



Staff Proposed Rule-Making

WAC 230-05-160 - Charitable or nonprofit organization fees.

WAC 230-05-165 - Commercial stimulant organization fees.

WAC 230-05-170 - Fees for other businesses.

May 2023 – Final Action

April 2023 – Discussion Only

March 2023 – Discussion and Possible Filing

January 2023 – Initiate Rule-Making

Tab 3: MAY 2023 Commission Meeting Agenda.

Statutory Authority 9.46.070

Who Proposed the Rule Change?

Washington State Gambling Commission Staff

Background

BOLD = Changes made after April 2023 Commission Meeting

This rules summary incorporates the rules summary related to adjusting fees for sports wagering vendors. The reason for this incorporation is that both fee adjustment rule packages propose to change WAC 230-05-170, which requires a single and unified code revision process.

At the January 2023 meeting, Commissioners accepted a staff recommendation to initiate rule-making to adjust license fees. Based on a thorough analysis of the agency’s anticipated costs related to its licensing, regulatory, and enforcement roles, staff proposes the following increases for all licenses, except electronic raffles:

- 10% increase in the base fee;
- 6% increase in gross gambling receipt rate;
- 60% increase in the maximum fee; and,
- 10% increase in fees for changes and duplicate licenses.

Electronic raffles are a new type of raffle, which were first granted licenses in September 2022. After a re-evaluation of the actual costs associated with the electronic raffle regulatory program, staff proposes to change the fees as set out below with billing for actual expenses related to verifying and investigating electronic raffle operating and system requirements (i.e., pre-operational expenses). Billing for actual costs incurred in verifying equipment compliance reduces the base rate so it is not a barrier to entry but allows us to recoup the actual costs for the inspections based on the licensee’s set-up.

	Current	Proposed
Base Fee	\$5,000	\$5,500
Gross Gambling Receipts Rate	0.043%	3.583%
Maximum Annual License Fee	\$32,000	\$51,200
		The commission will bill for actual expenses related to verifying/investigating electronic raffle operating and system requirements.

Sports wagering was also a new gambling activity in 2021, requiring the establishment of fees for three types of sports wagering vendors. Effective August 30, 2021, the Commission amended WAC 230-05-170 (1) to add license fees for three different types of sports wagering vendors:

- Major Sports Wagering Vendor - \$65,000
- Mid-Level Sports Wagering Vendor - \$10,000
- Ancillary Sports Wagering Vendor - \$5,000

A major sports wagering vendor provides integral sports wagering goods or services. A mid-level sports wagering vendor provides services or equipment related to data, security, and integrity. An ancillary sports wagering vendor provides necessary sports wagering support services.

At the time of adoption, Tribal partners and stakeholders expressed concern regarding the high license fees. Due to the concerns expressed, the Commission agreed to reevaluate the license fees for sports wagering vendors before the second year of renewal at the end of June 2023 since there was not enough data on the actual costs incurred before the first renewal period.

Based on a thorough analysis of the first year of agency costs related to licensing, regulation, and enforcement of the sports wagering vendors, staff proposes to adjust vendor fees downward as follows:

- Major Sports Wagering Vendor - ~~\$65,000~~ \$30,000
- Mid-Level Sports Wagering Vendor - ~~\$10,000~~ \$5,000
- Ancillary Sports Wagering Vendor - ~~\$5,000~~ \$2,000

The proposed changes regarding license fees for charitable or nonprofit organizations, commercial stimulant organizations, sports wagering vendors, and other businesses are reflected in the attached amended WACs 230-05-160, 230-05-165, and 230-05-170. All adjusted fees would be assessed at the time of license renewal.

RCW 9.46.070(5) requires the Commission to set fees to generate funds necessary to cover all costs of regulation, licensing, and enforcement. Tribal compacts generally stipulate that Tribes are to reimburse the Gambling Commission for all reasonable costs and expenses actually incurred by the Commission in carrying out its responsibilities authorized under the compacts and their appendices.

In the last 20 years, the Commission has increased fees approximately every five years (1998, 1999, 2002, 2003, 2007, and 2014). The last fee increase was an across-the-board increase of 6 percent effective November 2014.

At its inception, a license fee structure was created primarily based on a “class” system with 25 fees. By 2017, the fee structure had grown to approximately 194 different fees for commercial organizations, nonprofit organizations, and individuals. In September 2017, staff introduced to the Commissioners several new and amended rules designed to simplify the fee structure and eliminate the “class” system and advance payment of annual fees. Commissioners voted to file the draft rules for further discussion.

In January 2018, Commissioners approved the new and amended rules, creating a new license fee structure. The simplified license fee structure established base fees by license type, set fee rates as a percentage of gross gambling receipts, and established maximum annual fees. This new license fee structure became effective in May 2018.

Although the gambling industry has largely recovered from a significant contraction due to the COVID-19 pandemic, the number of licensees has decreased. While there were 2,920 organizational licensees as of September 30, 2019, the number has declined to 2,545 as of September 30, 2022. This decline in licensees

has caused revenues to flatten. At the same time, operating costs continue to increase in this inflationary period to include increases in salaries and benefits, supplies and equipment, and government services from agencies such as the Attorney General's Office and Department of Enterprise Services.

Attachments:

1. WAC 230-05-160 - Charitable or nonprofit organization fees, WAC 230-05-165 - Commercial stimulant organization fees, and WAC 230-05-170 - Fees for other businesses as filed for amendment
2. Rules Summary for non-sports wagering vendor license fee adjustment from March 2023 meeting
3. Rules Summary for sports wagering license fee adjustment from March 2023 meeting

Stakeholder Feedback

Commission staff held meetings with Tribal partners and stakeholders February 13, 2023 and February 27, 2023. There were a number of questions related to fees and their correlation to level of effort.

Specific issues raised included:

1. Card room licensees raised concern about balancing the Commission's need to raise its license fees against the card rooms' petitions to reduce their own costs through adoption of proposed system efficiencies, which they said have contributed to the reduction in licensees.
2. Electronic raffle licensees asked the Commission to consider a slower ramp up of costs until the overall expansion of the electronic raffle program across all sports clubs is complete.
3. A pull-tab distributor asked the Commission to review the costs of licensing and regulating pull-tab distributors.

There were no specific objections or concerns raised at any of the meetings regarding the proposed adjustments in sports wagering vendor fees.

The Commission received written commentary in the form of letters and emails from the following individuals and organizations (listed in the order they were received).

- Jeff Ifrah, General Counsel for iDEA Growth, related to the need to decrease sports wagering vendor fees (letter)
- Wendy Winsor, CFO, WOW Distributing, related to the proposed increased license fee for pull tab distributors (letter)
- Brian Keller, Let It Ride Casinos, Inc., related to the proposed increased fee for fundraising events (email)
- Ernest C. Matthews IV, Vice President & General Counsel for ISI, Ltd., related to the need to decrease sports wagering vendor fees (letter)
- Carolyn Kenyon, Freedom Flies LLC, related to the proposed fee increases and its impact on businesses (email)
- Richard E. Fritton II, Home Plate Clubs, Inc. (email)
- John Schoeffler, Swinging Doors (email)
- Bob Materne, Jr., Swinging Doors (email)

Finally, Commission staff met with representatives operating electronic raffles on February to hear their concerns about the proposed increases that were expected to be a barrier to expanding the electronic raffle program to additional teams in the state.

Commission staff received the following additional feedback on the proposed fee adjustment:

- Dennis Stanger, Stangcorp, related to decreasing profit margins for pull-tab operators (email)
- Dustin Klatush, Chairman of the Confederated Tribes of the Chehalis Reservation, supporting the proposal to reduce license fees for sports wagering vendors (letter)
- Michael Rasmussen, CEO of Willapa Bay Enterprises Corporation, supporting the proposal to reduce license fees for sports wagering vendors (letter)
- Todd Phelps, Screaming Yak, Morty’s Tab & Grille, and Fieldhouse Pizza & Pub, objecting to the proposed license fee increase for pull-tab operators (email)
- Barbara Jones, unidentified affiliation, expressing concern regarding pull-tab fee increase on top of increased price of pull tab games (email)
- Mari Horita, Fred Rivera, Drew Johnston, and Maya Mendoza-Exstrom, respectively representing the Seattle Kraken, Seattle Mariners, Seattle Seahawks, and Seattle Sounders FC, welcoming dialogue with the Commission, asking for Commission to track its licensing costs, and cautioning against high fees that could make the activity cost prohibitive (letter)

The Commission has received no additional comments since the April 2023 Commission meeting.

Attachments:

1. February 13, 2023 letter from Jeff Ifrah, General Counsel, iDEA Growth
2. February 14, 2023 letter from Wendy Winsor, WOW Distributing
3. February 14, 2023 email from Brian Keller, Let It Ride Casinos, Inc.
4. February 27, 2023 letter from Ernest C. Matthews IV, Vice President & General Counsel for ISI, Ltd.
5. February 28, 2023 email from Carolyn Kenyon, Freedom Flies LLC
6. February 28, 2023 email from Richard E. Fritton II, Home Plate Clubs, Inc.
7. March 1, 2023 email from John Schoeffler, Swinging Doors
8. March 1, 2023 email from Bob Materne, Jr., Swinging Doors
9. March 1, 2023 email from Dennis Stanger, StangCorp
10. March 7, 2023 letter from Dustin Klatush, Chairman of the Confederated Tribes of the Chehalis Reservation
11. March 8, 2023 letter from Michael Rasmussen, CEO of Willapa Bay Enterprises Corporation
12. March 10, 2023 email from Todd Phelps, Screaming Yak, Morty’s Tab & Grille, and Fieldhouse Pizza & Pub
13. March 28, 2023 email from Barbara Jones, affiliation unknown
14. April 5, 2023 letter from Seattle Kraken, Seattle Mariners, Seattle Seahawks, and Seattle Sounders FC

Policy Considerations

The current license fees for charitable or nonprofit organizations, for commercial stimulant organizations, and for other businesses are not projected to be sufficient to cover the agency’s costs of licensing, regulation, and enforcement beginning in fiscal year 2024.

As sports wagering is an authorized Class III gambling activity, the costs to the Gambling Commission for licensing and enforcement must be supported by licensing fees collected from sports wagering vendors. The

expenses related to licensing and enforcement should not be passed on to the licensees not benefiting from the activity. The amount of the vendor fees established in 2021 was based on the Commission's best estimate of the costs associated with both licensing and enforcement of a new gambling activity and its best guess of the number of vendors who would apply for each license type. Now that the Commission has experienced a year of licensing and enforcement of these vendors, it has the necessary information to propose an adjustment to vendor fees.

Staff Recommendation

Staff recommends that the Commission take final action on the proposed changes to WAC 230-05-160, WAC 230-05-165, and WAC 230-05-170 after holding a public hearing. Rules would take effect 31 days after filing with the Office of the Code Reviser – on or about June 15, 2023. Adjusted fees would be assessed at the time of license renewal.