Staff Proposed Rule Change

- **Fingerprinting applicants.**

August 2013 - Final Action
July 2013 – Study Session
June 2013 – No Meeting
May 2013 – Up for Discussion and Possible Filing
April 2013 – Study Session
March 2013 – Study Session

ITEM: 8

a) **Amendatory Section: WAC 230-03-060**
Fingerprinting of applicants.

Proposed Amendment to
WAC 230-03-060 Fingerprinting of applicants.

August 2013 – Final Action
July 2013 – Study Session
June 2013 – No Meeting
May 2013 – Up for Discussion and Possible Filing
April 2013 – Study Session
March 2013 – Study Session

ITEM 8(a) on the August 2013 Commission Meeting Agenda.	Statutory Authority 9.46.070

Who proposed the rule change?

Staff.

Proposed Change

The proposed rule change will match our current practice by:

- Clarifying for all applicants and licensees those persons who are required to submit fingerprints to us and undergo a national criminal history background check; and
- Outlining which applicants and licensees are not required to submit fingerprints and undergo a national criminal history background check; and
- Outlining persons subject to the national criminal history background check taking into consideration the nature, character, size and scope of the gambling activities; and
- Adding language to clarify we may fingerprint substantial interest holders when we have information they may not be qualified for licensure or to participate in a gambling activity.

Attachment:
RCW 9.46.070(7)

History of Rule

RCW 9.46.070(7) states that the Commission shall require fingerprinting and national criminal history background checks on any person:

- Seeking licenses, certifications, or permits; or
- Holding an interest in any gambling activity, building, or equipment to be used; or
- Participating as an employee of any gambling activity.

In addition, the statute states that all national criminal history background checks shall be conducted using fingerprints submitted to the U.S. Department of Justice-FBI and the commission must establish rules to delineate which persons named on the application are subject to the national criminal history background checks. In identifying these persons, the Commission must take into consideration the nature, character, size and scope of the gambling activities required by the persons making application.

We can conduct a criminal history investigation for persons living in Washington because we have access to Washington records without first obtaining fingerprints. The current rule allows fingerprinting for substantial interest holders of licenses based on license classes of the gambling activity. The proposed rule change allows us to obtain fingerprints from all persons who live or have lived out of state during the last 10 years and all persons participating in the gambling activity as an employee or manager.

This rule was first adopted in 1973 and amended in 2002. In 2008, it went through the Rules Simplification Project. The rule does not accurately reflect who we require to submit fingerprints.

Impact of the Proposed Change
The rule proposal clarifies which persons are required to submit fingerprints so we can conduct a national criminal history background check. **A Small Business Economic Impact Statement** was not prepared because the rule change would not impose additional costs on any businesses.
Regulatory Concerns
This rule change will strengthen our regulatory program by making it clear which licensees and applicants must submit fingerprints.
Resource Impacts
Minimal. This proposed change brings our rules in line with current practice.
Policy Consideration
None.
Statements Supporting the Proposed Rule Change
None.
Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Because this proposed change brings our rules in line with current practice, we anticipate only a few licensees will be impacted by the change.
Staff Recommendation
Adoption.
Proposed Effective Date for Rule Change
Because this proposed change brings our rules in line with current practice, staff recommends an effective date of 31 days from filing the adopted rule, which would be approximately September 9, 2013, if the rule is adopted at the August 2013 Commission meeting.

Amendatory Section:
WAC 230-03-060 Fingerprinting ((~~of applicants~~)).

(1) The following persons must submit fingerprints and undergo a national criminal history background check:

(a) Substantial interest holders of commercial businesses and charitable or nonprofit organizations who live or have lived out of the state in the last ten years; and

(b) Card room employees, commercial and nonprofit gambling managers, and manufacturer, distributor, service supplier, and linked bingo prize provider representatives; and

(c) Any other substantial interest holder when we have information they may not be qualified for licensure or to participate in a gambling activity.

(2) Applicants or licensees for the following activities do not need to submit fingerprints: recreational gaming activities, agricultural fair permits, and Class A commercial amusement games.

((~~Applicants or persons holding a substantial interest may undergo a national criminal history background check, using fingerprints for the following licenses:~~
~~(1) Amusement games for commercial use: Class E and above; and~~
~~(2) Card games: Class E, Class F and house-banked card rooms; and~~
~~(3) Punch boards/pull-tabs for commercial stimulant: Class F and above; and~~
~~(4) Manufacturers: Class B and above; and~~
~~(5) Distributors: Class B and above; and~~
~~(6) Gambling service suppliers; and~~
~~(7) Representatives for distributors, manufacturers, gambling service suppliers, and linked bingo prize providers; and~~
~~(8) Managers of commercial gambling operations; and~~
~~(9) Public card room employees; and~~
~~(10) Linked bingo prize providers.~~))

RCW 9.46.070 Gambling commission — Powers and duties.
The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punchboards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend, or revoke any license because of considerations of race, sex, creed, color, or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punchboards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and

equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or (b) participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo. In establishing limitations pursuant to this subsection the commission shall take into account (a) the nature, character, and scope of the activities of the licensee; (b) the source of all other income of the licensee; and (c) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0282;

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16)(a) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

(b) In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter;

(20) To renew the license of every person who applies for renewal within six months after being honorably discharged, removed, or released from active military service in the armed forces of the United States upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license;

(21) To issue licenses under subsections (1) through (4) of this section that are valid for a period of up to eighteen months, if it chooses to do so, in order to transition to the use of the business licensing services program through the department of revenue; and

(22) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Staff Proposed Rule Change

- **Background checks on landlords of house-banked card rooms.**

August 2013 – Up for Further Discussion
July 2013 – Up for Discussion and Possible Filing
June 2013 – No Meeting
May 2013 – Study Session

ITEM: 9

a) **New Section: WAC 230-03-061**
Fingerprinting persons holding an interest in the building of a house-banked card room.

Proposed New Rule
WAC 230-03-061 Fingerprinting persons holding an interest in the building of a house-banked card room.

August 2013 - Further Discussion
July 2013 – Up for Discussion and Possible Filing
June 2013 – No Meeting
May 2013 – Study Session

ITEM 9 on the August 2013 Commission Meeting Agenda.	Statutory Authority 9.46.070

Who proposed the rule change?

Staff.

Proposed Change

RCW 9.46.070(7) states in pertinent part that "Provided further, That *the commission* ***shall require fingerprinting and national criminal history background checks*** *on any person seeking licenses, certifications, or permits under this chapter or of* ***any person holding an interest*** *in any gambling activity,* ***building****, or equipment to be used therefore, or of any person participating as an employee in the operation of any gambling activity...The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications (emphasis added).*"

This new rule ensures the WAC is consistent with RCW 9.46.070(7) by requiring persons holding an "interest" in a building used for a gambling activity to undergo background checks. The rule describes "an interest" in a building used for a gambling activity as at least 51%, or less than 51% "interest in the building" when there is actual or potential influence or control of the operation of a house-banked card room.

House-banked card rooms that currently hold a license would be exempt, unless there is a change in persons holding an interest in the building or the house-banked card room changes location. We will continue to require copies of leases so that staff may review persons holding a "substantial interest" as defined in WAC 230-03-045.

Attachments:
- RCW 9.46.070 (7) Gambling commission - Powers and duties.
- Stakeholder notification letter dated May 6, 2013, which was mailed and e-mailed to house-banked card rooms.

History of Rule

None. This is a new rule.

Impact of the Proposed Change

Applicants of house-banked card rooms and house-banked card room licensees meeting certain conditions must undergo a national criminal background investigation, which requires fingerprinting.

This change will not increase the application cost for applicants. The processing times of the applications will vary based on the responsiveness of the person holding an interest to submit the fingerprints.

A Small Business Economic Impact Statement was not prepared because this proposed rule change will not impose additional costs.

Regulatory Concerns
Minimal.
Resource Impacts
Minimal. During the past year, we have received only two new house-banked card room applications. Therefore, the resource impacts will be minimal for both staff time and agency expenses.
Policy Consideration
None.
Statements Supporting the Proposed Rule Change
None.
Statements Opposing the Proposed Rule Change
None.
Licensees Directly Impacted By the Change
Applicants for house-banked card rooms and house-banked card room licensees when there is a change in persons holding an interest in the building or a change in location of the house-banked card room.
Staff Recommendation
Further discussion.
Proposed Effective Date for Rule Change
January 1, 2014.

New Section

WAC 230-03-061 Fingerprinting persons holding an interest in the building of a house-banked card room.

(1) Persons holding an "interest" in the building of a house-banked card room must undergo a national criminal history background check, including fingerprinting.

(2) An "interest" means:
   (a) Having fifty percent or more ownership in the building used for the house-banked card room; or
   (b) Having less than fifty percent ownership in the building used for the house-banked card room and actual or potential influence over the gambling activity.

(3) This requirement only applies to house-banked card rooms licensed after January 1, 2014.

(4) For house-banked card rooms licensed before January 1, 2014, this requirement applies when there is a change in:
   (a) Persons holding an interest in the building; or
   (b) Location of the house-banked card room.

RCW 9.46.070 (7) Gambling commission — Powers and duties

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or (b) participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

STATE OF WASHINGTON
GAMBLING COMMISSION
"Protect the Public by Ensuring that Gambling is Legal and Honest"

May 6, 2013

Dear House-Banked Cardroom Licensee:

NOTICE OF RULE MAKING

The Washington State Gambling Commission has entered into the initial stage of rule making to revise **WAC 230-03-061 Fingerprinting persons holding an interest in the building of a house-banked card room.** This change to WAC 230-03-061 will require the fingerprinting of some landlords of house-banked card rooms.

The rule currently has no provision for fingerprinting persons holding an interest in the building of a house-banked card room. The text of the rule is attached.

The Gambling Commission encourages you to give input. Do you support or oppose the proposed rule change?

Public Comment
Please forward your comments by **May 31, 2013.**

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The proposed rule change will be discussed at Study Session at the **May 9, 2013**, Commission meeting. The meeting will be held at the Heathman Lodge, 7801 NE Greenwood Dr, Vancouver, WA 98004. Commission meetings are open to the public and you are invited to attend. Please check our website (www.wsgc.wa.gov) a week in advance to confirm.

The Commissioners look forward to your written comments and/or your testimony at the public meeting. Your input will help the Commission decide whether to file the proposed rule change for further discussion or not. If you have questions, please call Keith Schuster, Program Manager, at (360) 486-3559.