

# Sine Dice: How the 81st Session of the Nevada Legislature Played Around the Edges of Gaming Law, but Didn't Go All In

By Jaime K. Black and Michael K. Morton

Many of those who make a living – or try to – by reading the legislative tea leaves thought that the 81st Session of the Nevada Legislature would be light on any policy not related to public health, and heavy on cost wrangling, number crunching, and lifting up the state's couch cushions to find every last penny possible to build Nevada's two-year budget. However, through virtual committee hearings and closed floor sessions, the Nevada Legislature made a number of changes to the Gaming Control Act and charitable gaming laws relating to how the Nevada Gaming Control Board ("Board") regulates the industry, the kinds of persons and entities that require licensure, what types of qualified organizations must register with the Board before conducting a charitable lottery, and how certain gaming licensees must rehire workers as they continue to expand operations coming out of the COVID-19 pandemic.







## Nevada Gaming Control Board Gains Efficiencies

The Assembly Committee on Judiciary sponsored Assembly Bills Nos. 7 and 8 (“AB7”) and “AB8,” respectively) on behalf of the Board. AB7 addressed four major topics, spanning from the type of entities that require licensure to a prohibition on a form of wagering in its infancy.

Section 7 of AB7 deletes the required licensure for, or the operation of, an inter-casino linked system. NRS § 463.01643 defines an inter-casino linked system as “a network of electronically interfaced similar games which are located at two or more licensed gaming establishments that are linked to conduct gaming activities, contests or tournaments. Instead, section 2 of the bill (NRS § 463.0136) amends the definition of associated equipment to include inter-casino linked systems. Pursuant to NRS § 463.665, manufacturers and distributors of associated equipment currently register with the Board, rather than seek licensure.



According to Board Member Phil Katsaros, who presented the bill to the Assembly Committee on Judiciary, the Board sought this change from licensure to registration “as a recognition of technological advancements, both in the industry and [at] the Board. The technology involved with inter-casino linked systems no longer poses any danger to the gaming industry to still require the full investigation that is involved in the issuance of a gaming license.”<sup>1</sup> Board Member Katsaros went on to state that this change to registration, rather than licensure, of inter-casino linked systems will allow for more efficient development and deployment of new or modified systems onto the casino floor without impeding the Board’s regulatory oversight of such systems.<sup>2</sup>

Two subsequent changes were made by AB7 because of the change from licensure to registration of inter-casino linked systems in sections 8 and 20. NRS 463.665 (section 20) already required the Nevada Gaming Commission (Commission) to adopt regulations requiring certain persons who manufacture and distribute associated equipment to register with the Board.



Section 20 of AB7 authorizes the Commission to determine whether certain persons who “have a significant involvement in the manufacturing or distribution of associated equipment”<sup>3</sup> must register with the Board. While removing references to operators of inter-casino linked systems, section 8 expands the confidentiality afforded to information provided by a gaming licensee to the Board to any technology regulated by the Board.

Prior to the enactment of AB7, new games – as defined in NRS § 463.0152 – required approval by the Commission before being deployed for play on a gaming floor. Section 1 of AB7 slightly quickens the pace of the approval process, authorizing a licensee to deploy a game onto the gaming floor upon the positive recommendation for approval by the Board. Upon the Board’s positive recommendation, the Commission has 60 days to act on the recommendation, otherwise the new game is deemed approved. This new expedited process allows a new game to be put into use roughly two weeks faster than before the passage of AB7.

Sections 2, 3, and 5 of AB7 update various definitions in chapter 463 of NRS. Most notably, section 3 amends NRS § 463.0152 by removing certain terms from the definition of “game” and “gambling game” that are racially offensive. The regulatory purpose of these terms, if any existed, is difficult to glean in this definition and should have been removed years ago.

AB7 also updates the statutory scheme that governs the live entertainment tax in chapter 368A of NRS. Since the 20th Special Session of the Nevada Legislature in 2003, gaming properties that sell tickets to events subject to the live entertainment tax imposed by NRS § 368A.200

were required to print the amount of the statutorily-defined admission charge for the event on the face of the ticket. As third-party sellers have come to dominate the ticket-selling industry, this seemingly simple statutory requirement had become increasingly difficult as the admission charge consists of multiple individual charges that each are allocated to a different party. Furthermore, as nearly all ticket sales are done on some online platform, this “show and display” requirement has become somewhat obsolete. Therefore, section 21.5 removes the requirement to display the admission charge on the face of a ticket for a live entertainment event.

Lastly, section 23 repeals NRS § 463.800, which was enacted in 2015 to authorize entity wagering. When Senate Bill No. 443 (2015) of the 78th Session of the Nevada Legislature was presented before both the Senate and Assembly Committees on Judiciary, entity wagering was touted as the next big innovation in sports wagering. However, the Board has indicated that, since its inception in 2015, entity wagering has been a stain on the gaming industry, leading to several federal investigations and indictments of those who held themselves out as companies who participated in entity wagering. Therefore, at the request of the Board, AB7 repeals the statutory provisions related to entity wagering.

The other piece of legislation brought by the Assembly Committee on Judiciary on behalf of the Board was AB8. This bill can be characterized as one that continues to bring various portions of the Gaming Control Act into the 21st century by updating various definitions and authorities granted to the Board and Commission to use various technologies. Sections 1 and 5 of AB8 allow for the use of electronic signatures on credit instruments





utilized at and by a gaming licensee. Additionally, section 5 authorizes the Commission to adopt regulations relating to the use and validity of electronic signatures on such credit instruments.

Section 2 of this bill amends the definition of gaming employee in NRS § 463.0157 to include those employees who: 1) are required to register with the Board to operate as cash access and wagering instrument service providers; and 2) the Commission determines by regulation are required to register. The addition of those employees who operate as cash access and wagering instrument service providers was

precipitated by Senate Bill No. 46 (2019) of the 80th Session of the Nevada Legislature, which bifurcated which type of service providers required licensure, rather than registration. The second change to the definition of gaming employee further aligns the definition of the same term in chapter 463A of NRS.

Sections 6 and 8 of AB8 amend the definition of “slot machine wagering voucher” to account for the following facts: 1) wagering vouchers are utilized on more than just slot machines, and 2) the vouchers can be evidenced in digital forms, such as QR codes. Section 3 amends the definition of “gross revenue” to clarify the types of entry fees for contests and tournaments that are included in the calculation of a licensee’s monthly gross revenue. The last portion of this bill addresses how a licensee accounts for the final payment on credit instruments issued by the licensee. Section 7 removes the option to pay monthly, as it is an obsolete provision that hasn’t been used by licensees that cease gaming operations.

## Legislature Lessens Amount of Red Tape for Charitable Organizations

Assembly Bill No. 202 (“AB202”) was sponsored by Assemblyman and Speaker Pro Tem Steve Yeager. During the 80th Session of the Nevada Legislature, the Nevada Legislature enacted Assembly Bill No. 117 (“AB117”), which, for the first time since chapter 462 of NRS was created in 1993, updated the statutory scheme enabling charitable lotteries and charitable gaming in this State. AB117 was introduced in 2019 to update chapter 462 of NRS to account for the large charitable foundations created in Nevada by professional sports teams. However, the bill’s implementation and ensuing Nevada





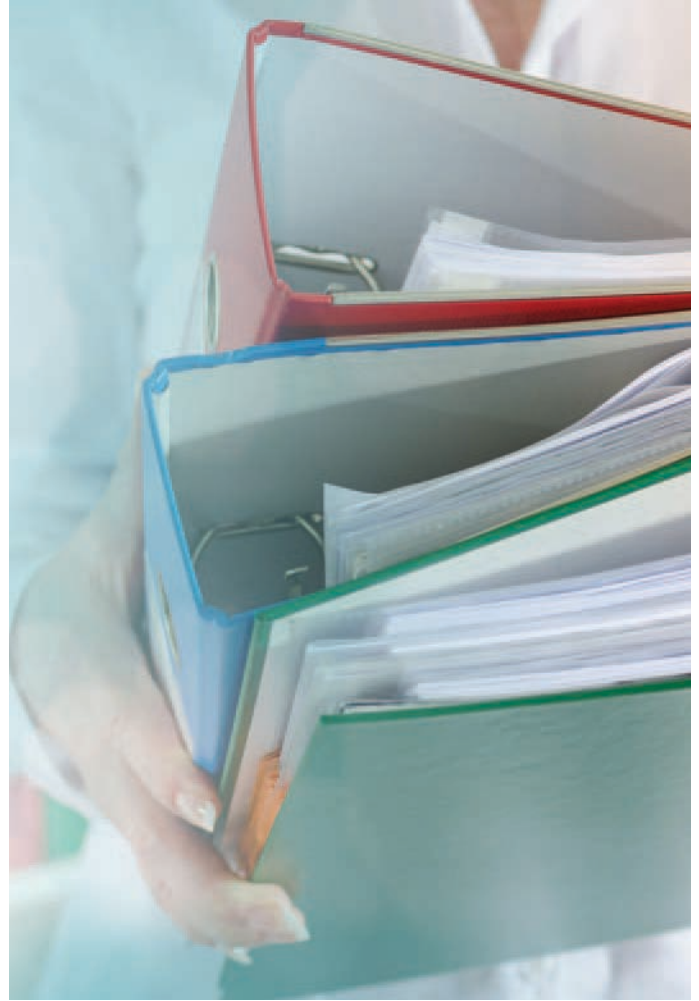
Gaming Commission regulations caused changes that inadvertently affected smaller charitable organizations throughout Nevada. Therefore, AB202 was introduced in the most recent legislative session to address some of those issues.

Section 2 of AB202 requires a qualified organization to register annually with the Board, and pay a \$10 fee, if the value of the organization's total prizes offered is less than \$100,000 per calendar year. This is a change from the law implemented in 2019, whereby such an organization currently must apply to the Board for each individual charitable lottery. Section 1 of the bill amends the definition of "qualified organization," expanding the types of entities that may hold charitable lotteries or games.

Section 2.5 of AB202 generally prohibits the use of a video lottery terminal in the administration of a charitable lottery. Surely watching the litigation surrounding video lottery terminals and video gaming terminals in Missouri<sup>4</sup> and Pennsylvania<sup>5</sup>, the Nevada Legislature was proactive in explicitly banning the use of such terminals in the charitable gaming space. This section also further restricts the types of online sales a qualified professional sports organization may use in conducting a charitable lottery.

## **UNLV Law Students Go to Carson City (Virtually)**

As the nation's leader in gaming law education, the University of Nevada, Las Vegas, William S. Boyd School of Law prepares the next crop of gaming attorneys for legislative work. This past session, the Assembly



Committee on Judiciary sponsored Assembly Bill No. 405 ("AB405") on behalf of the gaming law student cohort. After receiving expert feedback from the operational Divisions of the Board, the Nevada Legislature pared down the bill to two relevant sections. Section 4.5 of the bill amends the type of documents and information that a licensee who operates in a foreign jurisdiction must





submit to the Board. When the statutory scheme relating to foreign gaming was first enacted, Nevada was the only legal gaming jurisdiction in the United States. Now that 48 states regulate gambling, the Nevada Legislature recognized that the information it requires gaming licensees to file with the Board could be updated to gain regulatory and business efficiencies.

Section 5 of AB202 makes match fixing a crime in chapter 465 of NRS. As legal sports wagering expands across the United States; professional sports teams flock to Nevada for its tax structure, weather, and loyal fan base; and collegiate athletics face a reckoning related to student-athlete compensation, the law students from UNLV advocated for stronger protections surrounding the integrity of sporting events in Nevada. Section 5 of AB202 provides the Board and other law enforcement agencies another proverbial tool in the toolbox to ensure the integrity of these events.

### **eSports Tournaments Ready to Compete with Golden Knights and Raiders Sellout Crowds**

As the gaming and hospitality industry in the Silver State continues to evolve at breakneck speed, legislative response is sometimes needed to ensure the integrity of the industry's next big move. Senate Bill No. 165 ("SB165"), sponsored by Senator Ben Kieckhefer, may bring the imprimatur of the gold standard of gaming regulation to what some see as the industry's next big move – eSports. Section 10.5 of SB165 creates the eSports Technical Advisory Committee (TAC) within the Board. The bill requires the Board to appoint members of the TAC, and requires the TAC to provide recommendations to the Board on the regulations that may be needed to effectively oversee the burgeoning eSports industry. The bill provides the Board and Commission authority to adopt any such regulations.







## Nevada Legislature Strengthens Backbone of the Las Vegas Strip, Relaxes Pandemic Cleaning Standards

As Nevada continues to climb out of the economic and public health holes caused by the COVID-19 pandemic, the Nevada Legislature passed Senate Bill No. 386, aiming to ensure that those who made up Nevada's workforce prior to the pandemic were offered employment as their former employers recovered. SB386, known as the "Right to Return" bill, was sponsored by the Senate Committee on Commerce and Labor. Section 22 of this bill requires certain employers, including hotels and casinos, to offer a laid-off employee certain job positions when such an employer is rehiring for that position. Specifically, section 22 establishes criteria to determine when a laid-off employee is qualified for an open position, as well as a timeline for how long an offer of employment must be open, and how quickly the laid-off employee must return to work upon receiving and accepting such an offer.

SB386 also amends recently-enacted statutes from the 32nd Special Session of the Nevada Legislature. During that special session, the Nevada Legislature enacted Senate Bill No. 4 (2020), which, among many other things, established stringent cleaning standards for public accommodations, including resort hotels and casinos. The legislation from the special session required the Department of Health and Human Services, as well as

local health authorities, to adopt regulations that required the daily cleaning of rooms in public accommodations. These cleaning standards were extremely specific, and were intended to mitigate the spread and transmission of SARS-CoV-2. As the viral pandemic began to subside during the waning days of the 81st Session of the Nevada Legislature, SB38 was amended to include changes to NRS §§ 447.300 to 447.455, inclusive. Specifically, Sections 28.1 and 28.2 of the bill revise such cleaning, sanitation, and regulatory standards that were put in place relating to the cleaning of hotel rooms during the 32nd Special Session of the Nevada Legislature.

## Conclusion

It is not news to anyone that many stakeholders will be watching how the gaming industry continues to recover and pivot from the COVID-19 pandemic, and how the above changes in the law help or hinder that recovery. What is known is that the 82nd Session of the Nevada Legislature will be here sooner than we think, and that the 63 lawmakers will surely have more to say on the regulation of gaming in Nevada.



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<sup>1</sup> Assembly Bill No. 7: Hearing Before the Assembly Committee on Judiciary, 81st Session of the Nevada Legislature (2021) (Statement of Phil Katsaros) available at <https://www.leg.state.nv.us/Session/81st2021/Minutes/Assembly/JUD/Final/287.pdf>.

<sup>2</sup> See *id.*

<sup>3</sup> Section 20, Assembly Bill No. 7, 81st Session of the Nevada Legislature (2021).

<sup>4</sup> Erickson, Kurt. With gambling machines spreading through Missouri, lottery officials concerned about revenue loss. *St. Louis Post-Dispatch*. June 24, 2021, available at [https://www.stltoday.com/news/local/govt-and-politics/with-gambling-machines-spreading-through-missouri-lottery-officials-concerned-about-revenue-loss/article\\_ac7550a0-eefd-5663-b416-d16d5e41517f.html](https://www.stltoday.com/news/local/govt-and-politics/with-gambling-machines-spreading-through-missouri-lottery-officials-concerned-about-revenue-loss/article_ac7550a0-eefd-5663-b416-d16d5e41517f.html).

<sup>5</sup> Shelly, Kevin. PA stakeholders demand "prompt clarity" in law around illegal gambling devices, but when will they get it? *Play Pennsylvania*. June 15, 2021, available at <https://www.playpennsylvania.com/pa-illegal-gambling-hearing-need-clarity/>.