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You are receiving this notice because you commented on these proposed rule changes:

### **Notice of Permanent Rules for Requiring**

**This explanatory statement concerns the Washington State Gambling Commission's adoption of Amended Sections:**

WAC 230-13-075 Assigning and reporting group numbers of authorized amusement games.

WAC 230-13-170 Recordkeeping for commercial amusement games.

WAC 230-07-125 Recordkeeping requirements for lower volume charitable or nonprofit organizations.

WAC 230-13-005 Amusement games authorized.

The Administrative Procedure Act ([RCW 34.05.325\(6\)](#)) requires agencies to complete a concise explanatory statement before filing adopted rules with the Office of the Code Reviser. This statement must be provided to anyone who gave comment about the proposed rule-making.

Once persons who gave comment during this rule-making process have had an opportunity to receive this document, the Washington State Gambling Commission will file the amended rules with the Office of the Code Reviser.

The Washington State Gambling Commission appreciates your involvement in the rule-making process. If you have any questions, please contact Tina Griffin, Assistant Director, at [Tina.Griffin@wsgc.wa.gov](mailto:Tina.Griffin@wsgc.wa.gov) or at (360) 486-3546.

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### **What are the agency's reasons for adopting this rule?**

In July 2015, the Commissioners authorized Group 12 amusement games to be played by persons 21 and over. Since this time, numerous questions and concerns have been raised.

These rules address three concerns:

- Reporting; and
- Recordkeeping; and
- The storage of tokens for future redemption.

Currently, amusement game operators are only required to notify us once a year of the amusement games they have. They are also only required to report their overall amusement game gross receipts. With this rule change, we will know where Group 12 amusement games are being operated so we can conduct compliance inspections and know the gross receipts Group 12 games are bringing in.

For group 12 amusement games, coupons, tickets, tokens or tokens on an electronic token cards cannot be commingled with any tracking, reward, or other gambling related redemption systems. Prohibiting the tokens from being transferred will help ensure that cash is not, in the end, awarded.

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**Summary of all public comments received on this rule proposal and consideration of the comments. The summaries below are from stakeholders who have commented either at Commission Meetings or emailed their comments/concerns to the Commission. Please note, the spelling of these names have not all been verified.**

**Jay Gerow, ZDI Gaming and ADOW:** Opposed and questioned the disparate treatment between Group 12 and Groups 1 through 11. Based on a ruling by the Department of Revenue on taxation, they said they are amusement devices, not gambling devices. And so that's how they are assessing their taxes right now. Also asked why Group 12 gross gambling receipts needed to be tracked separately from the gross gambling receipts of Groups 1 through 11 and asked for clarity on whether Group 12 amusement games were gambling devices or amusement games.

**Patrick Tompkins, Sound Amusements:** We feel these rules are discriminatory against Group 12 operators as they're not applied also to Groups 1 through 11 operators.

**Jesse Stiltner, manager of Masters of Money, LLC:** Asked if a language change was needed to WAC 230-13-067 because players can't get their cash out of the games if they put more money in and then wanted to stop playing before that money was spent. Also commented that gross receipts is actually something that's recognized by the taxing authority that we do as well already. Per the Gambling Commission's earlier decisions on ensuring that amusement is not gambling, the Washington taxing authority has said, essentially, we're going to probably tax it as not gambling; we're going to be taxing it as gross receipts.

**Joan Mell, Attorney from Fircrest:** Urged the Commission to stick with its instincts on changing the rule from gross gambling receipts to gambling receipts, but to address the concern that that creates an undefined term. Possibly substitute with "gross amusement game receipts."

**Monty Harmon, Evergreen Gaming:** Suggested language changes to allow coupons, tickets, or tokens to be redeemed for merchandise prizes once dispensed from a machine and to allow token record system.

**Pat Tompkins, Sound Amusements:** States the cost of implementing this type of accounting is significant in locations with just one or two games. Our costs would run into the 10's of thousands of dollars and would make the games unprofitable.

**WSGC Response:**

The Commissioners took into account all information through testimony and written comments received in making their decision to proceed with these rule changes.

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**If there are variances from the proposed rule and final adopted rule, state the reasons for the differences (RCW 34.05.325(6)(a)(ii)).**

The original proposed rule was filed as a CR-102 on April 15, 2016. When the Small Business Economic Impact Statement was completed it was published with the original proposed rule with a second CR-102 filed on June 1, 2016. A substantial variance to the proposed rule was then made as part of the rulemaking process and the proposed rule was updated with a third CR-102 on August 23, 2016. The rulemaking proceedings were reopened in each instance for further public comment. There were no changes between the third CR-102 and the final adopted rule.

**WAC 230-07-125 Recordkeeping requirements for lower volume charitable or nonprofit organizations.** (1) Organizations operating without a license under RCW 9.46.0315 or 9.46.0321 and lower volume charitable or nonprofit licensees must keep a set of permanent monthly records of the gambling activities. Lower volume licensees include:

- (a) Fund-raising events;
  - (b) Bingo (Classes A, B, and C);
  - (c) Raffles (Classes A, B, C, and D);
  - (d) Amusement games (Classes A, B, C, and D); and
  - (e) Card games (Classes A, B, and C).
- (2) The monthly records must include, at least:
- (a) The gross gambling receipts from each activity;
  - (b) The gross gambling receipts from group 12 amusement games;
  - (c) The total amount of cash prizes actually paid out;
  - ~~((e))~~ (d) The total of the cost to the licensee of all merchandise prizes actually paid out for each activity;
  - ~~((d))~~ (e) A summary of all expenses related to each of the activities; and
  - ~~((e))~~ (f) The net income received from the activity, the purpose(s) for which the net income was raised, and the amount paid to each recipient.

(3) Licensees must keep these records for three years from the end of the license year for which the record was created.

(4) Organizations operating under RCW 9.46.0315 or 9.46.0321 must maintain their records for one year.

**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, tokens, or tokens on an electronic token card; and

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

(iii) Coupons, tickets, tokens or tokens on an electronic token card can be electronically stored for redemption under this section as long as the coupons, tickets, tokens or tokens on an electronic token card are:

(A) Deposited into, and tracked on, a separate amusement game accounting system; and

(B) Not commingled with any tracking, reward, or other gambling related redemption systems; and

(C) Redeemed only for merchandise prizes.

(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 replayed; or

(c) Result in any cash payment being awarded.

(6) Amusement games must only award merchandise prizes.

(a) Merchandise prizes mean noncash 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 regulations, except as provided in (b) of this subsection.

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

(7) Electronic 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 to-

kens awarded as prizes cannot be used to play amusement games and must only be redeemed for merchandise prizes.

AMENDATORY SECTION (Amending WSR 07-15-064, filed 7/16/07, effective 1/1/08)

**WAC 230-13-075 Assigning and reporting group numbers of authorized amusement games.** (1) Amusement game licensees must determine the authorized group number of each game and prepare a list of all games they plan to operate during each license year. They must submit this list to us with their activity report. The list must contain, at least, the name and group number of each game.

(2) Amusement game licensees must notify us within thirty days of putting into play and removing from play a group 12 amusement game. Reporting must be in the format we require.

**WAC 230-13-170 Recordkeeping for commercial amusement games.**

(1) Amusement game licensees must prepare a detailed record for each location where they operate games. They must retain the records for at least three years. The records must include details necessary to determine:

(a) Gross gambling receipts received from players(~~(; and)~~) from:

(i) Group 1 through 11 amusement games; and

(ii) Group 12 amusement games; and

(b) Value of prizes awarded to winners.

(2) Records must include, at least:

(a) The gross gambling receipts collected from amusement games at each location, with receipting records; and

(b) An entry for each withdrawal of receipts from the games. Coin or token activated amusement games only require an entry of the ending meter reading, the number of plays, and gross gambling receipts at the end of each month; and

(c) A summary of the operation of the activity. This includes, at least, coin-in meter readings and gross gambling receipts. Operators must provide these coin-in meter readings and gross gambling receipts to charitable or nonprofit organizations each time they service a game or disburse money.

(3) Licensees must report at least monthly the number and actual cost of merchandise prizes awarded for each location.

(4) For amusement games that issue tickets for the redemption of prizes, licensees must at least log the beginning and ending nonresettable ticket out meters or ticket numbers during each collection of funds from each game.

(5) Licensees must provide the full details for all amusement game operating expenses.