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Gaming; Fines and Judicial Review Procedures

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Gaming

suspected cheater are reasonable under the circumstances.⁷ With the enactment of Chapter 249, clear and convincing evidence must be established to show that the action taken against the suspect was unreasonable before an exception will be made to the licensee's grant of immunity.⁸

7. See NEV. REV. STAT. §465.101(2) (amended by 1983 Nev. Stat. c. 249, §1, at 564).

8. Compare *id.* §465.101 (amended by 1983 Nev. Stat. c. 249, §1, at 564) with 1981 Nev. Stat. c. 594, §9, at 1295 (amending NEV. REV. STAT. §465.101).

Gaming; fines and judicial review procedures

NEV. REV. STAT. §463.— (new); §§463.153, 463.310, 463.312, 463.315, 463.335, 463.336, 463.337, 463.343, 464.080 (amended).

SB 330 (Committee on Judiciary); 1983 STAT. Ch 402

(Effective May 17, 1983)

SB 331 (Committee on Judiciary); 1983 STAT. Ch 533

Chapters 402 and 533 clarify the hearing procedures and fines that may be imposed by the Nevada Gaming Commission (hereinafter referred to as the Commission).¹ Prior law allowed the imposition of a fine not exceeding \$100,000 for the first violation of the statute pertaining to (1) licensing and control of betting,² (2) pari-mutuel betting,³ or (3) crimes and liabilities.⁴ In addition, under prior law, fines not exceeding \$250,000 were imposed for each subsequent violation.⁵ Chapter 402 states that a fine of not more than \$100,000 will be imposed for *each separate* violation of these statutory provisions or of the regulations of the Commission⁶ that are the subject of the initial complaint.⁷ Furthermore, Chapter 402 provides for an increased fine not exceeding \$250,000 for each separate violation that is the subject of a subsequent complaint.⁸

If a violation occurs, existing law permits the Commission to fine the

1. See NEV. REV. STAT. §463.310 (amended by 1983 Nev. Stat. c. 402, §1, at 998, effective May 17, 1983, and incorporated into c. 533, §3(4)(d), at 1554, effective July 1, 1983); see also *id.* §§463.022-029 (provisions concerning Nevada Gaming Commission).

2. See *id.* §§463.010-720.

3. See *id.* §§464.010-100.

4. 1977 Nev. Stat. c. 571, §14(d), at 1432 (amending NEV. REV. STAT. §463.310); see NEV. REV. STAT. §§465.010-101.

5. 1977 Nev. Stat. c. 571, §14(d), at 1432 (amending NEV. REV. STAT. §463.310).

6. See NEV. REV. STAT. §§463.145-1598 (commission regulations).

7. *Id.* §463.310(4)(d) (amended by 1983 Nev. Stat. c. 402, §1(4)(d), at 998).

8. *Id.* §463.310 (amended by 1983 Nev. Stat. c. 402, §1(4)(d), at 998).

licensee,⁹ registrant, person,¹⁰ or entity previously found suitable.¹¹ With the enactment of Chapter 402 the Commission may fine each person, entity, or both for violations of the gaming laws or regulations.¹²

In addition, Chapter 533 changes the procedures for answering complaints served by the Commission.¹³ Prior law required that the Commission include "Notice of Defense" forms with the complaint.¹⁴ The respondent was entitled to a hearing on the merits if the forms were returned within a fifteen day period after service.¹⁵ Failure to file the "Notice of Defense" constituted a waiver of the respondent's right to a hearing and judicial review.¹⁶ Chapter 533 deletes the notice of defense form requirement¹⁷ and the respondent must answer the complaint within twenty days after service.¹⁸ Furthermore, the answer must (1) state defenses to each claim,¹⁹ (2) admit or deny facts alleged in the complaint,²⁰ (3) state that the respondent lacks knowledge or information about the allegations sufficient to form a belief as to the truth of those allegations,²¹ and (4) state any matter constituting an avoidance or affirmative defense.²² Finally, the respondent may demand a hearing in the answer.²³ Upon failure to answer or appear, however, all facts alleged in the complaint are deemed admitted and the Commission can take action without further notice to the respondent.²⁴

9. *Id.* §463.0171 (definition of licensee).

10. *Id.* §463.183 (definition of person).

11. *Id.* §463.310(4)(d) (amended by 1983 Nev. Stat. c. 402, §1(4)(d), at 998); *see id.* §463.170 (qualifications for license or finding of suitability).

12. *Compare id.* §463.310(4)(d) (amended by 1983 Nev. Stat. c. 402, §1(4)(d), at 998) with 1977 Nev. Stat. c. 571, §14(d), at 1432 (amending NEV. REV. STAT. §463.310(4)(d)).

13. *See* 1983 Nev. Stat. c. 533, §3, at 1553.

14. 1979 Nev. Stat. c. 430, §9(3), at 777 (amending NEV. REV. STAT. §463.312).

15. *Id.* c. 430, §9(6), at 778 (amending NEV. REV. STAT. §463.312).

16. *Id.*

17. *Compare* NEV. REV. STAT. §463.312(3) (amended by 1983 Nev. Stat. c. 533, §4(3), at 1555) with 1979 Nev. Stat. c. 430, §9(3), at 777 (amending NEV. REV. STAT. §463.312). Waiver of hearing and judicial review for failure to file the notice of defense is deleted. *Compare* NEV. REV. STAT. §463.312(4) (amended by 1983 Nev. Stat. c. 533, §4(4), at 1555) with 1979 Nev. Stat. c. 430, §9(6), at 777 (amending NEV. REV. STAT. §463.312). The format of the notice of hearing sent to all parties is also deleted. *Compare* NEV. REV. STAT. §463.312(7) (amended by 1983 Nev. Stat. c. 533, §4(5), at 1555) with 1979 Nev. Stat. c. 430, §9(7), at 777 (amending NEV. REV. STAT. §463.312).

18. NEV. REV. STAT. §463.312(3) (amended by 1983 Nev. Stat. c. 533, §4(3), at 1555).

19. *Id.* §463.312(3)(a) (amended by 1983 Nev. Stat. c. 533, §4(3)(a), at 1555).

20. *Id.* §463.312(3)(b) (amended by 1983 Nev. Stat. c. 533, §4(3)(b), at 1555).

21. *Id.* §463.312(3)(c) (amended by 1983 Nev. Stat. c. 533, §4(3)(c), at 1555). These allegations are then deemed denied. *Id.*

22. *Id.* §463.312(3)(d) (amended by 1983 Nev. Stat. c. 533, §4(3)(d), at 1555).

23. *Id.* §463.312(3)(e) (amended by 1983 Nev. Stat. c. 533, §4(3)(e), at 1555). The Commission may order a hearing even if the respondent waives this right. *Id.*

24. *Id.* §463.312(4) (amended by 1983 Nev. Stat. c. 533, §4(4), at 1555).