



STATE OF WASHINGTON  
GAMBLING COMMISSION

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

**February Gambling Commission Meeting Minutes**

Hampton Inn & Suites 4301 Martin Way E.  
Olympia, WA 98516

**Public Meeting  
February 8, 2018**

**Commissioners Present:**

Bud Sizemore, Chair  
Julia Patterson, Vice Chair  
Ed Troyer

**Staff Present:**

David Trujillo, Director; Amy Hunter, Deputy Director; Tina Griffin, Assistant Director; Matt Kernutt, Assistant Attorney General; Brian Considine, Legal and Legislative Manager; Julie Lies, Tribal Liaison; Heather Songer, Public Information Officer; Julie Anderson, Executive Assistant.

**Public Session Call to Order**

**Chair Sizemore** called the Gambling Commission to order at 9:07 a.m. and welcomed everyone to the Hampton Inn and Suites. He announced that Commissioner Stearns was out of town on business and there would only be three Commissioners for this meeting. He welcomed Assistant Attorney General, Matt Kernutt back to the Gambling Commission and other introductions were made.

Chair Sizemore asked for a moment of silence for those law enforcement officers across the country that were lost in the line of duty.

There were 27 people in attendance.

**Tab 1**

***Consent Agenda:***

***Commissioner Patterson moved to approve the consent agenda as presented, which includes the Snoqualmie Class III certification.***

***Commissioner Troyer seconded the Motion.***

***The Motion passed. 3:0***

**Director's Report**

**Director Trujillo** introduced one of the newest members of the Gambling Commission, Ms. Faith Peterson. Ms. Peterson was hired in January as the Office Assistant III to support the Professional Standards & Training Unit. The Gambling Commission received a request to negotiate an amendment to the Suquamish Tribe's Gaming compact on January 29<sup>th</sup>, 2018, from the Governor's office. A meeting with the Suquamish Tribe will be scheduled later in February.

On February 6<sup>th</sup> the Gambling Commission went through an onsite re-accreditation review by representatives of Washington Association of Sheriffs and Police Chiefs (WASPC). The Gambling Commission passed re-accreditation and will receive their award in May at the WASPC Spring Conference. Director Trujillo updated the Commissioners on the U.S. Supreme Court decision that is pending on sports betting and mentioned that at least 15 states are moving some form of sports betting legislation in anticipation of how the Court may rule. He said that Kentucky and Nebraska are looking to constitutional amendments to authorize other new forms of gaming and New Jersey has five (5) casinos that operate 23 iGaming sites. He also added that the state of Indiana has a “loot box” bill scheduled for a hearing on the same day Washington legislature is scheduled to hear a similar “loot box” bill. Director Trujillo gave a brief background on loot boxes stating New Zealand is currently saying loot boxes are not gambling, but that Belgium is contemplating banning loot boxes throughout Europe. Director Trujillo reminded everyone that March is Problem Gambling awareness month and that Evergreen Council on Problem Gambling will be posting events on their website. The National Council has published a tool-kit guide for the month that includes goals, objectives, weekly themes, and March 13<sup>th</sup> has been declared Gambling Disorder Screening Day. Lastly, Director Trujillo introduced the Interim Director of the Washington State Lottery, Marcus Glasper, and welcomed him to the meeting.

**Chair Sizemore** applauded the staff for their work on the reaccreditation process.

### **2018 Legislative Update**

**Legal and Legislative Manager Brian Considine** presented the materials in Tab 1. Mr. Considine spoke about the 2018 legislative session and the bills specifically linked to the Gambling Commission. Mr. Considine announced that session is a little more than half way through and highlighted a few bills that could impact the Commission.

**Mr. Considine shared that EHB 2332**, self-exclusion for problem gamblers, is supported by the Commission and it was passed out of the House, 94-3, on January 24, 2018, with an amendment. Staff does not have any concerns about these amendments at this time. He thanked Commissioner Patterson for attending the HB 2332 hearing. **Commissioner Patterson** expressed her concern over HB 2332 getting lost in a long list of bills. **Mr. Considine** assured Commissioners that he will try to get it out of committee as soon as possible and added that he Director Trujillo met with Senator Nelson to brief her on the self-exclusion bill.

**Mr. Considine shared that HB 2881** criminalizes the operation of an online website or platform that facilitates, or is used to facilitate, an unauthorized gambling activity. The bill makes it a Class C felony for a person to knowingly facilitate an illegal gambling site where using virtual items are used as things of value.

**Mr. Considine said that SB 6266** identifies the use of video game “loot boxes” as a topic that the Commission should investigate and determine if it is gambling. Loot boxes are a digital “box” or “grab bag” that video game players have to spend real or in-game currency on. SB 6266 requires the Commission to conduct a study and report to the Legislature by December 1, 2018 on the following topics: (1) Whether games and apps containing these mechanisms are

considered gambling under Washington law; (2) whether these mechanisms belong in games and apps; (3) whether minors and other young people, who may be more vulnerable to gambling addiction, should have access to games and apps with these mechanisms; and (4) the lack of disclosure and transparency with respect to the odds of receiving each type of virtual item.

Mr. Considine added that he and Director Trujillo met with Senator Ranker to discuss this bill. Senator Ranker is very concerned about the use of loot boxes and has discussed them with several company leaders within the gaming industry. A hearing occurred on January 31, 2018 in the Senate Labor and Commerce Committee. Mr. Considine added that Commissioner Stearns, Director Trujillo, testified on the bill taking a neutral stance on the bill since the Commission has not voted on a position. However, Senator Ranker asked for the Commission's support on the bill.

**Commissioner Patterson** asked for more clarity on a virtual "box" that can be found on a video game and asked if Mr. Considine could articulate how one might conclude that this is gambling.

**Mr. Considine** explained that there are three common elements: consideration, chance, and prize. The commonality of concern for the Gambling Commission is skins essentially can be monetized. It is acting like a currency.

**Commissioner Troyer** cautioned the Commission on this topic saying it sounds like a cryptocurrency for teenage kids.

**Mr. Considine** recommends that the Gambling Commission support this bill with two caveats: 1) to amend the bill to include skins, and 2) the Gambling Commission conduct a study to gather stakeholders feedback, and come up with a report that support the recommendations going into the 2019 legislative session. The Gambling Commission estimates \$80,000 to \$100,000 for such a study and would ask a third party to conduct the study. Mr. Considine suggests that the Gambling Commission ask for appropriations from the legislature for the cost of the study and recommends support of the bill with the two caveats. Mr. Considine mentioned the Gambling Commission has received complaints on skins. **Chair Sizemore** agreed that the Gambling Commission should increase the knowledge base regarding technology and believes that our role will be tested in the future because of issues like "skins" and "loot boxes."

*Commissioner Troyer moved to approve to support Senate Bill 6266 as recommend by staff to include the studying of skins and an appropriation from the legislature.*

*Commissioner Patterson seconded the bill.*

*The bill passed. 3:0*

**Mr. Considine** shared that **HB 2416** had a hearing in House Commerce and Gaming on January 16, 2018 and he and Director Trujillo testified on the bill; this bill did not get out of committee. He also shared that **ESSB 5671** is unlikely to move out of the Senate and did not believe any new vote by the Commission was warranted at this time.

### **Law Enforcement Bills**

**Mr. Considine said that SHB 2718**, Representatives Shea and Goodman's bill, addresses civil forfeiture standards and reporting and that we continue to monitor the bill but recommend taking no action at this time due to the likely minimal impact the bill will have on the agency.

Mr. Considine **added that I-940** was certified by the Secretary of State and it is now filed with the Legislature. The legislature has three options during the 2018 session: (1) adopt the initiative as proposed, with no amendments, and it becomes law without a vote of the people; (2) no action and the initiative will be on the November 2018 general election ballot for a vote of the people; or (3) enact a different bill on the same subject and the bill and initiative will be on the November 2018 general election ballot for a vote of the people. Mr. Considine indicated that the Legislature is not likely to pass this initiative as a bill or pass a competing bill with a different criminal standard and training requirements at this time and I-940 will likely be put to a vote of the people during the November 2018 general election.

Mr. Considine reminded those present that the **Problem Gambling Legislative Work Session** is tentatively scheduled for February 19, 2018, from 1:30 p.m. to 3:00 p.m. and Commissioners Patterson and Stearns along with Director Trujillo will participate in the work session.

Finally, Mr. Considine closed by announcing that Commissioner Sizemore and Commissioner Patterson had confirmation hearings in the Senate Labor and Commerce Committee on January 17, 2018. The Labor and Commerce Committee voted to confirm both Commissioners. They are now on the Senate Confirmation Calendar and will likely be confirmed by vote of the full Senate sometime in the next few weeks. He said he would continue to work on the confirmations for Commissioners Troyer and Stearns

## **Tab 2**

### **Defaults**

**Staff Attorney, Haylee Mills** presented the materials for Tab 2.

**Chair Sizemore** asked if Ms. Cayou was in the audience, and she was not.

*Commissioner Patterson moved to revoke the Class III Certification for Tanesha J. Cayou.*

*Commissioner Troyer seconded the Motion.*

*The Motion passed. 3:0*

**Chair Sizemore** indicated that Mr. Van Pelt would not be available for comment.

*Commissioner Troyer moved to revoke the Class III Certification for Travis L. Van Pelt.*

*Commissioner Patterson seconded the Motion.*

*The Motion passed. 3:0*

## **Tab 3**

### **Petition for New Rule – Texas Hold'em Poker**

**Assistant Director (AD) Tina Griffin** presented the materials for Tab 3. The petitioner is seeking to make changes to WAC 230-15-135, wagering limits for nonhouse-banked card games. Currently, the card room licensees that offer poker games can offer a game with no more than five betting rounds per game, no more than four wagers for betting round, and single wagers of no more than \$40 for Class E card rooms and \$300 for Class F and house-banked card rooms. The petitioner is seeking to eliminate the restrictions on the amount of the wagers and eliminate the number of wagers allowed in the betting rounds. The petitioner, Mr. Christopher Hancock, joined AD Griffin and explained to the Commissioners why he thinks the wagering limits should change. **Mr. Hancock** stated that Washington State does not have legal No Limit Hold'em. It

has something that looks like No Limit Hold'em. The singular defining characteristic of No Limit Hold'em is that at any point in the hand you or your opponents can put their entire stack of chips in play. This shapes the mathematics of the game. It is the essence of the game. The mere possibility that the next bet can be for your entire stack of chips shapes how you approach each and every hand. It is what gave the game its nickname the "Cadillac of Poker." The prescriptive rules mentioned were two specific ones. First, the restriction on the number of bets in a given round of betting is capped at four. Second, the size of any given raise or bet is capped at \$300. This, he believes, is the more egregious of the two rules. These restrictions restrain players in all-too-frequent circumstances from performing some of the essential strategic tasks in the game. The flexibility to make a bet of a size that denies the opponent the proper odds to continue in the hand with a positive expected value is key. The current rules prohibit this in many circumstances. The nature of the Cadillac of Poker he described is absent from what casinos and card rooms in Washington misleadingly call No Limit Hold'em. What is played here in Washington is something functionally more like Spread Limit Hold'em, which is a vastly less popular form of the game that is played almost exclusively in areas where regulations prevent no Limit Hold'em from existing. An indicator of how unpopular this form of the game is that there is no World Series of Poker event for Spread Limit poker despite the fact that there are well over 60 events held at the World Series of Poker. In some reasonably frequent circumstances, he thinks these rules achieve the opposite of their intended ends, leading players to lose more money than they otherwise would. The restrictions create circumstances where it's mathematically impossible for the player with the best hand to play correctly because he or she has been deprived of the ability to shape the size of the bet appropriately to the size of the pot. When this happens, when the player with the best hand cannot mathematically play the game correctly, the game is no longer a game of skill. It is more akin to a lottery and in many circumstances, the rules unintentionally encourage reckless play. This is not good for social welfare. There are four rounds of betting in a hand of Hold'em, and if players were to make the maximum bet size of \$300 for each of the four bets on four rounds of betting, a player could theoretically lose something close to \$4,500 in a given hand. His understanding is that the restrictions of four bets per betting round times and \$300 per bet was to limit losses to \$1,200. If the goal was to limit losses in a given hand to \$1,200, the current rules do not achieve those ends. The maximum bet size is not the appropriate unit of analysis. The Commission should completely abandon concerns about bet size, at least in the scope of this particular game. There is a much simpler, less intrusive way to abide by the principle of limited scope and nature while also letting the game breathe. The Commission should simply restrict the maximum buy-in from a given player to \$1,200 in any game of No Limit Hold'em. In a proper game of No Limit Hold'em, in a given hand, a player can only lose what is in front of him or her or, more precisely, a player can only lose what's in front of him or her or what's in front of his or her opponent, whichever is smaller. A simpler way to put this is that in an actual game of No Limit Hold'em, the maximum bet size is the amount of money the player has in front of them. If the Commission wants to limit losses to \$1,200, it will have effectively done so if it simply restricts the size of the buy-in to \$1,200. Restricting the buy-in to this size would do just as good of a job of achieving the Commission's goals as the current rules but without spoiling the nature of the game. Changing the current rules to the rule proposed would also allow casinos and card rooms to offer a greater selection of poker games. It would also keep Washington players that are serious about the game in Washington casinos and card rooms rather than sending them elsewhere. And it would let Washington play the game that was meant to be played. To summarize his complaint here isn't simply that the current rules produce a much less exciting and interesting game, although that is very much true, his complaint is that the current well-intentioned rules destroy

the very nature of the game, encourage reckless play that otherwise wouldn't occur, and encourages players like myself to leave the state when the itch to play the game arises. **Commissioner Troyer** inquired on a \$1,200 dollar bet and asked if a player had a \$1,200 buy-in and somebody gets on a roll and has \$4,000 to \$5,000 dollars sitting in front of them as a bet, can that person put that whole \$4,000- \$5,000 dollars into bet? **Mr. Hancock** answered yes. **Commissioner Patterson** asked staff for clarity on the current rule. **AD Griffin** replied by stating the petitioner is proposing to eliminate those subsections limiting the number of wagers per betting round and striking the single wager limits so it would be applicable to all poker games played in the state not just to No Limit Texas Hold'em. **AD Griffin** offered that as she understands it, the Commission would not be prohibited from narrowing the scope of the rule to allow the proposed changes. **Commissioner Troyer** stated the current betting limit is \$300 and asked Assistant Attorney General Matt Kernutt to add comment. **Assistant Attorney General Matt Kernutt** replied that this could very well be viewed as an expansion of gambling. **AD Griffin** explained this rule applies to all poker games, but it would be up to the Commission to change the scope of that. All Washington authorized gambling activities are to be limited in nature and scope by RCW 9.46.010 and have wagering limits. Staff recommends denial of the petition.

**Public Comment:** There was no public comment.

**Commissioner Patterson** explained that this Commission reviewed these same rules about two years ago and increased the limits from \$100 to \$300, and those new limits became effective by the end of 2016. She expressed concern about the discussion that took place and that this could be viewed as an expansion of gambling by the state legislature. She added that the Gambling Commission has been directed by the state legislature to limit the nature and the scope of gambling activities, and this request doesn't fit in with that direction. She also stated that all other gambling activities do have limits. Commissioner Patterson suggested that this request be denied.

*Commissioner Patterson move to deny the petition to change WAC 230-15-135.*

*Commissioner Troyer seconded the Motion.*

*The Motion passed. 3:0*

**Commissioner Troyer** said he is willing to look at this petition in the future with changes and more consideration.

#### **Tab 4**

##### **Staff Request for Rule Change/Fee Simplification (Package #3)**

**AD Griffin** presented the materials for Tab 4. This package sets out the individual license fees under the new fee structure. Staff anticipates asking for an effective date of May 1, 2018, so that licensees who are renewing June 30, 2018 will pay their fees under the new system. The Rule Changes/Fee Simplification Package #3 will likely be up for final action at the March Commission Meeting.

**Public Comment:** There was no public comment.

#### **Tab 5**

**Staff Request for Rule Changes/Fee Simplification (Package #4)**

**AD Griffin** presented the materials for Tab 5. This is the fourth Rule Changes/Fee Simplification package staff will bring forward to make changes to the Commission's licensing fee structure. This package clarifies that annual activity report filers will report their gambling activity for their license year through June 30, 2018 on July 30, 2018. All licensees will begin reporting their activity quarterly beginning with the July 1-September 30 quarter. The Rule Changes/Fee Simplification Package #4 will likely be up for final action at the March Commission Meeting.

**Public Comment:** There was no public comment.

**Other Business/General Discussion/Public Comment**

**Chair Sizemore** announced that he has a conflict with the May 10, 2018 meeting date. He is asking to reschedule that meeting date to June 7. Commissioners are to get back to Julie Anderson with their approval of moving the meeting date as soon as possible. The June 7, 2018 meeting date would serve two purposes and that would be to have a Tribal Consultation meeting on the same day as the Commission Meeting. He adjourned the regular meeting at 11:15 to go into Executive Session to discuss Tribal Negotiations, Pending Investigations and Litigation. Executive Session is expected to adjourn at 12:15.

**Julie Anderson announced** at 12:15 that Executive Session would be extended 30 minutes.

The Commission meeting adjourned at 12:45.