



Concise Explanatory Statement

Notice of Permanent Rule Changes Related to Self-Exclusion.

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

- WAC 230-23-001- Purpose.
- WAC 230-23-005- Definitions.
- WAC 230-23-010- Request for self-exclusion.
- WAC 230-23-015- Period of enrollment.
- WAC 230-23-020- Voluntary self-exclusion.
- WAC 230-23-025- Disclosure of self-exclusion information.
- WAC 230-23-030- Licensee responsibilities.
- WAC 230-23-035- Sharing the self-exclusion list.
- WAC 230-23-040- Annual reporting.

The Administrative Procedure Act ([RCW 34.05.325\(6\)](#)) requires agencies to complete a concise explanatory statement before filing adopted 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 rules with the Office of the Code Reviser. These changes will become effective on May 1, 2022.

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 or (360) 486-3473.

What are the agency's reasons for these rule changes?

The Gambling Commission was directed by the legislature through SHB 1302 to adopt rules to establish a statewide self-exclusion program. The Gambling Commission has discretion in establishing the scope, process, and requirements of the program, however the program must: 1) allow persons to voluntarily self-exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games, 2) ensure any individual registered with the self-exclusion program is prohibited from participating in gambling activities associated with this program, and 3) forfeits all moneys and things of value obtained by the individual or owed to the individual by an authorized gambling establishment as a result of prohibited wagers or gambling activities.

The following rules were adopted:

- **WAC 230-23-001- Purpose**, to outline the purpose of the chapter, which is to establish a centralized, statewide self-exclusion program, administered by the Gambling Commission, allowing a person to voluntarily exclude themselves from gambling at licensed house-banked card rooms and participating tribal gaming facilities.
- **WAC 230-23-005- Definitions**, to define terms used throughout the chapter, including “licensee,” “participant,” “self-exclusion,” and “voluntary self-exclusion program or program.”
- **WAC 230-23-010- Request for self-exclusion**, to outline how a person may request to be placed on the self-exclusion list.
- **WAC 230-23-015- Period of enrollment**, to establish the periods of enrollment for the program, including how a participant may end their enrollment in the program.
- **WAC 230-23-020- Voluntary self-exclusion**, to acknowledge that enrollment in the self-exclusion program is voluntary.
- **WAC 230-23-025- Disclosure of self-exclusion information**, to outline that personal information submitted by a participant under the self-exclusion program may be disclosed.
- **WAC 230-23-030- Licensee responsibilities**, to outline the responsibilities of licensed house-banked card rooms.
- **WAC 230-23-035- Sharing the self-exclusion list**, to outline that information may be shared with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts who wish to voluntarily participate in the self-exclusion program.
- **WAC 230-23-040- Annual reporting**, to document reporting requirements for Commission staff.

A Small Business Economic Impact Statement (SBEIS) was completed on August 6, 2021. Implementation of this new chapter, chapter 230-23 WAC- Self-exclusion rules, is not anticipated to impose more than minor costs on house-banked card room licensees. Initial costs will be higher as licensees will be required to notify individuals already enrolled in operator-level programs, develop procedures for implementation, and train staff. Monthly costs of implementation are expected to be relatively low and will depend on how many individuals enroll. Initial and monthly costs will vary between licensees depending on location, clientele, and staffing structure.

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 all licensees, tribal gaming entities, Health Care Authority, Problem Gambling Task Force, and other stakeholders with a vested interest in problem gambling on May 3, 2021. Input was sought from the clinical and research community on whether licensees should be prohibited from adding individuals interested in self-exclusion to operator-level programs instead of the state-wide, centralized program on June 29, 2021, and how player accounts should be handled on July 29, 2021. The SBEIS and final draft language was sent out to stakeholder for review and feedback on August 9, 2021. Language was sent out to certified gambling counselors on September 16, 2021, with a request for specific input on whether they would verify participant identity and sign the self-exclusion form and for input on proposed enrollment periods. Language was sent to Department of Health staff responsible for regulating behavioral health professionals and treatment facilities for feedback and specific input on signing the self-exclusion form in place of a notary on September 21, 2021. Staff reached out to Health Care Authority and Evergreen Council on Problem Gambling regarding the definition of “certified gambling counselor” on September 30, 2021.

Public Comment:

ABS Business Data, LLC

Comments received on May 10, 2021, referencing the following:

Provided information on the Sonoma player rewards system. Inquired about the operational process by which the Sonoma system could interface with the statewide system.

Response: This information was used to help inform the SBEIS completed on August 6, 2021. The specific details of how the statewide self-exclusion list will operate are beyond the scope of this rulemaking, however WAC 230-23-030, Licensee responsibilities, specifically subsection (9)(i), tasks licensees with establishing procedures to utilize player tracking systems and other electronic means to assist in determining whether a participant as engaged in any authorized activities.

All Star Lanes & Casino

Comments received May 14, 2021, referencing the following:

Provided feedback on enrollment options suggesting that the requirements for requesting self-exclusion through the mail may deter some participants, specifically requiring a form to be notarized and that the participant submit a photograph of themselves showing only the head and shoulders. Suggested that the enrollment periods of one, five, and ten years seem extreme, as does keeping records for ten years and inquired about the expiration process, suggesting that the participant receive a letter asking if they wish to further their self-exclusion with updated information. Requested clarification for businesses with other revenue sources and

entertainment regarding whether a participant on the self-exclusion list is excluded from the entire business or just the portion of the business where gambling occurs.

Response: WAC 230-23-010, Request for self-exclusion, outlines the requirements for requesting to be placed on the self-exclusion list. An earlier draft of the language required that if the individual was requesting to be enrolled into the self-exclusion program by mail, a completed form must be notarized. As stated in subsection (1)(a)(i), the form will be provided on the Gambling Commission website: www.wsgc.wa.gov, and will include what information is required, such as verification of the individual's identity. Subsection (1)(b) outlines the requirements for requesting self-exclusion through the mail, which includes submitting a completed form which is provided on our website and a photograph of the participant showing only their head and shoulders. This photograph will be used by house-banked card rooms to identify the person in the event they breach their self-exclusion. WAC 230-23-015, Period of enrollment, outlines the enrollment periods which include one, three, five, and ten years as well as the process the participant must take to be removed from the self-exclusion list once the enrollment period has ended. WAC 230-23-030, Licensee responsibilities, outlines the responsibilities house-banked bard room licensees have in this process. Subsection (5) acknowledges that the Gambling Commission will notify licensees of modifications to the self-exclusion list and (9)(i) specifically outlines licensee recordkeeping requirements. WAC 230-23-020, Voluntary self-exclusion, acknowledges the terms of the self-exclusion and subsection (3) acknowledges services and/or amenities associated with the gaming facility are included in the exclusion.

Bill's Place

Comments received on May 3, 2021, referencing the following:

Bill's Place in Yakima, Washington has a card room license however doesn't have any actual card games being played so it is hard to evaluate what the impact of these rules will be.

Response: An SBEIS was completed on August 6, 2021. Initial costs for house-banked card rooms to comply with this new chapter was found to be approximately \$6,969.46 with a monthly implementation cost of \$1,693.49 based on 100 individuals enrolling in the program each month. Initial costs are much higher than implementing the program thereafter. Initial costs will be dependent upon how many individuals on existing operator-level programs a licensee is required to notify and how many employees a licensee must train. Implementation thereafter will be dependent upon how many individuals enroll at a licensee's establishment. The implementation costs were calculated upon 100 individuals enrolling each month; however, it is unlikely that 100 individuals will enroll at every licensed house-banked card room every month. The total costs and the total implementation costs are likely to be much lower for most licensees.

Brief Therapy Works

Comments received on September 22, 2021, referencing the following:

Provided feedback on whether there are any concerns with certified gambling counselors attesting to the identity of an individual seeking to be placed on the self-exclusion list. Supportive of attesting to clients' identity in order for them to self-exclude. Supportive of online self-exclusion option. Suggested no automatic reinstatement of self-exclusion and that only lifetime bans be offered, however with the option of seeking reinstatement after one year. Requested clarification as to whether self-exclusion will apply to sports wagering as well.

Response: An earlier draft of the language required that if the individual was requesting to be enrolled into the self-exclusion program by mail, a completed form must be notarized. The Gambling Commission was also considering adding "or signed by a certified gambling counselor" and defining "certified gambling counselor" in WAC 230-23-010, Definitions. WAC 230-23-010, Request for self-exclusion, outlines the process for an individual to request to be placed on the self-exclusion list. As stated in subsection (1)(a)(i), the form will be provided on the Gambling Commission website: www.wsgc.wa.gov, and will include what information is required, such as attestation of the individual's identity. WAC 230-23-015, Period of enrollment, outlines the enrollment periods, which include one, three, five, and ten years, and subsection (4) specifically outlines the reenrollment process. WAC 230-23-010, Request for self-exclusion, specifically subsection (4), requires the Gambling Commission to explore an online self-exclusion enrollment process within six months of modernizing legacy information technology systems. As directed by the legislature in SHB 1302 and consistent with RCW 9.46.071(1)(d), the initial self-exclusion program must "comply with the following minimum requirements: (i) The program must allow persons to voluntarily exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games, and (ii) The program must have a process for federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts to voluntarily participate in the self-exclusion program..." and therefore the purpose of Chapter 230-23 WAC is to establish a centralized, statewide self-exclusion program, administered by the Gambling Commission, allowing a person to self-exclude themselves from licensed house-banked card rooms and participating tribal gaming facilities at this time.

Confederated Tribes of Yakama Nation

Comments received on August 16, 2021, referencing the following:

Recommended language be added to WAC 230-23-035, Sharing the self-exclusion list, to clarify voluntary participation and sharing of self-exclusion lists.

Response: An earlier draft of the language stated that the Gambling Commission "may enter in tribal-state compacts with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with Class III gaming compacts to voluntarily participate in the self-exclusion program. The tribal-state compacts may allow for the mutual sharing of self-exclusion lists." Language was amended based on feedback received. WAC 230-23-035, Sharing of the self-exclusion list, states that the

Gambling Commission “may enter into mutual sharing agreements with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts who wish to voluntarily participate in the self-exclusion program.”

Evergreen Council on Problem Gambling

Comments received on July 14, 2021, September 30, 2021, and October 1, 2021, referencing the following:

Provided feedback on whether house-banked card rooms should be prohibited from maintaining their own proprietary self-exclusion list, independent from the statewide self-exclusion list once the statewide program is implemented. Recommended that registration in voluntary self-exclusion programs be available at multiple access points and if that means that more than one list is kept, while not ideal, it should be offered. Requested that registration processes and procedures be consistent, training be provided to staff interacting with registrants, and accurate and meaningful information on treatment referrals and support services be discussed with individuals upon registration. Pointed out that accessibility is key. Also provided the Evergreen Council on Problem Gambling Best Practices and Broad Perspectives for Voluntary Self-Exclusion Program Development document. Provided feedback on the proposed definition of “certified gambling counselor,” clarification on the certification process, and feedback on having a certified gambling counselor verify an individual’s identity for enrollment in the self-exclusion program as requested by Gambling Commission staff. Suggested removing “gambling problem or gambling disorder” language from WAC 230-23-001, Purpose. Inquired about online submission. Suggested language be included in WAC 230-230-015, Period of enrollment, to confirm receipt of enrollment into the program. Recommended active reinstatement. Recommended Release of Information form that would allow the individual to specify certain people information could be shared with. Recommended including other options such as “help” and “recovery” as resources provided to the participant upon enrollment. Recommended that training of card room employees include assisting patrons in obtaining information about specific treatment programs. Requested that participating tribal gaming facilities be included in WAC 230-23-030, Licensee responsibilities.

Response: WAC 230-23-010, Request for self-exclusion, outlines the ways in which an individual interested in participating in the self-exclusion program may register. WAC 230-23-030, Licensee responsibilities, outlines the responsibilities of house-banked card room licensees, in terms of making the self-exclusion form available to all patrons, accepting completed forms, providing participants with information and resources on treatment options, providing staff training, and managing the self-exclusion list. An earlier draft of the language required that if the individual was requesting to be enrolled into the self-exclusion program by mail, a completed form must be notarized. The Gambling Commission was also considered adding “or signed by a certified gambling counselor” and defining “certified gambling counselor” in WAC 230-23-010, Definitions. WAC 230-23-010, Request for self-exclusion, outlines the process for an individual to

request to be placed on the self-exclusion list. As stated in subsection (1)(a)(i), the form will be provided on the Gambling Commission website: www.wsgc.wa.gov, and will include what information is required, such as attestation of the individual's identity. The language that was adopted in regard to "gambling problem or gambling disorder" throughout chapter 230-23 WAC and "problem gambling services" in WAC 230-23-030(9)(i)(B) is consistent with the intent of the legislature as directed in SHB 1302 and also with RCW 9.46.071. WAC 230-23-010, Request for self-exclusion, specifically subsection (4), requires the Gambling Commission to explore an online self-exclusion enrollment process within six months of modernizing legacy information technology systems. Confirmation of enrollment will be addressed in the operation of the program and does not need to be addressed in rulemaking. WAC 230-23-015, Period of enrollment, specifically subsection (4), outlines active reenrollment process. WAC 230-03-025, Disclosure of self-exclusion information, outlines how information may be shared. Information provided to the participant upon enrollment by the licensee pursuant to WAC 230-23-030, Licensee responsibilities, specifically subsection (3), will be determined during the program's implementation phase and is does not need to be explicitly stated in rule. WAC 230-23-030, Licensee responsibilities, specifically subsection (7)(c), outlines the minimum requirements that licensees must follow when providing training to employees in assisting patrons in obtaining information about gambling problem and gambling disorder treatment programs. The specific details of the training and/or treatment programs do not need to be outlined in rulemaking. WAC 230-23-030, Licensee responsibilities, pertains to "licensee" as defined in WAC 230-23-005, Definitions, subsection (1), "licensee", meaning house-banked card room licensee. Pursuant to WAC 230-23-035, Sharing the self-exclusion list, we may enter into mutual sharing agreements with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts who wish to voluntarily participate in the self-exclusion program.

Health Care Authority

Comments received on May 3, 2021, May 7, 2021, June 29, 2021, July 30, 2021, August 13, 2021, September 20, 2021, September 30, 2021, and October 1, 2021, referencing the following:

Requested that all confiscated funds be transferred to the problem gambling account created in RCW 41.05.751. Suggested forfeited funds from tribal venues be used for that Tribe's problem gambling program and/or be donated to a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling and/or the state problem gambling account created by RCW 41.05.751. Noted that the language regarding participants in the program not recovering losses from the purchase of chips and/or participating in authorized gambling activities does not prohibit them from attempting or initiating recovery of any losses. Expressed concerns that language does not outline penalty for disclosing information and that language indicates that information may not be disseminated

for any purpose other than the self-exclusion program or “as otherwise permitted by law” but does not specifically cite an applicable statute. Requested narrower definition for “charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling” and suggested the Gambling Commission maintain a list of organizations. Provided feedback on whether house-banked card rooms should be prohibited from maintaining their own proprietary self-exclusion list, independent from the statewide self-exclusion list once the statewide program is implemented. Stated that lowering barriers for individuals to self-exclude should be the goal, so card rooms should be able to maintain their own lists if they wish, while also notifying the individual that they can sign up for the statewide program. Provided feedback on how player accounts should be dealt with when an individual enrolls in self-exclusion. Recommended that points not remain in player accounts. Recommended providing online registration option so individuals can register from the comfort of their own homes. Recommended including language about how licensees will be held responsible if they don’t adhere to WAC 230-23-030, Licensee responsibilities, such as a fine or additional consequence upon relicensing. Provided feedback on the proposed definition of “certified gambling counselor” and the clarification on the certification process as requested by Gambling Commission staff.

Response: An earlier draft of the language required licensees to confiscate all money and things of value obtained or owed to the participant as a result of prohibited wagers or the purchase of chips and to issue a check for the same monetary value within three business days to either the problem gambling account created in RCW 41.05.751 or a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling. WAC 230-23-030, Licensee responsibilities, specifically subsection (9)(i)(A), requires that a minimum of 70% of the confiscated funds be distributed to the problem gambling account created in RCW 41.05.751 and the remainder of the funds may be distributed to a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling. WAC 230-23-030, Licensee responsibilities, applies to “licensee” as defined in WAC 230-230-005, Definitions, subsection (1) “licensee”, meaning house-banked card room licensee. WAC 230-23-020, Voluntary self-exclusion, specifically subsection (8) requires participants to acknowledge that all money and things of value, such as gaming chips, obtained by or owed to the participant as a result of prohibited wagers or the purchase of chips and/or participating in authorized gambling activities will be confiscated and subsection (9) requires participants to acknowledge that they will not recover any losses from the purchase of chips and/or participating in authorized gambling activities. WAC 230-23-025, Disclosure of self-exclusion information, outlines how personal information submitted by a participant under the self-exclusion program may be disclosed. Chapter 42.56 RCW, Public Records Act, outlines exemptions for personal information and how personal information shall be treated, specifically RCW 42.56.230, Personal information, and RCW 42.56.590, Personal information – Notice of security breaches. WAC 230-23-030, Licensee

responsibilities, specifically subsection (9)(g), requires licensees to establish procedures for the Gambling Commission's review and approval on how they will ensure the confidentiality of the identity and personal information of participants. RCW 9.46.075, Gambling commission – Denial, suspension, or revocation of license, permit – Other provisions not applicable, and WAC 230-03-085, Denying, suspending, or revoking an application, license, or permit, give the Gambling Commission the authority to take administrative action against a licensee for demonstrating willful disregard for complying with statutes and/or administrative rules. The language that was adopted is consistent with the intent of the legislature as directed in SHB 1302 and also with RCW 9.46.071. WAC 230-23-030(9)(b) requires licensees to close out all player club memberships and accounts. All accumulated points may be immediately redeemed by the participant for nongaming items as the licensee's policy allows at the licensed location the participant initially enrolls for self-exclusion. All player club memberships and accounts held at other licensees and participating tribal facilities will be closed and zeroed out. WAC 230-23-010, Request for self-exclusion, specifically subsection (4), requires the Gambling Commission to explore an online self-exclusion enrollment process within six months of modernizing legacy information technology systems. An earlier draft of the language required that if the individual was requesting to be enrolled into the self-exclusion program by mail, a completed form must be notarized. The Gambling Commission was also considered adding "or signed by a certified gambling counselor" and defining "certified gambling counselor" in WAC 230-23-010, Definitions. WAC 230-23-010, Request for self-exclusion, outlines the process for an individual to request to be placed on the self-exclusion list. As stated in subsection (1)(a)(i), the form will be provided on the Gambling Commission website: www.wsgc.wa.gov, and will include what information is required, such as attestation of the individual's identity.

Let It Ride Casinos

Comments received on May 3, 2021, referencing the following:

Expressed that there should be more onus put on card rooms to ensure that participants on the self-exclusion list do not gain entry. Could envision a situation where a participant would be allowed entry and then later have their winnings confiscated, in essence, rewarding the card room for allowing them to play. Expressed current security concerns due to apathy and high turnover rates.

Response: WAC 230-23-030, Licensee responsibilities, specifically subsection (9)(f), requires that house-banked card room licensees must establish procedures to ensure that participants are not gambling at their establishments and subsection (6) requires that, upon discovery that a participant has breached their self-exclusion and obtained access to the licensed premises, immediately remove the participant from the premises, confiscate all moneys and things of value owed to the participant as a result of gambling, and notify the Gambling Commission of the breach within 72 hours. Subsection (9)(h) requires that confiscated funds be dispersed to the problem gambling

account and charitable or nonprofit organizations. The licensee does not benefit from a participant gambling at their establishment.

Nanci Watson

Comments received on April 29, 2021, and May 20, 2021, referencing the following:

Suggested that a financial penalty be imposed upon cases where individuals are admitted, allowed to gamble on slot machines, and paid out. Doesn't feel that screening at Emerald Queen is adequate. Suggested intervening at the earliest possible stage of problem gambling. Suggested utilizing a screening tool such as Victorian Gambling Screen and/or US South Oaks Gambling Screen. Suggested collecting data on the type of gambling that is problematic. Suggested the use of "quick interventions" such as providing brochures and placing staff in casinos for people who think they may have a problem with gambling to speak with.

Response: WAC 230-23-030, Licensee responsibilities, specifically subsection (9)(f), requires that house-banked card room licensees must establish procedures to ensure that participants are not gambling at their establishments and subsection (6) requires that, upon discovery that a participant has breached their self-exclusion and obtained access to the licensed premises, immediately remove the participant from the premises, confiscate all moneys and things of value owed to the participant as a result of gambling, and notify the Gambling Commission of the breach within 72 hours. Subsection (9)(h) requires that confiscated funds be dispersed to the problem gambling account and charitable or nonprofit organizations. The licensee does not benefit from a participant gambling at their establishment. WAC 230-23-035, Sharing the self-exclusion list, outlines the process for how information may be shared with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts who wish to voluntarily participate in the self-exclusion program. Referred suggestions to Problem Gambling Task Force and to Evergreen Council on Problem Gambling. Evergreen Council on Problem Gambling, in cooperation with the Problem Gambling Task Force and the Health Care Authority, is conducting a prevalence study to address the types of problem gambling, along with other issues such as COVID-19, substance use disorders, and will collect some baseline data on sports wagering. WAC 230-23-030, Licensee responsibilities, specifically subsection (3), requires licensees provide the participant with information on resources for treatment of gambling problems and gambling disorders upon enrollment. Subsection (7) requires that licensees train employees who interact with gaming patrons on information concerning the nature of gambling disorders, procedures for requesting self-exclusion, and assisting patrons in obtaining information about gambling problem and gambling disorder treatment programs.

Northern Quest Resort & Casino

Comments received on May 5, 2021, referencing the following:

Provided feedback on typographical errors in language.

Response: Typographical errors were addressed.

reSTART Life, PLLC

Comments received on September 16, 2021, referencing the following:

Provided feedback on whether there are any concerns with certified gambling counselors attesting to the identity of an individual seeking to be placed on the self-exclusion list. Stated that certified gambling counselors would provide a reliable source of recommendation and verification. Agreed with the tiered approach to self-exclusion.

Response: An earlier draft of the language required that if the individual was requesting to be enrolled into the self-exclusion program by mail, a completed form must be notarized. The Gambling Commission was also considered adding “or signed by a certified gambling counselor” and defining “certified gambling counselor” in WAC 230-23-010, Definitions. WAC 230-23-010, Request for self-exclusion, outlines the process for an individual to request to be placed on the self-exclusion list. As stated in subsection (1)(a)(i), the form will be provided on the Gambling Commission website: www.wsgc.wa.gov, and will include what information is required, such as attestation of the individual’s identity.

Roxbury Lanes & Casino

Comments received on August 10, 2021, referencing the following:

Not in favor of self-exclusion rules unless they apply equally to commercial cardrooms and tribal casinos.

Response: As directed by the legislature in SHB 1302 and consistent with RCW 9.46.071(1)(d), the initial self-exclusion program must “comply with the following minimum requirements: (i) The program must allow persons to voluntarily exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games, and (ii) The program must have a process for federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts to voluntarily participate in the self-exclusion program...” and therefore the purpose of Chapter 230-23 WAC is to establish a centralized, statewide self-exclusion program, administered by the Gambling Commission, allowing a person to self-exclude themselves from licensed house-banked card rooms and participating tribal gaming facilities.

Suquamish Tribe of the Port Madison Indian Reservation

Comments received on August 11, 2021, referencing the following:

Suggested removing the word “compact” and replacing it with the word “agreement” in WAC 230-23-035, Sharing the self-exclusion list, as the use of “compact” unnecessarily triggers IGRA and corresponding federal regulations and BIA approval and, in addition, a tedious compact negotiation process for a relatively minor cooperative information sharing, which could

discourage tribes from engaging in the state system. Allowing for “agreements” will be more straightforward and not implicate IGRA. The Gambling Commission and tribal regulatory agencies regularly enter in MOUs covering relatively minor matters. Self-exclusion information sharing seems to meet the threshold for MOU-type agreements. If a tribe did want to use the compact process to negotiate their engagement in the state system, nothing would prohibit them from doing so.

Response: An earlier draft of the language stated that the Gambling Commission “may enter in tribal-state compacts with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with Class III gaming compacts to voluntarily participate in the self-exclusion program. The tribal-state compacts may allow for the mutual sharing of self-exclusion lists.” Language was amended based on feedback received. WAC 230-23-035, Sharing of the self-exclusion list, states that the Gambling Commission “may enter into mutual sharing agreements with federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts who wish to voluntarily participate in the self-exclusion program.”

TIL Gaming and Fortune Casinos

Comments received on August 16, 2021, referencing the following:

Requested clarification regarding WAC 230-23-020, Voluntary self-exclusion, specifically subsection (4), regarding player accounts, and WAC 230-23-030, Licensee responsibilities, specifically subsection (8)(b), again, regarding player accounts and whether internal policy can state that all points are null and void the moment an individual chooses to self-exclude.

Clarification was also requested regarding WAC 230-23-030, Licensee responsibilities, specifically subsection (8)(h), regarding discovery of gambling and confiscation of winnings, and regarding WAC 230-23-025, Disclosure of self-exclusion information, specifically subsection (3), regarding whether a licensee must release names of participants to contracted service providers.

Response: Clarification was provided. Internal policies and player club membership and/or account rules or restrictions may state that all points are null and void upon self-exclusion. The intent of WAC 230-23-030(8)(h) is that the licensee will confiscate all money and things of value, such as gaming chips, obtained by or owed to the participant as a result of prohibited wagers immediately upon discovering their identity while at the facility. If the licensee discovers a participant has gambled at their facility after they have left the facility, there is nothing to confiscate. WAC 230-23-025(3) states that the “licensee *may* release the names and identifying information of participants on the self-exclusion list to contracted service providers...” therefore this is not a requirement.

University of Washington- Medicine, Dr. Ty Lostutter

Comments received on July 29, 2021, referencing the following:

Provided feedback on how player accounts should be dealt with when an individual enrolls in self-exclusion. Stated that research on best practices by other jurisdictions suggest that forfeiting player points at the time of self-exclusion is the recommendation. Suggested closing player accounts at the time of self-exclusion. Provided Responsible Gambling Council's Centre for the Advancement of Best Practices Insight 2013 Responsible Gambling Best Practices for Player Incentives: Land-Based Venue document.

Response: WAC 230-23-030(9)(b) requires licensees to close out all player club memberships and accounts. All accumulated points may be immediately redeemed by the participant for nongaming items as the licensee's policy allows at the licensed location the participant initially enrolls for self-exclusion. All player club memberships and accounts held at other licensees and participating tribal facilities will be closed and zeroed out.

Washington State University, Dr. Kahlil Philander

Comments received on May 10, 2021, and June 29, 2021, referencing the following: Recommended enrollment periods of six-months, one year, and five years, based on a study by McCormick et. al. and an active reenrollment process where effective after expiration, the participation remains excluded unless they complete a form to become eligible to return. Suggested that internal policies focus on reeducating the participant on program values rather than electing for criminal trespass if participant is found on the premises. Suggested that house rules contain rules for treatment of participants in the self-exclusion program. Suggested language to use in place of "problem gambling." Provided feedback on whether house-banked card rooms should be prohibited from maintaining their own proprietary self-exclusion list, independent from the statewide self-exclusion list once the statewide program is implemented. Stated that proprietary lists, independent of the statewide self-exclusion program, may still be effective and provide some benefit, however operational simplicity should be the deciding element in order to simplify understanding for frontline workers and marketing communication to gamblers. Provided feedback on how player accounts should be dealt with when an individual enrolls in self-exclusion. Stated it would be best practice to pay out fair value of promotional points to individual when they enroll in the program. If paying out promotional points is not an option, then freezing player accounts is the preferred option rather than deleting the balance as this provides a strong incentive upfront when gambling is at more harmful level.

Response: WAC 230-23-015, Period of enrollment, outlines the enrollment periods, which include one, three, five, and ten years, and subsection (4), outlines an active reenrollment process. An earlier draft of the language included the possibility of charging those participants enrolled on the self-exclusion list found on the premises of a house-banked card room licensee with criminal trespass, however that language was struck from the final version. WAC 230-23-030, Licensee responsibilities, outlines the responsibilities of house-banked card room licensees, and subsection (9), outlines that licensees will establish procedures for implementing the self-exclusion program at their

establishment which may include updating their house rules to include treatment of participants in the program. The language that was adopted in regard to “gambling problem or gambling disorder” throughout chapter 230-23 WAC and “problem gambling services” in WAC 230-23-030(9)(i)(B) is consistent with the intent of the legislature as directed in SHB 1302 and also with RCW 9.46.071. WAC 230-23-030(9)(b) requires licensees to close out all player club memberships and accounts. All accumulated points may be immediately redeemed by the participant for nongaming items as the licensee’s policy allows at the licensed location the participant initially enrolls for self-exclusion. All player club memberships and accounts held at other licensees and participating tribal facilities will be closed and zeroed out.

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)).

None.