New Section:

WAC 230-14-320 Defining a cumulative prize pool pull-tab game.

“Cumulative prize pool pull-tab game” means a pull-tab game that contains two or more series. Each series in the game has a unique serial number.

New Section:

WAC 230-14-325 Defining a cumulative prize pool pull-tab game board.

“Cumulative prize pool pull-tab game board” means the flare for a cumulative prize pool pull-tab game.

New Section:

WAC 230-14-330 Defining a cumulative prize pool pull-tab series.

“Cumulative prize pool pull-tab series” means individually packaged groups of pull-tabs that make-up a cumulative prize pool pull-tab game.

New Section:

WAC 230-14-335 Operating requirements for cumulative prize pool pull-tab games.

1) Operators must conduct cumulative prize pool pull-tab games in the same way as other pull-tab series and must follow these additional requirements:

- a) Cumulative prize pool pull-tab game boards must be displayed until the game is permanently pulled from play.
- b) Once a seal card winner from each series is revealed the seal card winner will pick one unopened seal from the cumulative prize pool pull-tab game board.
- c) If a player buys out a series, their name will be placed on all remaining empty lines on the list displayed on the series flare.
- d) Have more than one series in play at the same time, but may not comingle pull-tab series.
- e) Must not use substitute flares.

2) Operators must prominently post house rules of how the winner of a series will be chosen if the operator removes a series from play before the list on the series flare is completed. For example, once the seal is open and a player's name is not on that line, house rules could indicate that the name above the winning line would be declared the winner of the series.

Amendatory Section:

WAC 230-16-052 Standards for flares.

Flares must clearly display the:

- (1) Manufacturer of the punch board or pull-tab series. A stamp, seal or label identifying the manufacturer may be substituted if we have been informed; and
- (2) Manufacturer assigned series number; and
- (3) I.D. stamp; and
- (4) Cost of each punch or pull-tab; and
- (5) Total number of punches or pull-tabs in the series. For any newly designed flare or any previously designed flare for pull-tab series with a ticket count over six thousand, which has not yet been packaged, the number of pull-tabs must be printed in one-half inch size lettering; and
- (6) Prizes available and the winning number or symbols. For prizes over twenty dollars, the winning numbers or symbols must be printed so each can be permanently and conspicuously deleted off the flare as each prize is won.

- (a) A progressive jackpot meter board, for progressive jackpot series, is a supplement to the flare; and
- (b) For cumulative prize pool pull-tab games, the seal card prizes from the cumulative prize pool board are not required to be printed on the series flare.

New Section:

WAC 230-16-102 Cumulative prize pool pull-tab games.

- 1) Manufacturers of cumulative prize pool pull-tab games must meet all standards of pull-tab construction, including the seals on the board; and
- 2) A cumulative prize pool pull-tab game board must include at a minimum:
 - a) All seal card prizes; and
 - b) Manufacturers name or logo; and
 - c) Each cumulative prize pool pull-tab series number; and
 - d) Form number; and
 - e) Cost per play; and
 - f) Game name; and
- 3) A cumulative prize pool pull-tab game board must have the same number of seals as the number of series in the game.

New Section:

WAC 230-16-104 Cumulative prize pool pull-tab series flare.

A cumulative prize pool pull-tab series flare must meet the requirements of WAC 230-16-052 and include at a minimum:

- a) A perforated window or seal; and
- b) A list for players to write their name on for the chance to open a seal on the cumulative prize pool pull-tab board.



Proposed Amendment to
WAC 230-14-047
Standards for electronic video pull-tab dispensers.

August 2009 - Final Action
July 2009 - Study Session
June 2009 - No Commission Meeting
May 2009 - Petitioner's Amendment #1 Filed for Discussion

ITEM 12 (a) on the August 14, 2009, Commission Meeting Agenda. Statutory Authority 9.46.070

Who proposed the rule change?

Jay Gerow, ZDI Gaming, Inc.

Proposed Change

The petitioner is requesting that electronic video pull-tab dispensers be allowed to dispense the bundled pull-tab *only after* all plays have been displayed on the video terminal.

When paper pull-tabs are bundled, multiple tickets are banded or stapled together. Bundled pull-tabs that are dispensed from a video pull-tab dispenser have multiple plays contained on one perforated paper ticket (a photo copy of a VIP bundled ticket for an electronic dispenser is attached).

Currently, video pull-tab dispensers are allowed to read the bar code of the pull-tab to display the game on a video terminal for entertainment purposes. However, pull-tabs must be dispensed to players and players can choose to either open the paper pull-tab and/or have the outcome of the game displayed on a video terminal.

Staff met with the petitioner after receiving the petition to review the proposed language. After discussions, both staff and the petitioner agreed that the Petitioner's Amendment #1 to WAC 230-14-047 more closely meets the intent of the petitioner's request. The Commission filed this version at the May 2009 meeting.

Attachments (**Bold = Additions after the May 2009 Commission meeting**):

- Petitioner's Amendment #1 filed at the May 2009 Commission meeting.
- Petition for Rule Change received April 15, 2009.
- Original proposed amendment to WAC 230-14-047.
- **Example of a bundled ticket used in an electronic video pull-tab dispenser.**
- **Attorney General opinion dated July 21, 1999, regarding the definition of a pull-tab.**
- **Commission meeting minutes from 1997 when the Commission approved an electronic video pull-tab dispenser.**

History of Rule

Following is a brief description of how video electronic pull-tab dispensers operate:

1. A player inserts cash or a gift card
2. The player presses a button
3. As the device is dispensing the pull-tab it opens a portion of the pull-tab to display a bar code
4. The dispensing device reads the encoded data on the bar code and sends a signal to the video display to initialize it
5. The dispensing device dispenses the pull-tab
6. The player *can open* the perforated windows on the pull-tab and/or press a button on the dispensing device to display numbers, letters or symbols from the pull-tab on the video display
7. It is not necessary for players to insert the pull-tab into the machine to determine if it is a winner
8. The player must collect winnings from the operator

There are approximately 150 electronic video pull-tab dispensing devices being operated at approximately 55 licensed locations. Distributors also have these machines in their inventory.

Impact of the Proposed Change
The petitioner’s request would <i>require</i> players to use the dispenser to play the pull-tabs. Players <i>cannot</i> open the paper pull-tab until the outcome is displayed on the video display. <i>After</i> the outcome of the entire bundled pull-tab has been displayed, the pull-tab is dispensed. As a result, the paper pull-tab is not a fundamental part of play and is only needed to claim a prize.
Regulatory Concerns
None.
Resource Impacts
None.
Policy Consideration
<p>The Commission may want to consider:</p> <ul style="list-style-type: none"> • If players should be <i>required</i> to play the game through the electronic video pull-tab dispenser. • If this game is consistent with the 1999 Attorney General Opinion (attached) which states, in part: <ul style="list-style-type: none"> ○ ...RCW 9.46.0273, taken in context, permits the commission to change the definition of “pull-tab” to include forms of the game meeting the “usual and ordinary” meaning of the term, but not to extend the definition to games or devices which are beyond the common understanding of what a “pull-tab” is. Any broader reading would permit the commission to allow any form of gambling, simply by defining it as a “pull-tab.” This would have been a surprising “loophole” in the modest gambling scheme permitted by the 1973 act. ○ ...Although the Legislature authorized the commission to redefine “pull-tab”, the commission should be cautious in assuming that this language was intended to permit the authorization of games the Legislature had not even imagined. ○ ...The commission’s authority is limited to games which bear a “reasonable and recognizable similarity” to the term “pull-tab” as commonly understood. ○ ...Given this language, we would read laws permitting forms of gambling narrowly, in favor of “close control.” <p>Commission meeting minutes from 1997 indicate that the Commission approved electronic video pull-tab dispensing devices as a dispensing device only. It was not their intention for the device to have an integral part in the play of the game.</p> <p>WAC 230-14-047 (2)(a) requires that the video monitor be used for entertainment purposes only. The petitioner’s requested change would require players to use the video monitor to play the game. Players would not have the option to choose whether or not to use the video monitor.</p>
Statements Supporting the Proposed Rule Change
None.
Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Pull-tab operators that use electronic video pull-tab dispensers and manufacturers of electronic video pull-tab dispensers.
Staff Recommendation
Staff recommends not adopting the proposed rule change based on the policy considerations above.
Proposed Effective Date for Rule Change
The petitioner verbally requested an effective date of 31 days from adoption. However, if the Commission chooses to adopt the proposed rule change, staff recommends an effective date of January 1, 2010.

Amendatory Section:

WAC 230-14-047 Standards for electronic video pull-tab dispensers.

Electronic video pull-tab dispensers must be approved by us prior to use, meet the requirements below, and may incorporate only the features below and not perform additional functions.

(1) Electronic video pull-tab dispensers must dispense a paper pull-tab as defined in WAC 230-14-010 and follow the rules for:

- (a) Pull-tabs; and
- (b) Flares; and
- (c) Authorized pull-tab dispensers.

(2) Electronic video pull-tab dispensers that use a reading and displaying function must:

- (a) Use a video monitor for entertainment purposes only; and
- (b) Open all, or a portion of, the pull-tab in order to read encoded data that indicates the win or loss of the pull-tab if the dispenser is equipped to automatically open pull-tabs; and
- (c) Dispense the pull-tab to the player and not retain any portion of the pull-tab; and
- (d) Read the correct cash award from the pull-tab either when it is dispensed or when the pull-tab is reinserted into the dispenser; however, a bundled pull-tab may be dispensed after all plays have been completed; and
- (e) Display the cash award from the pull-tab, one pull-tab at a time; and
- (f) Provide:
 - (i) An electronic accounting of the number of pull-tabs dispensed; and
 - (ii) A way to identify the software version and name; and
 - (iii) A way to access and verify approved components; and
 - (iv) Security on the dispenser to prevent unauthorized access to graphic and prize amount displays.

(3) Gift certificates or gift cards used in electronic video pull-tab dispensers must:

(a) Be purchased with cash, check or electronic point-of-sale bank transfer before use in the dispenser; and

(b) Be convertible to cash at any time during business hours; and

(c) Subtract the cash value for the purchase of the pull-tab one pull-tab at a time.



Proposed Amendment to

WAC 230-15-135

Wagering limits for nonhouse-banked card games.

August 2009 –Up for Discussion

July 2009 - Filed for Discussion

ITEM 13 (a) on the August 14, 2009, Commission Meeting Agenda.

Statutory Authority 9.46.070

Who proposed the rule change?

Staff

Proposed Change

The proposed change would remove wording that allows higher wagering limits for “all in” wagers in Texas Hold’em poker games. This will put the limit for all poker wagers back to \$40.

Effective July 1, 2009, WAC 230-15-135 authorized house-banked licensees the ability to offer up to a \$500 all in wager on the game of Texas Hold’em. An all in wager is defined as a player wagering all of their remaining chips on the current hand.

Unfortunately, after the rule passed staff identified a problem that would be created in the wagering structure for Texas Hold’em games. The change allows “all in” wagers, only, to exceed the \$40 poker wagering limit. The rule does not allow players to make call or matching wagers exceeding the \$40 limit.

Additionally, the rule is ambiguous as to who is eligible to make an all-in wager. For example, if a player has \$550, could they wager \$500, or, would they be ineligible to place the all-in wager. In other words, does a player have to have \$500 or less to be able to place the all-in wager.

Prior to the “all in” wager change, all nonhouse-banked wagers were limited to \$40. By removing the “all in” reference, the rule would revert back to the \$40 limit on all nonhouse-banked wagers.

The Recreational Gaming Association has submitted a Petition for Rule Change to set wager limits for the game of Texas Hold’em at \$250. See Item 14 for details.

History of Rule

In May 2008, the Commission filed a petition for a rule change from the Recreational Gaming Association (RGA) to increase the maximum amount of a single wager in nonhouse-banked card games from \$40 to \$500. The proposed rule change only applied to house-banked licensees who offer nonhouse-banked card games (i.e. poker).

At their November 2008 meeting, the Commissioners asked to have the petition held over to the January 2009 Commission meeting so staff could work on an alternative to the original proposal.

At their January 2009 meeting, based on discussion with licensees, the Commission asked staff to prepare an Alternative #1 to the original wager increase proposal. Alternative #1 limited the \$500 wager increase to “all-in” wagers on Texas Hold’em poker games operated at house-banked licensees.

At the January 2009 meeting, the RGA proposed Alternative #2 to their original proposed change. Alternative #2 would have changed the Texas Hold’em poker wagering limit to \$300, which would have been less than their original proposal but would have resulted in a player being able to wager up to \$300

in each wager/raise. By comparison Alternative #1 would have allowed a \$500 bet, only, with an all-in wager.

At the April 2009 meeting, the Commission approved Alternative #1 by a 2:1 vote changing the nonhouse-banked wagering limit on “all in” wagers for the game of Texas Hold'em operated at house banked licensees from \$40 to \$500. The \$500 all in wager became effective July 1, 2009. All other poker wagers remain at the \$40 limit.

Impact of the Proposed Change

The proposed change will prevent having an unworkable rule.

All wagers in nonhouse-banked games would be limited to \$40 or less.

A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees.

Regulatory Concerns

None.

Resource Impacts

None.

Policy Consideration

None.

Statements Supporting the Proposed Rule Change

None.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

House-banked card room licensees operating nonhouse-banked games.

Staff Recommendation

Further Discussion.

Proposed Effective Date for Rule Change

Staff proposes an effective date of 31 days from adoption.

Amendatory Section:

WAC 230-15-135 Wagering limits for nonhouse-banked card games.

Card room licensees must not exceed these wagering limits:

(1) Poker -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars, ~~except that an all-in wager in the game of Texas Hold'em may not exceed five hundred dollars for house-banked card game licensees meeting the surveillance requirements specified in WAC 230-15-280; and~~

~~—(d) An all-in wager is when a player wagers with all of their remaining chips on the current hand.~~

(2) Games based on achieving a specific number of points - Each point must not exceed five cents in value;

(3) Ante - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) Panguingue (Pan) - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.



Up for Discussion and Possible Filing

Proposed Amendment to Amendatory Section WAC 230-15-135

Wagering limits for non house-banked card games.

ITEM 14 (a) on the August 14, 2009, Commission Meeting Agenda. Statutory Authority 9.46.070

Who proposed the rule change?

Dolores Chiechi, representing the Recreational Gaming Association.

Proposed Change

The Recreational Gaming Association (RGA) is requesting to increase the maximum amount of a single wager in the game of Texas Hold'em from \$40 to \$250. This change will only apply to house-banked card game licensees who offer nonhouse-banked cards games (i.e. poker) and meet the surveillance requirements specified in WAC 230-15-280.

Class E and Class F nonhouse-banked card game licensees will continue to be limited to a maximum single wager of forty dollars.

Attachments:

- Memo to the Commission outlining their options for handling the petition.
- Letter notifying the petitioner that the petition will be up for filing at the August 2009 meeting.
- Petition received July 22, 2009.
- Proposed change to WAC 230-15-135
- Spreadsheet of New/Increased Card Game Activities
- Excerpts from the April 2009 Commission meeting minutes when the Texas Hold'em all-in wager increase was approved.

History of Rule

There have been three petitions in the past three years to change wagering limits.

- In October 2005, the Commission filed a petition submitted by the RGA requesting poker wagering limits be increased from \$25 to \$100. This petition only applied to house-banked card game licensees offering poker games. At their January 2006 meeting, the Commission denied the petition based on the reasoning that the increase in wagering limits would constitute an expansion of gambling.
- In January 2007, the Commission filed a petition submitted by Andrew Kimmerle, a poker player, requesting the wagering limits for Texas Hold'em games (poker) be increased from \$25 to \$40. Mr. Kimmerle explained that his petition would allow both house-banked and nonhouse-banked card game licensees to offer poker games with a maximum \$40 wagering limit and increase interest in the game. At their March 2007 meeting, the Commission approved the petition and increased the maximum single wagering limits in poker from \$25 to \$40. The increase became effective April 2007.
- In May 2008, the Commission filed a petition submitted by the RGA requesting poker wagering limits be increased from \$40 to \$500. This change would have only applied to house-banked card game licensees who offered poker games and who met the surveillance requirements in WAC 230-15-280. Class E and Class F card game licensees would have continued to be limited to the \$40 wager limit. At the January 2009 meeting, the Commission chose not to re-file the original request to increase the wager limit to \$500 for all poker games and instead filed two alternative versions of this rule for discussion:

Alternative #1: The Commission asked staff to prepare Alternative #1 which would keep the betting limit at a maximum of \$40, except for the specific “all in” wager only for the game of Texas Hold’em. **Alternative #2.** The RGA proposed Alternative #2 which would allow single wagers up to \$300 for Texas Hold’em games only.

After several more months of discussion, the Commission adopted Alternative #1 at their April 2009 meeting, effective July 1, 2009. The proposal was the most restrictive of the three proposals. The Commission did not support the RGA’s proposal for across the board wager increase to \$500 or \$300.

Unfortunately, after the rule was adopted, staff identified a problem that would be created in the wagering structure for Texas Hold’em games, making the rule unworkable as written. Please see Item 14 on the August 2009 Commission meeting agenda for staff’s proposal to repeal this rule change.

Under current wagering limits, a card room can offer a \$20/\$40 betting structure. Following is an example of the betting structure for a Texas Hold’em game:

1st Round: Dealt cards: \$20 wager, \$20 raise, \$20 raise, \$20 raise = \$80

2nd Round: Flop: \$20 wager, \$20 raise, \$20 raise, \$20 raise = \$80

3rd Round: Turn: \$40 wager, \$40 raise, \$40 raise, \$40 raise = \$160

4th Round: River: \$40 wager, \$40 raise, \$40 raise, \$40 raise = \$160

Texas Hold’em maximum wager: $\$80 + \$80 + \$160 + \$160 = \$480$ per player per hand

If a card room offered a \$125/\$250 betting structure, the increase would affect a Texas Hold’em game as follows:

1st Round: Dealt cards: \$125 wager, \$125 raise, \$125 raise, \$125 raise = \$500

2nd Round: Flop: \$125 wager, \$125 raise, \$125 raise, \$125 raise = \$500

3rd Round: Turn: \$250 wager, \$250 raise, \$250 raise, \$250 raise = \$1,000

4th Round: River: \$250 wager, \$250 raise, \$250 raise, \$250 raise = \$1,000

Texas Hold’em maximum wager: $\$500 + \$500 + \$1,000 + \$1,000 = \$3,000$ per player per hand

Tribal Limits

- Tribal – State Gaming Compacts limit Class II is \$40 and Class III poker wager limits to \$500.
- Tribal casinos are required to have Tribal Gaming Agents on site during all times games are operated.

Impact of the Proposed Change

Impact on House-Banked Card Game Licensees

Some house-banked card game licensees may see an increase in gross receipts due to an increase in poker game business at the card room. Poker is the most common table game played at house-banked card rooms. There are 201 poker tables out of 901 card tables at house-banked card rooms.

Impact on Nonhouse-Banked Card Game Licensees

Class E and Class F card room licensees would be limited to \$40 wagering limits. If players go to card rooms with the higher limits, Class E and F card rooms may see a decrease in gross receipts due to a decrease in poker game business.

Impact on Agency

We would continue to regulate poker games the same way as we currently do if the new limits were approved. We don’t anticipate that all licensees will offer the higher wager limits and most players will not wager at the higher limits.

Under current state-tribal compacts, poker is considered Class III gaming if the wagering amount exceeds \$40, which is the current maximum amount allowed in non-tribal card rooms. The state has co-regulatory

authority over Class III gaming. If the wagering limit at non-tribal card rooms is increased to \$250, the Class II threshold would be raised from \$40 to \$250. The state does not regulate Class II gambling activities at tribal casinos and tribes could devote more Class III tables to other Class III games.

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

Regulatory Concerns

As long as current standards were kept in place, there would be minimal change in our regulatory work for house-banked card rooms that offer poker games at the higher limits.

The change will reduce our regulatory jurisdiction over Tribal poker games.

Resource Impacts

Minimal.

Policy Consideration

The proposed rule change is a policy decision.

- The Commission may wish to consider whether or not the proposal is consistent with the legislative intent expressed in RCW 9.46.010.
- The Commission established the current \$40 wager limit for nonhouse-banked card games effective April 2007. Prior to this increase, a \$25 wager limit had been in place since 2000, when it was increased from \$10.
- In 2009, the Commission did not file the proposed wager increase for nonhouse-banked card games to \$500 they did not adopt the proposed increase to \$300 and only allowed a specific increase for an “all-in” wager in Texas Hold’em.
- In comparison, the legislature has not increased the pull-tab wager limit since 1998, when it was increased from \$.50 to \$1.
- Prior to the 2009 Session, the legislature had not increased the maximum raffle price since 1995 from \$5 to \$25. In 2009, it was increased from \$25 to \$100.

Statements Supporting the Proposed Rule Change

None.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

House-banked card room licensees.

Staff Recommendation

Deny the petition based on the policy considerations above.

Proposed Effective Date for Rule Change

The petitioner did not request an effective date. If the Commission chooses to adopt a rule change, staff recommends an effective date of January 1, 2010.

Up for Filing at the August 2009 Commission Meeting

Amendatory Section:

WAC 230-15-135 Wagering limits for nonhouse-banked card games.

Card room licensees must not exceed these wagering limits:

(1) **Poker** -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars, except in the game of Texas Hold'em the maximum amount of a single wager may not exceed two-hundred dollars for house-banked card game licensees meeting the surveillance requirements specified in WAC 230-15-280;

(2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;

(3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

[Statutory Authority: RCW 9.46.070, 07-21-116 (Order 617), § 230-15-135, filed 10/22/07, effective 1/1/08; 07-09-033 (Order 608), § 230-15-135, filed 4/10/07, effective 1/1/08.]



Rules Up For Discussion and Possible Filing

Petitioner's Proposed Amendment

WAC 230-03-330 Representing only one employer at a time.

Staff's Proposed Alternative

WAC 230-03-300 Applying for a manufacturer's representative license.

WAC 230-03-330 Representing only one employer at a time.

WAC 230-16-001 Manufacturers, distributors, and gambling service suppliers must comply with all requirements.

ITEM 15 (a-d) on the August 14, 2009, Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
D. Kaye Summers, Gemaco, Inc., a licensed manufacturer.	
Proposed Change	
<p>The petitioner is requesting that the restriction prohibiting manufacturer representatives from representing more than one manufacturer be eliminated. In addition, she is requesting that distributor representatives also be allowed to represent more than one distributor.</p> <p>Staff proposes the following Alternative to the petitioner's request: These three amendments would restore a manufacturer representative's ability to represent more than one manufacturer:</p> <ul style="list-style-type: none">• Clarify that when a person "represents" a manufacturer to sell, promote, or provide the manufacturer's gambling equipment, or supplies, or supervises someone that does, they must have a manufacturer representative license.• Allow a licensed manufacturer representative to represent more than one manufacturer at a time. Currently, this rule says a representative must represent only one manufacturer at a time.• Clarify that manufacturers, distributors, and gambling service suppliers are responsible for ensuring their representatives have a gambling license. <p>Attachments:</p> <ul style="list-style-type: none">• Memo to the Commission outlining their options for handling the petition.• Letter notifying the petitioner that the petition will be up for filing at the August 2009 meeting.• Petition for Rule Change received July 10, 2009, and proposed amendment to WAC 230-03-330.• Staff's Alternative Proposal: WAC 230-03-300, WAC 230-03-330, WAC 230-16-001.	
History of Rule	
<p>Manufacturers: We have allowed manufacturer representatives to represent more than one manufacturer. During Rules Simplification Project (RSP), the rule was inadvertently rewritten restricting the number of manufacturers that can be represented to one. Staff supports the petitioner's request to allow a manufacturer representative to represent more than one manufacturer. Prior to the RSP, we required manufacturers, distributors, and gambling service suppliers to ensure their representatives were licensed (previously WAC 230-04-124). It was inadvertently left out during the rules rewrite and staff recommends adding it back into our rules.</p> <p>Distributors: Distributor representatives have only been allowed to represent one distributor. Staff does not know if distributors and distributor representatives would support or oppose removing the limit of</p>	

representing one distributor. This would be a policy change from the Commission’s long standing past practice.

Notification letters will be sent to distributors and manufacturers, and their representatives requesting their input on the proposed change. There are currently 42 licensed manufacturers and 455 licensed manufacturer representatives and 38 licensed distributors and 75 distributor representatives.

Gambling Service Suppliers and Linked Bingo Prize Providers: In addition to distributor representatives, gambling service supplier representatives and linked bingo prize provider representatives have only been allowed to represent one business. For consistency purposes, the Commission may want to consider allowing service suppliers and linked bingo prize provider representatives to represent more than one business. There are currently 88 licensed gambling service suppliers and 106 licensed service supplier representatives and no licensed linked bingo prize providers or linked bingo prize provider representatives. Notification letters will be sent to service suppliers and their representatives.

Small Business Economic Impact Statement (SBEIS): Staff is reviewing whether a SBEIS needs to be done.

Impact of the Proposed Change

Petitioner’s Proposed Rule Change: Manufacturer representatives would be able to work for multiple manufacturers again. Distributor representatives would now be allowed to work for more than one distributor.

Staff’s Alternative:

WAC 230-03-300: Removes language regarding “employed by a manufacturer.”

If a person wants to sell, promote, or provide a manufacturer’s gambling equipment, or supplies, or supervise someone that does, they must have a manufacturer representative license. If a person is “representing” a manufacturer in the capacities mentioned above, they must have a gambling license. It should not be based on if they are “employed” by the manufacturer. The word “employed” has been interpreted by two manufacturers to mean that if someone is an independent contractor then they don’t need to be licensed.

WAC 230-03-330:

Subsection (1): Restores the substance of the prior rule by allowing a licensed manufacturer representative to represent more than one manufacturer at a time.

Subsection (2): Clarifies the rule by using “represent” rather than “work for.” If a representative “represents” a manufacturer in the capacities mentioned in subsection (1) of this rule, they must have a gambling license. It should not be based on if they “work” for the manufacturer. The word “work” has been interpreted by two manufacturers to mean that if someone is an independent contractor then they don’t need to be licensed.

WAC 230-16-001:

Subsection (1): Clarifies that manufacturers, distributors, and gambling service suppliers are responsible for ensuring their representatives have a gambling license.

Subsection (2): Language was added to require manufacturers to notify us in writing before a manufacturer representative begins representing them.

Regulatory Concerns

None.

Resource Impacts
None.
Policy Consideration
None.
Statements Supporting the Proposed Rule Change
None.
Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Manufacturers and distributors, and their representatives.
Staff Recommendation
File staff's alternative for further discussion, rather than the petitioner's request. Staff's alternative will address other rules that should be changed. The petitioner's request to allow distributor representatives to represent more than one distributor would be a change in the Commission's long standing practice to not allow this.
Proposed Effective Date for Rule Change
31 days from adoption.

Petitioner's Proposed Amendment

Amendatory Section

WAC 230-03-330 Representing ~~only one employer at a time~~ manufacturers and distributors

(1) If you are a licensed representative or applying for a representative license, you ~~must~~ may represent ~~only one~~ or more licensed manufacturers, and/or distributors, ~~gambling service supplier or linked bingo prize provider~~ at a the same time.

(2) ~~If the owner you work for owns one or more than one licensed business, you may represent the owner in all those licensed businesses without applying for another representative license.~~

Staff's Alternative

Amendatory Section:

WAC 230-03-300 Applying for a manufacturer's representative license.

You must apply for a manufacturer's representative license if you ~~are employed by a licensed manufacturer to sell, promote, or provide that a~~ manufacturer's gambling equipment, or supplies, or you supervise those who do.

Amendatory Section:

WAC 230-03-330 Representing ~~only one employer at a time~~ one or more licensed businesses.

(1) If you are a licensed distributor representative, gambling service supplier representative, or a linked bingo prize provider representative or applying for a one of these representative licenses, you must represent only one licensed ~~manufacturer~~, distributor, gambling service supplier, or linked bingo prize provider at a time.

(2) If you are a licensed manufacturer representative, you may represent more than one licensed manufacturer.

(3) If the owner you ~~work for~~ represent owns more than one licensed business, you may represent the owner in all those licensed businesses, including licensed manufacturers, without applying for another representative license.

Amendatory Section:

WAC 230-16-001 Manufacturers, distributors, and gambling service suppliers must ensure representatives are licensed ~~comply with all requirements.~~

~~Manufacturers, distributors, and gambling service suppliers and their licensed representatives must ensure that their business operations, services, and the gambling equipment they manufacture, distribute, or sell comply with chapter 9.46 RCW and Title 230 WAC.~~

(1) A licensed manufacturer, distributor, or gambling service supplier must not allow an unlicensed person to sell, promote, or provide gambling equipment, or supplies, or to supervise those who do, and must take all measures necessary to prevent an unlicensed person from doing so.

(2) A licensed manufacturer must notify us in writing before a manufacturer representative begins representing them.