



STATE OF WASHINGTON
GAMBLING COMMISSION

"Protect the Public by Ensuring that Gambling is Legal and Honest"

February Gambling Commission Meeting Minutes
Hybrid Meeting held at the
Washington Liquor and Cannabis Board
February 9, 2023

Commissioners Present:

Chair Alicia Levy
Vice Chair Julia Patterson
Bud Sizemore
Sarah Lawson (Via Teams)

Ex Officio Members Present:

Representative Shelley Kloba (Via Teams)

Staff Present:

Tina Griffin, Director
Chris Wilson, Deputy Director
Lisa McLean, Legislative Manager
Tommy Oakes, Interim Legislative Liaison
Suzanne Becker, Assistant Attorney General (AAG)
George Schultz, IT
Julie Anderson, Executive Assistant

Staff Present Virtually:

Gary Drumheller, Assistant Director; Julie Lies, Tribal Liaison; Kriscinda Hansen, CFO; Jess Lohse, Special Agent and Acting Rules Coordinator

There were 16 people in the audience and 49 people attended virtually.

Chair Levy welcomed everyone to the Washington State Liquor and Cannabis Board for the Washington State Gambling Commission's February 9, 2023 meeting. The meeting began at 9:30AM, and Director Griffin called the roll to ensure a quorum.

Tab 1

Consent Agenda

Chair Levy asked the Commissioners if they had any changes to the consent agenda. Commissioners had no changes.

Public Comment:

Chair Levy asked for public comment. There was no public comment.

Commissioner Sizemore moved to approve the consent agenda as presented by staff.

Commissioner Patterson seconded the motion.

The motion passed. 4:0

Director's Report

Director Griffin announced that there are now 14 operating sports-wagering operations in tribal facilities throughout the state.

She also announced that 2023 was the Washington State Gambling Commissions 50th year as an agency. The agency is planning a recognition in conjunction with the May 11th and 12th commission meeting. Director Griffin asked commissioners to confirm their attendance and asked for their opinion as to which day they would prefer to hold the recognition. Commissioners agreed to attend and that Thursday, May 11, 2023 from 3:00 to 5:00 seemed to be the best date and time. They agreed that former Commissioners, Ex Officios, Staff and the Governors office should be invited.

Tab 2

Petition for Discussion Only – Wager Limits for House-Banked Card Games

Jess Lohse, Special Agent (SA) presented the materials for this tab. At the January 2023 Commission Meeting, staff brought forward four possible rules with draft language. They were labeled A, B, C, and D. The Commissioners voted to file draft language for option B, which was to increase the maximum wagering limits from \$300 to \$500 for a single wager.

Commissioners had several questions and asked staff to provide answers by the next commission meeting. Staff pulled the August 2022 and January 2023 transcripts and attempted to identify the questions that were asked.

On January 27, 2023, the agency received an email from Jerry Howe, Owner of Wild Goose Casino in Ellensburg, in support of the petition.

Staff recommends filing for further discussion.

Chair Levy thanked staff for their work and asked if anyone had any questions.

Director Griffin reiterated that in the packet staff flagged each question with a corresponding number so that the question and answers were easily identifiable.

Commissioner Sizemore asked should the Commissioners contemplate changing WAC 230-03-175 if raising the wager limits, he suggested having a robust discussion about the process and what that means in relation to having a \$400 wager verses a \$500 wager.

Commissioner Patterson also agreed that a robust discussion would be helpful. She had two points to address.

First, she would like more information regarding the number of House-Banked Cardrooms in Washington from 1997 to present.

Second, she suggested the need to look at adding some language regarding problem gambling to the rule. She stated that even though it was in options A and B, in her opinion she thinks adding some language looking further at revisions.

Director Griffin wanted to address question #6 regarding Tiers 1, 2 and 3 supplier impacts from the August transcripts. **Chair Levy** replied that was no need to continue research on that

questions and Commissioners agreed. **Chair Levy** reiterated that staff will not be providing any additional information on question #6 from the January packet.

Director Griffin asked about question #7. It was also determined that staff did not need to proceed any further on question #7.

Chair Levy asked for public comment on raising the limits.

Victor Mena, President of Last Frontier and New Phoenix in La Center, Washington stated, *“I have been in the industry for quite a bit of time. I started in 2001, and I have gotten back into the industry just recently. I would like to speak to the rule as far as being in favor of seeing it passed. Obviously, I was one of the people that dropped this rule back in 2016. At that time, the reason for trying to pass it then was foreseeing the expenses that were coming down the pipe with legislation through minimum wage, ACA, and other regulatory conversions in state. My purpose at that moment was to be in front of it to be pre-emptive.*

Because, in 2016, we roughly had somewhere between 50 and 60 cardrooms. And that was down from a high of 102, roughly, in 2005. And what we were seeing as a trend where the cardroom industry was starting to deteriorate. And I think I even put it on the record on several meetings that I projected that by the time minimum wage took absolute hold and passed all the way through that we would be down to somewhere between 30 and 35 cardrooms. We are currently at 38, so we are not far from that number.

We just saw a 9.1% increase in minimum wage roughly in the State of Washington. And that is a prelude only to the next increase coming in September after CPI gets looked at. And the CPI number then is probably going to be somewhere in the neighborhood of 4.5% if we are lucky as trends are going. So with that, I can tell you right now that the average cardroom in the state is probably experiencing a range of anywhere from \$10,000 to \$30,000 of excess payroll just with this current increase, so we are speaking to \$10,000 to \$30,000 per month as an increase. So it is a situation where you are going to see an erosion of the industry as it moves forward. This Commission is also going to be staring at the fact that their revenues are in jeopardy and needing to be adjusted.

As a matter of fact, I believe you guys are speaking on raising the cap on these businesses. So it's the same problem that we are all experiencing, We are all in the same boat. We are seeing the impact of getting people to a livable wage. So with that, I definitely am in support of seeing it go to \$300 to \$500. It had been 2008 when it was discussed to go to \$300. It was passed in 2009. In 2009, I think the minimum wage is somewhere around \$9 an hour. You have some jurisdictions in the state where it's over \$19 an hour. So it's just a byproduct economics as to why the industry is asking for this”.

Vice Chair Patterson asked Mr. Mena in the industry, what has been done to deal with higher prices with minimum wage? **Mr. Mena** replied, *“We have had to raise food prices. We have had to raise beverage prices. It's absolutely a certainty that in the last three years, we have probably seen a 30% increase in food and beverage prices, and we have had to make those increases. I*

can tell you that. It is extremely painful to see our food costs as an industry. It's somewhere between 40%, and in some places it's probably closer to 60% depending on the operators. So it is absolutely a burden that we have been trying to adjust”.

Berry Murray representing Imperial Palace stated, *“I just wanted to echo Victor's statements and also speak in favor of the raising of the limit. We are experiencing the food costs that he just outlined firsthand. I mean, it used to be you could hit 35% or thereabouts, and now you are 45%, and that's if you are kind of keeping your prices at a reasonable level. Everything is up. Beverage cost is up. Beer cost is up. Liquor cost is up. And the minimum wage is mind-boggling, to be quite honest, from an expense standpoint as we continue. So I'm certainly in favor of whatever we can do to try to mitigate some of that. And certainly the wage limits I think could be a factor, whether it's to \$500 or \$500 in addition to potentially \$1000, as well, for the three tables as outlined in one of the options. But I just wanted to express my support for it, we as a company. And appreciate everybody's time”.*

Chair Levy asked if there were any further public comments. There were none.

Director Griffin asked if the Commissioners wanted to continue the conversation about the RCWs and the WACs. She stated that **RCW 9.46.010** sets out the legislative declaration.

RCW 9.46.0217. It means any activity as operated as a commercial stimulant for the purposes of this chapter only when it is an activity operated in connection with the established business or within established business, with the purpose of increasing the volume of sales of food or drink for consumption on the business premises. The Commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized in this chapter as commercial stimulants.

RCW 9.46.070(2) authorizes the Commission to 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 organizations to utilize punchboards, pull-tabs, and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter. Any rules and regulations adopted pursuant thereto, and to revoke and suspend said licenses for violations in the provisions of this chapter any new rules and regulations pursuant thereto.

Director Griffin said, focusing on the commercial stimulant aspect first, and then we can talk about your authority to set wagers second. She then read the definition of WAC 230-03-175. Both the definition of commercial stimulant and the RCW and in the powers and duties statute in RCW 9.46.070(2). Both talk about established businesses and primary and the definition of primarily engaged in the selling of food or drink for consumption on premises. That evidence includes, but is not limited to, (1) proof of an established business as used in RCW 9.46.0217. Established business means any business that has been open to the public for sales of food or drink for on-premises eating and drinking for 90 days or more, or passes an inspection by us is ready to conduct food or drink sales and gives us a proposed operating plan, which includes hours of operation, estimated gross sales from each separate activity the business will conduct on the business premises, including, but not limited to gross sales from food or drinks sold for on-premises eating or drinking and gross sales from food or drink sold to-go and gross sales from all

other business activities. Director Griffin explained that that was how the Commissioners have chosen by rule to define established business, and it all links back to the definition of commercial stimulant. And then (2) goes on to state and addresses the primarily engaged-in section. So (2) says proof that it is primarily engaged in the selling of food or drink for consumption on premises as used in 9.46 [audio cuts out], the phrase primarily engaged in the selling of food or drink for consumption on premises, means that before receiving a gambling license, the business has total gross sales of food or drink for on-premise consumption receiving the gambling license. The business has total gross sales of food or drink for on-premise consumption equal to or greater than the combined sales of all other activities which occur on the business premises. So that is how, again, the Commissioners in 2007 by rulemaking chose to define the quoted phrase from RCW 9.46.070(2).

Chair Levy explained that before receiving a gambling license, the business applying for the license has to show their gross sales of food or drink.

Vice Chair Patterson asked when did the commission establish the \$300 limit. **Director Griffin** replied that it was filed in 2007, and was in effect 1/1/2008.

Vice Chair Patterson asked when the \$300 limit was approved for cardrooms. **Director Griffin** replied that that information along with the rule summary for final action for the \$300 limit would be in the March packet.

Commissioners Lawson asked if this is a one-time showing, that they are primarily engaged in? Or do they have to annually recertify that they are primarily engaged in the business of food and drink? She also asked if we had the records from the rulemaking of WAC 230-03-175 regarding the discussion or the public comments from when the rulemaking was done?

Director Griffin reiterated that the Commissioners are seeking the public comment received and/or made in the development of rule 230-03-175. Commissioners agreed.

Victor Mena stated, *“It is a confusing WAC, and it is a confusing RCW as far as the intent. But I believe what it is trying to say is by primarily meaning that food and beverage is the primary source of the business that is being licensed. In other words, it's not going to be selling cannabis. It's not going to be selling tobacco. It's not going to be selling clothing. It is a food and beverage primary business, meaning that food and beverage sales are its main driving force before the gambling license checks in. Now, that's my interpretation of that. I'm sure that we can have the AG weigh in, but that is the intent of what that WAC is. Now, as far as when that was rewritten, that is coming real close to rule simplification. And some of that rule simplification, I'm not sure if all of it went through public comment”*.

Chair Levy asked for further public comment.

Director Griffin read the definition of RCW 9.46.070(11). This is where the legislature has outlined your powers and duties. Number 11 states that the Commission shall have the following powers and duties 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.

Director Griffin reminded commissioners that the earliest they could proceed forward with final action would be at the March meeting. This information will be in the March commission packet as discussion only or for possible action moving forward. The stakeholder meeting will occur on February 13 and February 27th.

Tab 3

Petition For Discussion and Possible Filing – Amusement Games

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) presented the material for this tab. She introduced a petition to amend WAC 230-13-80 related to Operating Coin and Token Amusement Games. She stated that we received the petition in April 2020 from Steve Manning of Tacoma, Washington. He asked to amend the WAC that defied a department or grocery store as a venue with 10,000 or more square feet of retailer support space. The need for the change arose from the challenges that COVID was placing on non-essential businesses. The petitioner believed that the change would allow amusement game operators the ability to expand the number of locations where Amusement Games could be placed. At the May 2020 Commission Meeting, Commissioners initiated rulemaking.

In April 2022, the petitioner submitted a request to withdraw the petition, and on May 9, 2022, staff withdrew rulemaking with the Code Reviser. So today, staff seeks Commissioners concurrence in withdrawing the rulemaking as requested by the petitioner. Alternatively, Commissioners could direct staff to reinstate rulemaking.

Vice Chair Patterson moved to withdraw the notice of rulemaking as requested by the petitioner.

Commissioner Sizemore moved to second the motion.

The motion passed. 4:0

Tab 4

Petition For Discussion and Possible Filing – Centralized Surveillance

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) presented the materials for this tab. In November 2021, Tim Merrill of Maverick Gaming of Kirkland, Washington submitted a petition to amend the existing rules to allow for the ability to monitor cardroom gambling activity from a centralized surveillance room rather than having to monitor on the premises. The petitioner felt that the change was needed to enable staff to be together in a central location where they could be observed by experienced surveillance management that could provide consistent training. A centralized location would be an opportunity to promote consistency and allow instant communication to gaming agents as well as quick and effective response to equipment malfunctions.

The petitioner noted that the change would allow for an efficient surveillance room operation in these times when it is difficult to find employees and qualified people are needed to protect the casinos assets, customers, employees, and to maintain compliance. Currently, the rules require that Class F and house-banked cardroom licensees maintain analog or digital closed-circuit television systems within their licensed premises that is monitored by the licensee's cardroom

employees. At the January 2022 Commission Meeting, Commissioners chose to initiate rulemaking that would address a number of policy concerns raised by the staff. The petitioner noted that they have received special permission in Colorado and Nevada to operate a centralized surveillance room. Staff has confirmed that Nevada and Colorado have approved variances authorizing centralized surveillance rooms for Maverick. The Nevada Gaming Commission and Nevada Gaming Control Board's Regulations 5.160 related to surveillance systems allows licensees to seek revisions and exemptions to the casino surveillance standards.

Staff recommends withdrawing rulemaking due to a list of policy concerns. An alternative would be for Commissioners to direct staff to proceed with rulemaking that addresses the policy concerns raised.

Vice Chair Patterson asked if there were policy concerns verses just unanswered questions about how the facility would operate.

Director Griffin answered that this is not something currently authorized in Washington state nor is it prevalent in other states.

Chair Levy asked for public comment.

Eric Persson, owner of Maverick Gaming replied, *"We submitted this about a year ago. I think Victor has done a good job. [Indistinct] has done a good job sort of outlining the pressures that are on card in terms of all the costs that are rising. And I do operate in Nevada and Colorado, and we do have centralized surveillance. And we contemplated buying some casinos in the South, and the satellite routes do have centralized surveillance. So it's absolutely happens in other states in this country, including the jurisdictions that I operate in currently. One of the main benefits is in gaming, unlike food and beverage, you can't just have people lose more money. You can't just -- like blackjack. You take 20% more when your cost of labor goes up 20% more. They're gambling, and so you have to find other ways to contain cost market become more successful.*

And from our perspective, from Maverick's perspective, we thought it would be non-controversial, frankly because what it allows us to do is build a centralized surveillance area and, again, Commission direct tie-in. It's no secret that the WSGC is severely underfunded. It's short on agents and administrative staff. We thought that this would be a convenience not only for the operators but also for the Commissioners in the WSGC. Labor is very difficult to find qualified people. And so, if we could have one area and perhaps pay more and be able to compete with Microsoft and Amazon, and everyone understands the compensation package is that is in the Seattle MSA, it's not easy. And some of these smaller properties have to have surveillance 24 hours a day, and they have an agent on board. And frankly, if we wouldn't have bought them and realized some of the consolidation efficiencies through other areas, those cardrooms wouldn't be open either.

And it's no secret that I think it has gone from 104 to 38 cardrooms. And I think that the Commission and everyone has to decide. Do we want cardrooms? Because I just spent 90 million in December because I believe in cardrooms. I believe in this business. I believe in this industry. I actually grew up in the state. Ultimately, I have to pay down my debt. I have to pay my bills. And I can't just charge more for people to come gamble. I have to find things like this that allows us to remain profitable. And I think I actually provide a better service because we could have a better-trained staff. We could have new equipment. You can have remote tie-ins by agents instead of having to drive to Pasco or drive to Lakewood and maybe up Everett, you can do it from a desktop. And encryption and all the technology that occurs in banking is happening instead of Washington on the cloud. Cannabis, other things are moving away in the state from being closed-loop systems to the cloud to secure technology.

I believe everything on that list could be addressed, and it could be solved through working sessions. We asked for a staff meeting, and we were not granted it. And, ultimately, that's fine. They don't have to. But we pay 100% of the WSGC's bills, 100%. And without us, I know who's going to pay it. The cardrooms are closing. Like sometimes it gets lost in the mix. We've got like 4000 jobs paid over \$75,000 a year. Most of these dealers, like Victor and the other people, they don't leave. They do their whole career here and because great-paying jobs are important jobs. And when you have an opportunity like this, it's a win that gets dismissed, it's super disappointing because we are trying to do business in the state. I grew up here. I have a house on Bainbridge Island. I'm spending money when everyone was shutting it down. You know? So do you want cardrooms or not? Kind of like what this sort of stuff comes down to. Make it hard. Make it impossible. Keep winning. 100 to 38? Victor says 35-27.

That's the trajectory of cardrooms in this state. That is what is really happening, and those jobs are going away. And those people are not employed, and they are not making \$75,000 a year because we train people who don't have otherwise education right off. They are not college graduates. They are not working for Microsoft and Boeing. But you know what? They are putting their kids through college. These are important jobs. So I think stuff like this is the toughest state I operated from a regulatory standpoint to do business. Super frustrating. But you know what? I'll keep coming. I'll keep putting money in. I believe in it. Ultimately, I think that we are going to get to a path that works for everybody. But when stuff like this happens and we don't even get a chance to talk about it, it's ridiculous. That's what I have to say.

Vice Chair Patterson stated that staff already has a tremendous amount of work to do, and the agency is currently understaffed. Where will the bandwidth come from. She also said that she wasn't sure if the staff's concerns were policy concerns or are they operational concerns.

Director Griffin replied that she would be happy to meet with them and have a stakeholder meeting. Including bringing regulations forward to us that are very clear from other states showing exactly how this has operated.

Commissioner Sizemore suggested that within the next 18 months staff visit a couple of these states to examine the operations and then come back to the commission to look through our lens to determine if this is something that could be contemplated.

Commissioner Lawson said that the concerns that were raised by staff with this petition hit to the central mission of this Commission, which is to keep gambling legal and honest. She said we want to keep up with technology, and we want to find ways to make it easier for our licensees to operate. She stated that there isn't enough bandwidth at the Commission right now.

Eric Persson, owner of Maverick formally withdrew his petition for Centralized Surveillance.

Commissioners took a 10-minute break

Commissioner Sizemore moved to withdraw the notice of rulemaking as verbally requested by the petitioner.

Commissioner Patterson seconded the motion.

The motion passed. 4:0

Tab 5

Legislative Update

Tommy Oakes, Interim Legislative Liaison presented the materials for this tab. ILL Oakes introduced HB 1132, the agency's request legislation for our limited law enforcement officers. He highlighted Law and Justice Days and spoke about the great turnout from our agents. We met with 24 legislators and made some important contacts.

Commissioner Sizemore complemented the staff for taking advantage of an opportunity to have those conversations.

ILL Oaks gave an update on the following gambling bills:

- HB 1630 and its companion bill SB 5587, authorizing sports wagering at cardrooms and racetracks.
- HB 1438 authorizing bona fide charitable or non-profit organizations to conduct Calcutta auctions on shooting sports contests.
- HB 1681 and SB 5634 these are the problem gambling bills.
- HB 1707 relating to Bingo conducted by bona fide charitable and non-profit organizations.
- HB 5704 concerning requirements for fundraising activities of bona fide charitable or non-profit organizations.

Chair Levy asked for any questions or comments from Commissioners.

Commissioner Sizemore said that there has been positive feedback on HB 1132 and coordinating with other agencies. He complimented the staff.

Vice Chair Patterson commented that the state has asked tribes to increase their contributions to problem gambling and she announced that there are 10 tribes that have agreed.

Chair Levy asked if there were any public comments or comments from the

Commissioners.

Eric Persson, Owner Maverick Gaming stated, *“We are in support of this legislation. I would just be remiss as a platform if I didn't say that addiction knows no boundaries. It doesn't care if you are a Washingtonian playing in a cardroom, buying a lottery ticket, or playing in a sovereign nation, like a Tribal facility. Addiction doesn't care about boundaries. And so, as the cardrooms are linking up for self-exclusion with someone who identifies as a problem gamer, I think the entire industry thinks that's a good thing, I doubt Victor wants a problem gamer that comes to my property, and I don't want his. I think that the Commission should consider this platform as a person, as an entity that thinks through tribal compacts, and has some influence, particularly around this legislation that all of the gaming enterprises that happen in the State of Washington or on the sovereign tribal nations that are enveloped by the State of Washington, we should all have a central database.*

Because I, for one, don't want a gaming customer who identifies as having a gaming addiction problem who goes to Emerald Queen, I don't want him in my building. But I don't know that he has an addiction problem. He self-excludes. There should be one platform where when someone self-excludes, they are out of gaming in the state. And I think that it's really hard-pressed for anyone to articulate a reason why I'm wrong. But yet this legislation doesn't contemplate that, but yet, you guys do approve compacts. I think it should be part of your consideration.

***Vice Chair Patterson moved that the Gambling Commission expresses support for HB 1681 and SB 5634, bills related to the topic of problem gambling.
Commissioner Sizemore seconded the motion.
The motion passed unanimously.***

The commission meeting adjourned at 2:06PM. The next Commission Meeting will be a two-day meeting on March 9th and 10th at the Washington State Liquor Control Board.