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## **Notice of Permanent Rule Changes Related to Sports Wagering.**

This explanatory statement concerns the Washington State Gambling Commission's Adoption of:

- WAC 230-03-196- Additional information required for sports wagering vendors.
- WAC 230-03-229- Applying for major sports wagering vendor license.
- WAC 230-03-231- Applying for a mid-level sports wagering vendor license.
- WAC 230-03-233- Applying for an ancillary sports wagering vendor license.
- WAC 230-03-234- Sports wagering vendor applicants and associated entities in their corporate structure.
- WAC 230-03-311- Applying for a major sports wagering vendor representative license.
- WAC 230-03-312- Applying for a mid-level sports wagering vendor representative license.
- WAC 230-03-313- Applying for an ancillary sports wagering vendor representative license.
- WAC 230-06-084- Submitting sports wagering related contracts and agreements for review.
- WAC 230-06-116- Transporting, displaying, and selling gambling equipment at trade shows.

Amendment of:

- WAC 230-03-035- Applying for a license.
- WAC 230-03-040- Signing the application.
- WAC 230-03-045- Defining substantial interest holder.
- WAC 230-03-060- Fingerprinting.
- WAC 230-03-065- Spouses must also be qualified.
- WAC 230-03-070- Training required for licensing.
- WAC 230-03-075- Withdrawing your application.
- WAC 230-03-195- Additional information required from manufacturer, distributor, and sports wagering vendor license applicants.
- WAC 230-03-320- Substantial interest holders not required to be licensed as representatives.
- WAC 230-03-330- Representing one or more licensed businesses.
- WAC 230-03-335- Representatives must not work before receiving a license.
- WAC 230-05-110- Defining "gross gambling receipts rate."
- WAC 230-05-112- Defining "gross gambling receipts."
- WAC 230-05-120- Paying annual license fee.
- WAC 230-05-124- Quarterly license reports and quarterly license fees.

- WAC 230-05-125- Report gross gambling receipts on the quarterly license report.
- WAC 230-05-126- Online filing and payments required with waivers available upon request for good cause.
- WAC 230-05-170- Fees for other businesses.
- WAC 230-05-175- Individual license fees.
- WAC 230-06-030- Restrictions and conditions for gambling promotions.
- WAC 230-06-050- Review of electronic or mechanical gambling equipment malfunctions.
- WAC 230-06-082- Manufacturers, distributors, gambling service suppliers, sports wagering vendors, linked bingo prize providers, and call centers for enhanced raffles reporting changes in licensed employees.
- WAC 230-06-110- Buying, selling, or transporting gambling equipment.
- WAC 230-06-120- Selling or transferring gambling equipment when no longer licensed.

**Repeal of:**

- WAC 230-03-408- Applying for sports wagering prelicensing investigation.
- WAC 230-05-101- Implementation of new permit and license fees.
- WAC 230-16-005- Transporting, displaying, and selling gambling equipment at trade shows.

**The following rules were decodified and recodified:**

<b>Old WAC Number</b>	<b>New WAC Number</b>
<b>230-03-230</b>	<b>230-03-226</b>
<b>230-03-232</b>	<b>230-03-227</b>

The Administrative Procedure Act ([RCW 34.05.325\(6\)](#)) requires agencies to complete a concise explanatory statement before filing amended rules with the Office of the Code Reviser. This statement must be provided to anyone who provided comments regarding the proposed rule-making.

Once persons who provided comments during this rulemaking have had an opportunity to receive this document, the Washington State Gambling Commission will file the adopted rule with the Office of the Code Reviser. These changes will become effective on or after August 30, 2021.

The Washington State Gambling Commission appreciates your involvement in the rule-making process. If you have any questions, please contact Ashlie Laydon, Rules Coordinator, at [ashlie.laydon@wsgc.wa.gov](mailto:ashlie.laydon@wsgc.wa.gov) or (360) 486-3473.

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**What are the agency’s reasons for these rule changes?**

On March 25, 2020, Governor Jay Inslee signed House Bill 2638 authorizing sports wagering for Class III tribal facilities under terms negotiated in tribal-state compacts, and adding or amending several sections of the Gambling Act giving the Gambling Commission the authority to adopt and/or amend rules needed for the state’s regulation of sports wagering. The

following rules have been adopted, amended, and/or repealed to address licensing, regulation, and agency funding, consistent with the Gambling Act and recently negotiated tribal-state compact amendments.

The following rules were adopted:

- **WAC 230-03-196- Additional information required for sports wagering vendors**, to specify what additional information sports wagering vendor applicants must provide to us for review for compliance with Chapter 9.46 RCW and Title 222 WAC.
- **WAC 230-03-229- Applying for major sports wagering vendor license**, to outline what specific goods and services require a major sports wagering vendor license.
- **WAC 230-03-231- Applying for a mid-level sports wagering vendor license**, to outline what specific goods and services require a mid-level sports wagering vendor license.
- **WAC 230-03-233- Applying for an ancillary sports wagering vendor license**, to outline what specific goods and services require an ancillary sports wagering vendor license.
- **WAC 230-03-234- Sports wagering vendor applicants and associated entities in their corporate structure**, to require a license for those entering into contracts or agreements to provide sports wagering gaming goods or services to operators or other vendors in Washington.
- **WAC 230-03-311- Applying for a major sports wagering vendor representative license**, to outline when a major sports wagering vendor representative license is required.
- **WAC 230-03-312- Applying for a mid-level sports wagering vendor representative license**, to outline when a mid-level sports wagering vendor representative license is required.
- **WAC 230-03-313- Applying for an ancillary sports wagering vendor representative license**, to outline when an ancillary sports wagering vendor representative license is required.
- **WAC 230-06-084- Submitting sports wagering related contracts and agreements for review**, to require that sports wagering vendors submit new or changes to existing contracts or agreements within thirty days.
- **WAC 230-06-116- Transporting, displaying, and selling gambling equipment at trade shows**, to specify how gambling equipment and sports wagering equipment shall be transported, displayed, and sold at trade shows.

The following rules were amended:

- **WAC 230-03-035- Applying for a license**, to provide clarification for applicants, including sports wagering applicants.
- **WAC 230-03-040- Signing the application**, to allow the designee of the highest-ranking officer of a charitable, nonprofit, profit-seeking corporation, or limited liability company seeking licensure to sign the application.
- **WAC 230-03-045- Defining substantial interest holder**, to specify that spouses of officers, owners, or shareholders owning ten percent or more of the organizations' shares of a sports wagering organization are not considered substantial interest holders.
- **WAC 230-03-060- Fingerprinting**, to require sports wagering vendor representatives to submit fingerprints and undergo a national criminal history background check.

- **WAC 230-03-065- Spouses must also be qualified**, to specify that spouses of owners and substantial interest holders of a sports wagering organization are not considered substantial interest holders.
- **WAC 230-03-070- Training required for licensing**, to clarify that we do not require major sports wagering vendors to complete training, however we do expect all licensees to know and follow all rules upon receiving a gambling license.
- **WAC 230-03-075- Withdrawing your application**, to include electronic (email) mail as a means to withdraw an application.
- **WAC 230-03-195- Additional information required from manufacturer, distributor, and sports wagering vendor license applicants**, to add “sports wagering vendors” to the list of applicants who are required to submit additional information with an application.
- **WAC 230-03-320- Substantial interest holders not required to be licensed as representatives**, to specify that when substantial business holders are licensed as sports wagering vendors, they do not need to also be licensed as sports wagering representatives in order to provide representative services for that licensed business.
- **WAC 230-03-330- Representing one or more licensed businesses**, to specify that sports wagering vendor representatives may represent more than one licensed vendor so long as their representation does not create a conflict of interest that could undermine the integrity of sports wagering or a sporting event.
- **WAC 230-03-335- Representatives must not work before receiving a license**, to include “sports wagering vendor” in the list of representatives who must not work before receiving a license.
- **WAC 230-05-110- Defining “gross gambling receipts rate.”**, to provide clarification that this is the rate used to calculate quarterly license fees, if applicable. Currently, quarterly license fees do not apply to sports wagering licensees.
- **WAC 230-05-112- Defining “gross gambling receipts.”**, to define activities for “major sports wagering vendor,” “mid-level sports wagering vendor,” and “ancillary sports wagering vendor.”
- **WAC 230-05-120- Paying annual license fee**, to include the language “if applicable.” Sports wagering licensees will only be paying an annual license fee, as quarterly license fees do not apply to sports wagering licensees at this time.
- **WAC 230-05-124- Quarterly license reports and quarterly license fees**, to specify that licensed organizations must submit quarterly license reports while quarterly license fees must only be submitted if applicable. Currently, sports wagering licensees do not submit quarterly license fees.
- **WAC 230-05-125- Report gross gambling receipts on the quarterly license report**, to specify that licensees need to submit a quarterly license report, reporting gross gambling receipts, even if they only need to pay their annual license fee, meaning they do not pay quarterly license fees. This change specifically applies to sports wagering licensees who do not currently submit quarterly license fees but are still required to submit quarterly license reports, reporting gross gambling receipts for each licensed gambling activity during the previous quarter.
- **WAC 230-05-126- Online filing and payments required with waivers available upon request for good cause**, to include the language “where applicable” as (1)(b) does not

apply to sports wagering licensees. Sports wagering licensees are not currently required to submit quarterly license fees.

- **WAC 230-05-170- Fees for other businesses**, to create new license types for “major sports wagering vendor,” “mid-level sports wagering vendor,” and “ancillary sports wagering vendor” and associated base license fees for each.
- **WAC 230-05-175- Individual license fees**, to create new license types for “major sports wagering representative,” “mid-level sports wagering representative,” and “ancillary sports wagering representative” and associated new application, annual renewal, and additional or change of employer fees for each.
- **WAC 230-06-030- Restrictions and conditions for gambling promotions**, to specify that licensees may conduct gambling promotions without our approval however they must comply with all applicable federal, state, and tribal laws and rules.
- **WAC 230-06-050- Review of electronic or mechanical gambling equipment malfunctions**, to provide clarification that this rule only applies when we require gambling equipment, supplies, services, or games be reviewed by us to verify compliance with Chapter 9.46 RCW and Title 230 WAC. We will not require sports wagering equipment to be submitted for review by us.
- **WAC 230-06-082- Manufacturers, distributors, gambling service suppliers, sports wagering vendors, linked bingo prize providers, and call centers for enhanced raffles reporting changes in licensed employees**, to include sports wagering vendors to the list of organizations who must report changes in licensed employees to us.
- **WAC 230-06-110- Buying, selling, or transporting gambling equipment**, to include “sports wagering equipment” and to specify that licensees buying, selling, or transferring gambling or sports wagering equipment must ensure that it will be used pursuant to all state laws and rules in the jurisdiction the activity will be occurring in.
- **WAC 230-06-120- Selling or transferring gambling equipment when no longer licensed**, to apply to “sports wagering equipment” and to “sports wagering vendor.”

The following rules were repealed:

- **WAC 230-03-408- Applying for sports wagering prelicensing investigation**. This rule was repealed as it is no longer relevant now that sports wagering licensing rules are in place.
- **WAC 230-05-101- Implementation of new permit and license fees**. This rule was repealed as it is no longer relevant and repealing it will provide clarity for new licensees, including those applying for sports wagering licenses.
- **WAC 230-16-005- Transporting, displaying, and selling gambling equipment at trade shows**. This rule was repealed and adopted as WAC 230-06-116, under the same title but with changes to include sports wagering.

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**Summary of all public comments received on this rule proposal and consideration of the comments. If we responded to comments, add our response and how the final rule reflects consideration of the comments or why it fails to do so.**

Initial draft language was distributed to stakeholders, Tribal leaders, and representatives on May 27, 2021. The final draft language filed with the Office of the Code Reviser on July 23, 2021 incorporated feedback received related to licensing provisions, contract reviews, business records, and substantial interest holders.

**Public Comment:**

**DraftKings Inc.**

Comments received on July 27, 2021 and June 7, 2021 referencing the following:

WAC 230-03-311, WAC 230-03-312, and WAC 230-03-313 (applying for sports wagering vendor representative licenses)- provided feedback on how the term “represent” is used and suggested striking the term to be consistent with compact language.

Response: Changes were made to address concerns identified in the Jun 7, 2021 comments. Agency does not believe further changes are required at this time.

WAC 230-05-170 (fees for other businesses)- requested the Commission consider lowering the base license fees for mid-level and ancillary sports wagering vendors.

Response: Changes were made to major vendor fee to address concerns identified in the June 7, 2021 comments. Agency does not believe further changes are required at this time because the agency must fully fund new FTEs through licensing fees.

WAC 230-03-035 (applying for license)- suggested modifying language to be more specific with respect to the timeline of an incomplete application being administratively closed.

Response: Changes were made in the draft language filed with the Office of the Code Reviser to address these concerns.

WAC 230-03-311 (applying for major sports wagering vendor representative license) with suggested edits to narrow the focus of language so it will apply to those who work in sports wagering, their managers, or those who service sports wagering kiosks.

Response: Changes were made in the draft language filed with the Office of the Code Reviser to address these concerns.

WAC 230-05-170 (fees for other businesses)- provided feedback regarding the sports wagering vendor license base fees.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

WAC 230-06-084 (submitting contracts for review)- requested rule be struck in its entirety.

Response: Changes were made in the draft language filed with the Office of the Code Reviser to address these concerns

**BetMGM**

Comments received on June 7, 2021 referencing the following:

WAC 230-03-060 (fingerprinting)- requested confirmation on whether this requirement would apply to substantial interest holders of sports wagering vendors.

Response: This rule applies to all sports wagering vendors and substantial interest holders.

WAC 230-03-230 and WAC 230-03-231 (applying for sports wagering vendor licenses)- requested clarification on specific activities and suggested specifying a timeframe for WAC 230-03-231(4).

Response: Provided clarification on what activities fall under major and mid-level sports wagering vendor license types.

WAC 230-03-311 (applying for sports wagering vendor representative license)- requested clarification on specific activities.

Response: Changes were made in the draft language filed with the Office of the Code Reviser to address these concerns.

WAC 230-03-335 (not work before receiving a license)- requested clarification on whether this rule prohibits hiring and training personnel before they are licensed.

Response: This rule does not prohibit vendors from hiring and training employees to work in Washington. They must be licensed before they perform work in Washington.

WAC 230-06-030 (restrictions/conditions on gambling promotions)- requested clarification on established promotional rules and what situations promotional prizes can be offered.

Response: Provided clarification on gambling promotions.

WAC 230-06-082 (reporting changes in licensed employees)- requested clarification on whether personnel can be hired and trained before they are licensed and if representative licensing extends to all vendor employees as notification of this within this timeframe will be difficult and burdensome.

Response: This rule does not prohibit vendors from hiring and training employees to work in Washington. They must be licensed before they perform work in Washington.

### **Cowlitz Tribal Gaming Authority**

Comments received on June 4, 2021 referencing the following:

WAC 230-03-196 (additional information)- expressed concerns that other licensees are not required to submit this information, that proprietary information could potentially become a public record, and that the language is broad.

Response: Language was amended to address concerns of many stakeholders.

WAC 230-05-170 (fees for other businesses)- questioned the rationale for setting the sports wagering vendor base license fees as such and why they are not required to submit quarterly license fees.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

### **FanDuel**

Comments received June 7, 2021 referencing the following:

WAC 230-03-311, WAC 230-03-312, and WAC 230-03-313 (applying for sports wagering vendor representative licenses)- suggested business and marketing representatives not be regulated, but rather employees who interact directly with the public in a retail setting, have the ability to

directly implement changes to a sports wagering system, or who access customer personally identifiable information be required to be licensed.

Response: Changes were made in the draft language filed with the Office of the Code Reviser to address these concerns.

WAC 230-03-335 (not work before receiving a license)- requested a temporary exemption through the end of this year to allow for sports wagering employees to be allowed to work while their license applications are pending.

Response: This rule does not prohibit vendors from hiring and training employees to work in Washington. They must be licensed before they perform work in Washington.

WAC 230-03-070 (training required for licensing)- suggested an exemption should be extended to all sports wagering vendors and vendor representatives.

Response: No exemption was provided.

WAC 230-05-170 (fees for other businesses)- requested clarification on interpretation of license fees for sports wagering vendors.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

### **Rush Street Interactive**

Comments received on June 7, 2021 referencing the following:

WAC 230-05-120 (paying annual license fee)- requested clarification regarding one annual payment.

Response: Provided clarification on annual license fees.

WAC 230-06-030 (restrictions/conditions on gambling promotions)- recommended adding a section to permit mobile sports wagering suppliers to offer promotional prizes based on chance.

Response: Provided clarification on gambling promotions.

### **Spokane Tribal Business Council**

Comments received on June 22, 2021 referencing the following:

WAC 230-05-170 (fees for other businesses)- objected to the proposed licensing fee structure.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

### **Sportradar**

Comments received on June 7, 2021 referencing the following:

WAC 230-05-120, WAC 230-05-124, and WAC 230-05-125 (quarterly license reports/quarterly license fees)- requested clarification on quarterly license reporting and quarterly license fees as it pertains to sports wagering vendors.

Response: Provided clarification on quarterly license reports.

WAC 230-03-231 (mid-level sports wagering vendor license)- requested clarification on whether data suppliers would be required to be licensed as a mid-level sports wagering vendor.



Response: Provided clarification that all data suppliers would be required to be licensed as a mid-level sports wagering vendor.

### **Suquamish Tribe**

Comments received on June 7, 2021 referencing the following:

WAC 230-03-196 (additional information) and WAC 230-06-084 (submitting contracts for review)- requested the exclusion of tribal agreements.

Response: Language was amended to address concerns of many stakeholders.

WAC 230-05-170 (fees for other businesses)- expressed concerns regarding proposed license fees.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

### **Tulalip Tribes**

Comments received on June 18, 2021 referencing the following:

WAC 230-03-196 (additional information) and WAC 230-06-084 (submitting contracts for review)- requested that language in these sections that require vendors to provide vendor contracts to the Gambling Commission be struck.

Response: Language was amended to address concerns of many stakeholders.

WAC 230-05-170 (fees for other businesses)- expressed concerns regarding proposed license fees.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

### **Washington Indian Gaming Association**

Comments received on June 18, 2021 referencing the following:

WAC 230-05-170 (fees for other businesses)- expressed concerns over the proposed license fees.

Response: The major sports wagering vendor license base fee was reduced from \$85,000 to \$65,000.

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## **If there are variances from the proposed rule and final adopted rule, state the reasons for the differences (RCW 34.05.325(6)(a)(ii)).**

Nonsubstantive changes were made to the following:

- **WAC 230-05-170- Fees for other businesses.** The major vendor licensing fee was reduced from \$85,000 to \$65,000.
- **WAC 230-06-050- Review of electronic or mechanical gambling equipment.** References to WAC 230-19-045 were removed as Chapter 230-19 WAC, including WAC 230-19-045, was not adopted as a part of this rule package.

- **WAC 230-06-110- Buying, selling, or transporting gambling equipment.** Because WAC 230-03-200, Defining “gambling equipment.” was not amended to include “sports wagering equipment,” this language was changed from the original proposal to include gambling equipment and sports wagering equipment.
- **WAC 230-06-116- Transporting, displaying, and selling gambling equipment at trade shows.** Because WAC 230-03-200, Defining “gambling equipment.” was not amended to include “sports wagering equipment,” this language was changed from the original proposal to include gambling equipment and sports wagering equipment.