

ENROLLED ACT NO. 44, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to gaming; codifying provisions governing skill based amusement games; modifying skill based amusement game laboratory reporting requirements; amending rulemaking authority of the Wyoming gaming commission; providing and amending definitions; providing for criminal background checks as specified; providing for application of the Wyoming Administrative Procedure Act; requiring applicable fees to be paid on an annual basis; allowing applicable taxes to be prepaid; requiring a report; repealing the sunset date applicable to skill based amusement games; providing a process and criteria for application approval, denial, revocation and suspension; providing a grace period for persons to comply with provisions of this act; requiring the Wyoming gaming commission to review previously submitted skill based amusement game applications; classifying peace officers employed by the Wyoming gaming commission as law enforcement officers under the Wyoming Retirement Act; conforming the definition of skill based amusement game and making other conforming amendments; repealing noncodified law; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 11-25-301 through 11-25-306 are created to read:

ARTICLE 3

SKILL BASED AMUSEMENT GAMES

11-25-301. Skill based amusement games authorization; commission authority; applicability.

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(a) Skill based amusement games operating in the state in accordance with the provisions of 2020 Wyoming Session Laws, Chapter 114 shall be allowed to continue operation in accordance with the requirements of this article and rules of the commission.

(b) A skill based amusement game that meets the requirements of this article shall be approved by the commission to operate in the state or it shall be removed from the state by the vendor.

(c) The commission shall promulgate any necessary rules to administer and enforce this article. The rules may include provisions for the control, supervision, direction, discipline, suspension or fining of any person for violation of this article or rules adopted in accordance with this article.

11-25-302. Laboratory report required.

(a) Each vendor shall provide for a nationally recognized, independent gaming laboratory approved by the commission to submit to the commission a general functional evaluation laboratory report regarding the software installed on each skill based amusement game indicating whether the skill based amusement game is in compliance with this article. Any skill based amusement game that does not meet the requirements of this article shall immediately be removed from the state by the vendor.

(b) Any alterations, modifications or updates to the software or hardware of any skill based amusement game shall require the vendor to submit to the commission a new laboratory report as required under subsection (a) of this

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section before the game may be used for play at an establishment.

11-25-303. Restrictions on operation of skill based amusement games.

(a) No skill based amusement game shall allow a game play of more than three dollars (\$3.00) per play.

(b) No skill based amusement game shall allow a payout of more than three thousand dollars (\$3,000.00) per play.

(c) No establishment shall have more than four (4) skill based amusement games operating for play at any one (1) time.

(d) An operator shall not locate a skill based amusement game in an area of the establishment into which a person under the age of twenty-one (21) years may enter. An operator shall conspicuously mark each area of the establishment containing a skill based amusement game as an age restricted area. The operator shall not allow a person under the age of twenty-one (21) years to play a skill based amusement game.

11-25-304. Required permits and licenses; applicable fees; tax imposition; taxation rate; distribution.

(a) Any person seeking to obtain or renew any license, permit or decal as required under this section shall submit an application to the commission on a form prescribed by the commission. Upon approval of an application by the commission:

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(i) An operator shall be issued a permit and required to pay an annual fee of two hundred fifty dollars (\$250.00) to have skill based amusement games operating for play in the operator's establishment;

(ii) A vendor shall be issued a license and required to pay an annual fee of two thousand five hundred dollars (\$2,500.00) to possess and distribute skill based amusement games.

(b) Skill based amusement games that meet the requirements of this article shall bear a commission issued decal that identifies the vendor of the game. Each decal shall be valid for one (1) year. No skill based amusement game shall be operational unless it bears a current commission issued decal. The commission shall charge the vendor a fee of fifty dollars (\$50.00) for a decal. Each decal shall include the bucking horse and rider emblem.

(c) The fees required under subsections (a) and (b) of this section shall be paid on or before July 1 of each year and shall be deposited in the commission gaming account created under 2020 Wyoming Session Laws, Chapter 114 and hereby continued under this subsection. Funds within the account are continuously appropriated to the commission to pay for reasonable expenses incurred to administer this article.

(d) Taxes shall be calculated and paid on a weekly basis based on the net proceeds earned during the prior week on skill based amusement games. On a weekly basis, the vendor shall remit to the commission an amount equivalent to twenty percent (20%) of the net proceeds earned during the prior week on the vendor's skill based amusement games. The taxes imposed under this subsection may be prepaid as

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provided by rule of the commission. The commission shall remit these monies to the state treasurer for deposit in the commission gaming account and for distribution of the tax as follows:

(i) Forty-five percent (45%) to the county and the city or town in which the skill based amusement game is located, in equal shares, or to the county alone if the skill based amusement game is not located within the boundaries of a city or town;

(ii) Forty-five percent (45%) to the school foundation program account;

(iii) Ten percent (10%) to the commission gaming account.

11-25-305. Establishment permit, operator license and skill based amusement game decal approval; criteria; review.

(a) The commission shall, not more than sixty (60) days after the date of receipt of an application or application for renewal for an operator permit, vendor license or skill based amusement game decal under W.S. 11-25-304 either:

(i) Issue the permit, license or decal; or

(ii) Deny the application based on the grounds that the applicant failed to qualify as provided by subsection (b) of this section.

(b) The commission shall deny any application under this article upon finding any of the following:

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(i) The applicant has been convicted of, forfeited bail on or pleaded guilty within ten (10) years before the date of filing the application to:

(A) A crime involving theft, dishonesty or fraud;

(B) Bribery or unlawfully influencing a public official;

(C) A felony involving physical harm to an individual; or

(D) Any other crime identified by commission rules that negatively impacts the applicant's credibility or the security, integrity or fairness of play of skill based amusement games operated by the applicant.

(ii) The applicant tampered with submitted documentation or concealed, failed to disclose or otherwise attempted to mislead the commission with respect to any material fact contained in the application or contained in any other information required of or submitted by an applicant to the commission;

(iii) The applicant failed or refused to cooperate in the investigation of a crime relating to gambling, corruption of a public official or any organized criminal activity;

(iv) The applicant failed to otherwise meet the requirements imposed under this article.

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(c) Operators shall have a continuing duty to disclose in writing any material change in the information provided in the application to the commission, including:

(i) Changes to names and contact information;

(ii) Arrests, convictions, guilty pleas, disciplinary actions or license denials in Wyoming and any other jurisdiction;

(iii) Any civil action brought against the operator or establishment; and

(iv) Any other information required by commission rules.

(d) If the commission denies an application or intends to revoke or suspend a license or permit issued under this article, it shall notify the applicant, licensee or permittee in writing, stating the grounds for denial, revocation or suspension and informing the person of a right to submit, before not more than thirty (30) days, any additional documentation relating to the grounds of denial, revocation or suspension. Upon receiving any additional documentation, the commission shall reconsider its decision and inform the applicant before not more than twenty (20) days of the result of the reconsideration. A denial of an application under this article shall be subject to the contested case procedures of the Wyoming Administrative Procedure Act.

11-25-306. Penalties.

Any person who violates any provision of this article is guilty of a misdemeanor and shall be fined not more than

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ten thousand dollars (\$10,000.00), imprisoned for not more than six (6) months, or both. Each violation of this section shall constitute a separate offense.

Section 2. W.S. 6-7-101(a)(iii)(M), (xi) and (xiii), 7-19-106(a) by creating a new paragraph (xxxiv), 7-19-201(a)(vi), 9-3-402(a)(xviii), 11-25-102(a)(i), (v), (viii), (xiv) and by creating new paragraphs (xvi) through (xx), 11-25-104(b) and (k), 33-1-202(a)(i) and (ii)(intro), 33-1-301(a), 33-1-302(a)(intro) and (vii), 33-1-303(a)(intro) and 33-1-304(a)(intro) and (c)(intro) are amended to read:

6-7-101. Definitions.

(a) As used in this article:

(iii) "Gambling" means risking any property for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include any of the following:

(M) Activities authorized by the Wyoming gaming commission ~~pursuant to law under title 11, chapter 25 of the Wyoming statutes.~~

(xi) "Charitable or nonprofit organization" means an organization recognized as a charitable or nonprofit organization under Wyoming statutes and which possesses a valid exemption from federal income tax issued by the Internal Revenue Service under the provisions of 26 U.S.C. § 501(c) ~~and political parties organized under the law of Wyoming and exempt from federal income tax issued by~~

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the Internal Revenue Service under the provisions of 26 U.S.C. § 527;

(xiii) "Skill based amusement game" ~~means a game played in exchange for consideration of cash, credit or other thing of value on a fixed, commercial electrical gaming device in which the bona fide skill of the player, determined by an individual's level of strategy and skill, is a factor in determining the outcome and for which the player may be awarded a prize or other thing of value for a successful outcome~~ means as defined by W.S. 11-25-102(a)(xix).

7-19-106. Access to, and dissemination of, information.

(a) Criminal history record information shall be disseminated by criminal justice agencies in this state, whether directly or through any intermediary, only to:

(xxxiv) The Wyoming gaming commission.

7-19-201. State or national criminal history record information.

(a) The following persons shall be required to submit to fingerprinting in order to obtain state and national criminal history record information:

(vi) Persons applying for a permit or license under W.S. 11-25-104(f) ~~or if otherwise required under title 11, chapter 25 of the Wyoming statutes or if required under W.S. 11-25-104(k);~~

9-3-402. Definitions.

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(a) As used in this article:

(xviii) "Law enforcement officer" or "officer" means any member who is a county sheriff, deputy county sheriff, municipal police officer, duly authorized investigator of the Wyoming livestock board meeting the specifications of W.S. 7-2-101(a)(iv)(E), duly authorized personnel of the Wyoming gaming commission meeting the specifications of W.S. 7-2-101(a)(iv)(P), investigator employed by the Wyoming state board of outfitters and professional guides meeting the specifications of W.S. 7-2-101(a)(iv)(J), Wyoming correctional officer, probation and parole agent employed by the Wyoming department of corrections, Wyoming law enforcement academy instructor, University of Wyoming campus police officer, community college police officer, detention officer or dispatcher for law enforcement agencies;

11-25-102. Definitions.

(a) As used in this act:

(i) "Breeder award" means monies collected pursuant to W.S. ~~11-25-105(j)~~ 11-25-201(j) and distributed by the commission to promote the improved breeding and development of the horse industry in Wyoming. Breeder awards may include purse enhancement of Wyoming bred races;

(v) "Pari-mutuel event" means the events which are authorized by the commission for the conduct of horse racing (to include quarter horse, thoroughbred or other approved races), harness racing, cutter racing, chariot racing, chuckwagon racing, professional roping and rodeo events and simulcasting of dog racing and the events

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described in this paragraph as prescribed by the commission. Notwithstanding W.S. 6-7-101(a)(iv) and ~~11-25-107~~ 11-25-203, the commission may authorize and promulgate rules providing for pari-mutuel wagering on events that have previously occurred, utilizing an electronic system or device that affords an opportunity for the exercise of skill or judgment where the outcome is not completely controlled by chance alone;

(viii) "This act" means W.S. 11-25-101 through ~~11-25-113~~ 11-25-306;

(xiv) "Source market fee" means a license fee, assessed by the commission pursuant to W.S. ~~11-25-105(m)~~ 11-25-201(m), payable by out-of-state simulcast facilities that conduct pari-mutuel wagering on simulcast races and that accept wagers from Wyoming residents by telephone or other electronic means at those facilities.

(xvi) "Establishment" means a single physical place of business;

(xvii) "Operator" means a person who possesses and operates an establishment where skill based amusement games may be played for profit;

(xviii) "Skill" means a player's knowledge, dexterity or any other ability or expertise relevant to game play;

(xix) "Skill based amusement game" means a game played in exchange for consideration of cash, credit or other thing of value on a fixed, commercial electrical gaming device in which the bona fide skill of the player, determined by an individual's level of strategy and skill,

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rather than any inherent element of chance, is the primary factor in determining the outcome and for which the player may be awarded a prize or other thing of value for a successful outcome. "Skill based amusement game" shall not include any game played for prizes of nominal value as provided by rule of the commission;

(xx) "Vendor" means a person who owns and distributes a skill based amusement game to an operator for profit.

11-25-104. Gaming commission; officers; director; meetings; quorum; records; licenses generally; effect of financial interest in events.

(b) The commission shall hold an annual fall meeting in Wyoming and shall hold special meetings at such times and places within Wyoming as the majority of the members determine. A majority of the commission constitutes a quorum and a majority vote of a quorum may act for the commission. The secretary of the commission shall keep a record of the proceedings of the commission which is open at all times for public inspection. Legislative liaisons shall be considered members of the governing body of the commission for purposes of attending executive sessions held pursuant to W.S. 16-4-405(a) only.

(k) The commission ~~is authorized to~~ shall access criminal history record information for all operators and vendors under chapter 3 of this article and all licensees, permittees and employees of the commission under W.S. 9-1-627(d) for the purposes of this act. Every applicant for a permit or license under this act shall provide the commission fingerprints and other information necessary for

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a criminal history record background check as provided under W.S. 7-19-201.

33-1-202. Disposition of fees and interest.

(a) Except as otherwise specifically provided by statute:

(i) All fees and monies received and collected by the boards or commissions under this title and under W.S. ~~11-25-105(d)~~11-25-201(d), 21-2-802(d) and 23-2-414(d) shall be deposited into the state treasury and credited to each board's or commission's respective account as created by statute;

(ii) The interest on all fees and monies collected by the boards or commissions under this title and under W.S. ~~11-25-105(d)~~11-25-201(d), 21-2-802(d) and 23-2-414(d) shall be credited as follows:

33-1-301. Purpose and scope.

(a) The purpose of this article is to establish procedures for the operation of boards authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. ~~11-25-105~~11-25-201, 21-2-802 and 23-2-414.

33-1-302. Duties of licensure boards.

(a) Except as otherwise specifically provided by statute, a board authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. ~~11-25-105~~11-25-201, 21-2-802 or 23-2-414 shall:

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(vii) Compensate each member for per diem and mileage for attending and traveling to and from meetings, hearings and other activities necessary in the performance of the duties of the office in the same manner and amount as members of the Wyoming legislature. Members who are state employees that receive compensation from their employers for activities performed pursuant to this title or under W.S. ~~11-25-105~~11-25-201, 21-2-802 or 23-2-414 shall not receive additional compensation but shall receive mileage and per diem as provided under this paragraph if they are not reimbursed by their employers;

33-1-303. Powers of licensure boards.

(a) Except as otherwise specifically provided by statute, a board authorized to establish examination, inspection, permit or license fees for any profession or occupation regulated under this title or under W.S. ~~11-25-105~~11-25-201, 21-2-802 or 23-2-414 may:

33-1-304. Considering criminal convictions.

(a) Except as specifically required by its licensure, certification or registration statutes, every board, commission, commissioner or authority authorized to establish examination, inspection, permit, license, certification or registration requirements or fees for any profession or occupation regulated under this title or under W.S. 7-4-211, ~~11-25-105~~11-25-201, 15-5-103, 17-4-406, 21-2-802, 23-2-414, 26-4-101 or 40-22-109 and who considers criminal convictions as part of its regulatory duties shall not consider prior convictions that do not affect the practice of the profession or occupation or the ability to practice the profession or occupation regulated

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by the board, commission, commissioner or authority. Specifically, the board, commission, commissioner or authority may cite as state policy the following:

(c) No board, commission, commissioner or authority authorized to regulate through licensure, certification or registration a profession or occupation under this title, or under W.S. 7-4-211, ~~11-25-105~~11-25-201, 15-5-103, 17-4-406, 21-2-802, 23-2-414, 26-4-101 or 40-22-109, shall consider evidence of any conviction more than twenty (20) years old, or for a lesser period of time if expressly provided by statute, when analyzing a person's criminal history pursuant to the board's, commission's, commissioner's or authority's regulatory duties, except when:

Section 3. Any person who by operation of this act is required to reapply to the Wyoming gaming commission to retain a permit, license or other type of authorization required to continue to sell, distribute or operate a skill based amusement game in Wyoming shall have a period of six (6) months after the effective date of this act to complete any act required by this act or rule of the Wyoming gaming commission. No permit, license or other type of required authorization shall be denied or revoked without the commission complying with W.S. 11-25-305(d) as created under section 1 of this act.

Section 4. Any application submitted to the Wyoming gaming commission on or before June 1, 2020, seeking to possess, distribute or operate a skill based amusement game in accordance with 2020 Wyoming Session Laws, Chapter 114, which application was denied by the commission, shall again be reviewed by the commission to determine whether the applicant may be authorized to operate or distribute skill

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based amusement games in accordance with the requirements of title 11, chapter 25, article 3, as created by section 1 of this act and rules of the commission. The review required under this section shall be conducted for any application submitted to the commission regardless of whether the commission determined the application was incomplete and failed to meet the deadline imposed under 2020 Wyoming Session Laws, Chapter 114 unless an applicant affirmatively notifies the commission that he does not wish for his application to be reconsidered. For any application being reviewed under this section, the commission is authorized to require the applicant to provide additional information to complete any previously submitted application. No applicant shall be charged any fee for the review required under this section, nor shall an additional laboratory report be required for any skill based amusement game that remains in the same physical and functional state for which a qualified laboratory report was already submitted to the commission. A denial of an application under this section shall be subject to the contested case procedures of the Wyoming Administrative Procedure Act.

Section 5. W.S. 11-25-105 through 11-25-113 are renumbered as W.S. 11-25-201 through 11-25-209.

Section 6. 2020 Wyoming Session Laws, Chapter 114 is repealed.

ORIGINAL SENATE
FILE NO. SF0056

ENGROSSED

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Section 7. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk