

The meeting was called to order at 8:12 a.m. by Senator Close, who also chaired the meeting.

SENATE MEMBERS PRESENT:

Senator Close
Senator Hernstadt
Senator Don Ashworth
Senator Ford
Senator Raggio
Senator Sloan

ASSEMBLY MEMBERS PRESENT:

Co-Chairman Hayes
Assemblyman Stewart
Assemblyman Banner
Assemblyman Coulter
Assemblyman Fielding
Assemblyman Polish
Assemblyman Sena
Assemblyman Brady
Assemblyman Prengaman
Assemblyman Malone

SENATE MEMBERS ABSENT:

Senator Dodge

ASSEMBLY MEMBERS ABSENT:

Assemblyman Horn

Senator Close stated that the Joint Committees' would like to go over the amendments on these bills with the Gaming people, or anyone that wished to make comments on these. They would not take the bills in their entirety as they had testimony on these previously. The amendments to these bills are attachments A, B and C.
(See minutes of February 28, March 1 and 13 for testimony and discussion).

SB 131 Increases penalties for violation of certain gaming laws.

Ray Pike, Chief Counsel for the Gaming Division, for the Attorney General's Office, stated that the proposed amendments before the Committees', incorporate the suggestion that have been made by the Senate Committee, as well as those of the Board and Commission. The amendments would limit the automatic revokation, after the commission of a crime, to a discretionary act on the part of the Commission. Secondly, it would provide that only NRS 463.160, Sub-section 1, would be the felony provision focused on hidden interests. The remaining sections would stay misdemeanors. However, Sub-section 6 might still fall within the felony treatment. Additionally, NRS 465.010 and 020 would be repealed. These sections were never updated as was NRS 463.160. These sections address virtually the same acts, and to foster consistency in the Statutes, we asked that they be repealed so that the focus is on NRS 463.160.

Bob Faiss, Counsel for the Nevada Resort Association stated they have no opposition to the amendments proposed to this bill, providing the penalty for violation in Sub-section 1 of NRS 463.160 is increased to a felony. That Sub-section 6 be amended so that a licensee who puts extra slot machines or games into play without proper notification, is subject to administrative sanction at the local as well as the state level. Sub-section 1 provides that a license for each slot machine or game must be secured in advance from all authorities. Licensees sometimes put slot machines or games into play in-

advertently for some special function, such as a poker or 21 tournament, and through some error fail to make appropriate notification in advance. What will happen, if you amend Sub-section 1 without amending Sub-section 6, is that if he fails to give advance notification under Sub-section 6, the licensee is subject only to administrative sanctions. However, putting the same game into play under Sub-section 1, the licensee has committed a felony.

SB 185 Permits interception of communications and use of evidence derived from such interceptions in certain circumstances involving gaming violations.

Phil Pro, with the Attorney General's staff for the Gaming Division, stated that there are three amendments to this bill. The first amendment would provide the amendment which was discussed at an earlier hearing, restricting the gaming violations for which oral interception could be lawfully sought. This would be the hidden interest and bookmaking involving horse racing. The second amendment proposes an addition to NRS 179.500. This would bring disclosure of material obtained through an oral interception into conformity with the requirements that exist before it can be used in a court. This would provide that the parties involved would have to be given notice. The third amendment would provide some safeguard so that two members of the Gaming Control Board would independently approve the application. This was done because members of the Committee wished this in the Statutes, rather than by regulation, as originally proposed.

Senator Sloan asked that if they change Chapter 463, to give the Attorney General concurrent jurisdiction, and then under 143 give them sole jurisdiction over the application, would there be a problem with that.

Mr. Pike stated he felt this would at least give the Attorney General's Office the option and ability to proceed. Now we do not have that ability unless the District Attorney refuses or fails on the request.

Senator Ford asked if it would meet with the Gaming Control Board's approval if only the Attorney General could file the application with the Supreme Court.

Mr. Pro stated there would be no problem and that it would be appropriate. However, the law would have to be carefully drawn so that it spelled out that this would not affect the District Attorney's ability to wire tape in cases of murder and such.

Robbins Cahill, representing the Nevada Resort Association, stated that he is quite disappointed in these amendments. He stated he certainly has sympathy for the Board, but hidden interests usually do not involve Nevada residents. They involve residents of other states. Even under this bill

you cannot reach these people as only the Federal Government has the authority to go into other states to wire tap. The gaming people assured us that they were going to protect the public as far as who can request these wire taps. These amendments do not do this. It doesn't say that the County Licensing Board cannot use it, or an individual citizen can't go to the District Attorney and use it. As I see this bill, it has closed up the Board, but left it wide open to everyone else. Under Sub-section A, of Section 1, of NRS 463.160, as I read it, anybody who might be suspect of having an unlicensed game can be bugged. They only have to have enough evidence to show that a hidden interest might exist. If they had enough evidence to convict him, they wouldn't be wire tapping. The industry doesn't want to protect hidden interests, but we do not see that the industry should give up it's rights under this bill. The industry feels that the law should be left the way it is.

SB 236 Makes various changes to laws regulating gaming.

Roger Trounday, Chairman, Gaming Control Board, stated that he was here to go over the new amendments as presented to the Committee's.

Senator Ashworth asked if under the organization amendment, that was not the way they were organized now.

Mr. Trounday stated that that is the way the Board has been organized for quite a while. This amendment would merely put it into the law by Statute.

Senator Raggio asked if Section 14 changes the application on the junketeer.

Mr. Pike stated that this change came from the industry. It was requested by them because of a concern that it should be the applicant and his application, rather than an application supplied by the licensee. It is an effort to clarify who is going to pay for the application and investigation.

Senator Raggio asked if the problem has ever been solved as to who is to pay for the application.

Mr. Pike stated that this is still in court, at least in one case.

Bob Faiss, Counsel for the Nevada Resort Association, stated that most of this law was adopted in 1977. At that time these Committee's took the position that a licensee should not be precluded in conjunctive relief if the Commission or Board act improperly under the law. Conjunctive relief is necessary only if the applicant is going to suffer some prejudice by having a stay until the court rules. In a publicly traded corporation if there is an order for finding suitability for someone not employed by the corporation, that order goes

directly to that person. However, if the Commission should choose, contrary to law, to order the corporation to present the application of some person, the corporation, even though it is an illegal action, has no choice except to comply. They might file an action for a declaratory judgment and win, and two years from that point they have lost the battle, because in the meantime they would have had to comply with the improper order. There is prejudice then, if you change the "and" to "is" in this section.

Senator Close stated that as they had gone over all the amendments to these bills, the Committee would now take any other comments or testimony under consideration.

SB 279 Provides for receivership for gaming establishments in certain cases.

Ray Pike, Chief Counsel for the Gaming Division, stated that he met Sunday with representatives of the industry and considerable time was spent in discussing the concepts of this bill. They tried to draft some language, but it is not in any kind of final form. Because of the unique nature of this problem it was the feeling of both segments of gaming that perhaps a separate section in the Statutes was needed for this type legislation. We are talking about a cooperative effort between the Commission and the Board on one hand, a third entity, which would be a controller or conservator, on the other hand, and also the involvement of the courts. He stated that both he and Mr. Russell will meet with Mr. Daykin for drafting of their concrete ideas, and will have the information available to the Committees as soon as possible.

Mr. Russell, Counsel for the Gaming Industry Association, stated that this is a unique piece of legislation, and is going to take some careful drafting. In the area of the courts, you can have a five part type agreement. This should be termed a conservatorship not a receivership, because of the great body of law in this area, and implications in the references in which they apply. There is only one piece of legislation similar to this and that is in New Jersey. We may well use this for an outline. But this will have to be a separate chapter and it will have to be explicit in terms of judicial responsibility. The industry feels that when this is presented to the Committees, that they should go over it in great detail and depth.

As there was no further testimony on any of the gaming bills, Senator Close stated that the Committees would adjourn and re-convene in their respective committee rooms.

Meeting adjourned at 8:56 a.m.

Respectfully submitted,


Virginia C. Letts, Secretary

APPROVED:

Senator Melvin D. Close, Jr., Chairman

S.B. 131

Provides for automatic revocation of a gaming license for attempts and conspiracies to violate NRS Chapter 463, 464 or 465, and provides felony penalties and forfeitures of property in cases involving violation of the licensing statutes.

Page 1, line 5, section 1, paragraph 1: Amend to read as follows: "... 464 or 465 of NRS may act as an immediate revocation of all...." The previously proposed new language "effects the immediate revocation" should be deleted.

Page 1, line 19, section 1, paragraph 3: Amend to read as follows: "... to violate any of the provisions of NRS 463.160 , subsection 1 shall be punished by...."

Page 2, line 1, section 1, paragraph 3: Amend to read as follows: "... has acquired or maintained in violation of NRS 463.160 , subsection 1 and its related...."

Page 2, line 6, section 1, paragraph 3: Amend to read as follows: "... participated in the conduct of in violation of NRS 463.160 , subsection 1 and its related provisions."

Additionally, NRS 465.010 "Unlicensed gambling games unlawful" and NRS 465.020 "Penalty for permitting unlicensed games" should be repealed. These two sections of NRS Chapter 465 merely duplicate the penalties which are provided for

3/21/79

715

S.B. 131, page 2

in NRS 463.360. All violations of the licensure provisions of the Gaming Control Act are currently classified as gross misdemeanors by both NRS 463.360 and 465.010 and 465.020. If S.B. 131 is passed, with the amendments proposed by the Board, all violations of NRS 463.160 would remain gross misdemeanors, with the exception of violations of NRS 463.160(1), which would then be classified as felony violations.

3/21/79

716

S.B. 185

This is the wire interception bill. It extends the authority for such interceptions to certain circumstances involving gaming violations; provides for use of information obtained with wire interceptions.

The following amendments may be appropriate as a result of the discussions at the hearings on March 1 and March 13, 1979:

Page 1, line 13, section 1, paragraph 1: Amend to read as follows: "... chapter 453 [or] 454 of NRS [.] , NRS 463.160, subsection 1, or NRS 463.430 through 463.480, inclusive.

Add a new section 3 to S.B. 185 to amend NRS 179.500 to read as follows:

The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding [in] before any court of this state , or before the Nevada gaming commission or state gaming control board, unless each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the court order and accompanying application under which the interception was authorized and a transcript of any communications intercepted. Such 10-day period may be waived by the judge , or chairman of the Nevada gaming commission or state gaming control board, if he finds that it was not possible to furnish the party with such information 10 days before the trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving such information.

S.B. 185, page 2

Add a new section 4 to S.B. 185 which would add the provisions set forth below to NRS Chapter 463:

No request of the attorney general or the district attorney of any county to apply to an appropriate court for an order authorizing the interception of wire or oral communications pursuant to the provisions of NRS 179.410 to 179.515, inclusive, for felony violations of NRS 463.160, subsection 1, or 463.430 through 463.480, inclusive, shall be made by an agent or representative of the state gaming control board except upon separate approval by not less than two members of the state gaming control board.

S.B. 236

This is the Gaming Control Board's omnibus bill. It amends various sections of the Gaming Control Act.

This set of changes incorporates all those changes previously requested by the Board.

Page 1, line 9, section 1, paragraph 1: Eliminate the reference to "sic bo," and change to read as follows: "... baccarat, pai gow, beat the banker, panguingui or slot machine, or any other game or device approved by the Nevada gaming commission, but [shall] does not include social games played solely for drinks, or"

Page 1, line 16, section 2, paragraph 1: NRS 463.075 should be amended to read as follows:

[1.] The board shall be organized in [three] the following functional divisions: Administrative, [fiscal and surveillance.] audit, investigations, enforcement, corporate securities and economic research, and tax and license.

Paragraphs 2, 3, 4, and 5 would be deleted, as they currently are in the bill as is before the committee. It should be noted that the above amendment would make NRS 463.075 consistent with the provisions of NRS 463.080. NRS 463.030 currently provides that the board may, "Establish, and from time to time alter, such plan of organization as it may deem expedient." NRS 463.080(1)(a).

S.B. 236, page 2

It should also be noted that the qualifications of the individual Board members, outlined in NRS 463.040, would not be amended. Assignment of functional divisions would still be made, as appropriate.

Page 3, lines 18-21, section 5, paragraph 4(c): This section should be amended to read as follows: "(c) To a duly authorized agent of a federal or state agency, including but not limited to agents of the Federal Bureau of Investigation, the United States Treasury Department, [or] the Commissioner of the Internal Revenue Service of the United States, or the Securities and Exchange Commission of the United States pursuant to [rules and] regulations adopted by the commission.

Page 6, line 1, section 8, paragraph 9(a)(3): Eliminate the word "willful," so that that line reads: "(3) There has been a violation of NRS 463.160; or"

Page 10, line 23, section 10, paragraph 1(a): That line should be amended to read as follows: "... including, but not limited to:"

Section 10, page 10, paragraph 1(a) should also be amended at lines 39-40, to include count room personnel in the definition

3/21/79

720

S.B. 236, page 3

and to remove junket representatives. Those lines should, therefore, read as follows:

"(15) Ticket writers; and

"(16) Count room personnel."

Page 12, line 38, section 10, paragraph 9: This section should be amended to add the language of A.B. 361. That line should then read: "... enforcement agency. Any record of the board or commission which shows a conviction of an applicant for a crime committed in a state other than the State of Nevada must show the classification of the crime, as a misdemeanor, gross misdemeanor, felony, or other class of crime, under the law of the state of conviction, and in any disclosure of such a conviction a reference to the classification of the crime may be made only to the classification in the state where the crime was committed.

Page 14, line 34, section 12, paragraph 5(b): This section should be amended to change "an application" to "his application." Line 34 would then read as follows: "... submit his application for licensing, finding of suitability or registration;"

Add a new section to amend NRS 463.160: NRS 463.160 is hereby amended to read as follows:

463.160 License required.

1. No amendment.

3/21/79

721

S.B. 236, page 4

2. No amendment.

3. No amendment.

4. No amendment.

5. No amendment.

6. No amendment.

7. No amendment.

8. No amendment.

9. [If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with such licensee, the commission may, upon recommendation of the board, require the licensee to present the application of any business or person doing business on the premises for a determination of suitability to be associated with a gaming enterprise in accordance with the procedures set forth in this chapter.] If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with such licensee, the commission may, upon recommendation of the board, require the licensee to present the application of any business or person for a determination of suitability to be associated with a gaming enterprise if such business or person:

(a) Does business on the premises of the licensed gaming establishment;

S.B. 236, page 5

(b) Does business with the licensed gaming establishment in the capacity as junket representative or ticket purveyor; or

(c) Provides any goods or services to the licensed gaming establishment for a compensation found by the board in its recommendation to be grossly disproportionate to the goods or services provided.

If the commission determines that such business or person is unsuitable to be associated with a gaming enterprise, such association shall be terminated. Any agreement which entitles a business other than gaming to be conducted on such premises or with the licensed gaming establishment as set forth above is subject to termination upon a finding of unsuitability of the business or of any person associated therewith. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the commission that the business or any person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement. If the application is not presented to the board within 30 days following demand or the unsuitable association is not terminated, the commission may pursue any remedy or combination of remedies provided in this chapter.

3/21/79

723