

WSR 21-22-005
PROPOSED RULES
GAMBLING COMMISSION
[Filed October 21, 2021, 9:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-133.

Title of Rule and Other Identifying Information: New WAC 230-23-001 Purpose, 230-23-005 Definitions, 230-23-010 Request for self-exclusion, 230-23-015 Period of enrollment, 230-23-020 Voluntary self-exclusion, 230-23-025 Disclosure of self-exclusion information, 230-23-030 Licensee responsibilities, 230-23-035 Sharing the self-exclusion list, and 230-23-040 Annual reporting.

Hearing Location(s): On December 7, 2021, at 9:00 a.m., at Washington State Gambling Commission, 4565 7th Avenue S.E., Lacey, WA 98503. The meeting time and location will be posted approximately one week prior to the meeting on our website at www.wsgc.wa.gov. Select "The Commission" and then select "Public Meetings" to confirm the hearing date, location, start time, and agenda items.

Date of Intended Adoption: December 7, 2021.

Submit Written Comments to: Ashlie Laydon, P.O. Box 42400, Olympia, WA 98504-2400, email rules.coordinator@wsgc.wa.gov, www.wsgc.wa.gov, by November 29, 2021.

Assistance for Persons with Disabilities: Contact Julie Anderson, phone 360-486-3453, TTY 360-486-3637, email julie.anderson@wsgc.wa.gov, www.wsgc.wa.gov, by November 29, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The gambling commission has been 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 exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games and (2) any individual registered with the self-exclusion program is prohibited from participating in gambling activities associated with this program and 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 gambling commission may adopt rules for forfeiture of any moneys or things of value, including wagers obtained by an authorized gambling establishment while an individual is registered with the self-exclusion program.

Reasons Supporting Proposal: Individuals and families impacted by a gambling problem or gambling disorder will benefit from the availability of a uniform self-exclusion program where people may voluntarily exclude themselves from gambling at multiple gambling establishments by submitting one self-exclusion form to the state from one location for all gambling activities.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.071.

Statute Being Implemented: RCW 9.46.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Adam Teal, LLM, 4565 7th Avenue S.E., Lacey, WA 98503, 360-486-3475; Implementation: Tina Griffin, Interim Director, 4565 7th Avenue S.E., Lacey, WA

98503, 360-486-3546; and Enforcement: Gary Drumheller, Assistant Director, 4565 7th Avenue S.E., Lacey, WA 98503, 509-325-7904.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(a)(i).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. A small business economic impact statement 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 likely 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 in the program. Initial and monthly costs will vary between licensees depending on location, clientele, and staffing structure. Minor cost threshold was determined to be between \$10,126.91 and \$33,690.22. Initial costs are estimated to be \$6,969.46 with a monthly implementation cost of \$1,693.49.

October 15, 2021
Ashlie Laydon
Rules Coordinator

OTS-3154.4

**Chapter 230-23 WAC
SELF-EXCLUSION**

NEW SECTION

WAC 230-23-001 Purpose. The purpose of this chapter is to establish a centralized, statewide self-exclusion program, administered by the commission, allowing a person with a gambling problem or gambling disorder to voluntarily exclude themselves from licensed house-banked card rooms and participating tribal gaming facilities.

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NEW SECTION

WAC 230-23-005 Definitions. The following definitions apply only to this chapter:

- (1) "Licensee" means a house-banked card room licensee.
- (2) "Participant" means a person who has enrolled in the voluntary self-exclusion program.
- (3) "Self-exclusion list" means a list maintained by the commission of persons who have requested to be voluntarily excluded from house-banked card room licensees and participating tribal gaming facilities in the state of Washington.
- (4) "Voluntary self-exclusion program" or "program" means the voluntary self-exclusion program authorized under RCW 9.46.071, and does not apply to gambling via horse-racing or lottery.

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NEW SECTION

WAC 230-23-010 Request for self-exclusion. (1) Any person may request to be placed on the self-exclusion list voluntarily excluding themselves from house-banked card room licensees:

- (a) In person at our office, 4565 7th Avenue S.E., Lacey, Washington 98503, or at a house-banked card room licensee by:
 - (i) Submitting a completed form, which we provide on our website at www.wsgc.wa.gov; and
 - (ii) Providing proof of identity. Acceptable forms of identification include:
 - (A) A valid driver's license from any state;
 - (B) A government-issued identification card containing the person's name, photograph, and date of birth; or
 - (C) A valid passport; and
 - (iii) Submitting a photograph showing only the head and shoulders; or
- (b) Through the mail to Washington State Gambling Commission, P.O. Box 42400, Olympia, Washington 98504 by:
 - (i) Submitting a completed form, which we provide on our website at www.wsgc.wa.gov; and
 - (ii) Submitting a photograph showing only the head and shoulders.
- (2) The form must be:
 - (a) Completed with no areas left blank; and
 - (b) Signed under penalty of perjury by the person seeking self-exclusion.
- (3) Upon receipt of a completed form, the licensee will forward it to us within 72 hours.
- (4) The commission must begin exploring an online self-exclusion enrollment process within six months of modernizing legacy information technology systems.

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NEW SECTION

WAC 230-23-015 Period of enrollment. (1) At the time of enrollment, the participant must select a period of enrollment for self-exclusion:

- (a) One year;
- (b) Three years;
- (c) Five years; or
- (d) Ten years.

(2) The enrollment period selected begins and the participant is considered enrolled:

- (a) Upon receipt of the form by mail; or
- (b) The date the completed form was accepted by the licensee or by us when submitted in person.

(3) Once enrolled, the participant cannot be removed from the program prior to the initial selected period of enrollment for voluntary self-exclusion.

(4) We will send a notice to the participant 45 days prior to the end of their initial enrollment period indicating the end of their enrollment period. If the participant chooses to end their enrollment in the self-exclusion program, they must return the form requesting to be removed from the self-exclusion list. If no response is received by the end of the enrollment period, the participant will remain on the self-exclusion list until they request to be removed. The participant may request to be removed from the self-exclusion list at any time after their initial enrollment period has ended by notifying us in the format we require.

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NEW SECTION

WAC 230-23-020 Voluntary self-exclusion. Participants who voluntarily self-exclude acknowledge the following during the period of enrollment:

(1) The ultimate responsibility to limit access to all house-banked card rooms and participating tribal gaming facilities within the state remains theirs alone; and

(2) The self-exclusion request is irrevocable during the initial enrollment period selected and cannot be altered or rescinded for any reason; and

(3) The exclusion is in effect at all licensed house-banked card rooms and participating tribal gaming facilities in the state of Washington, which is subject to change, and all services and/or amenities associated with these gaming facilities including, but not limited to, restaurants, bars, bowling alleys, check cashing services, cash advances; and

(4) Player club memberships and accounts will be closed and all accumulated points immediately redeemed 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 gaming facilities will be closed and zeroed out; and

(5) New player club memberships, direct mail and marketing service complimentary goods and services and other such privileges and benefits will be denied; and

(6) Disclosure of certain information is necessary to implement the participant's request for self-exclusion; and

(7) If found on the premises of a house-banked card room licensee or participating tribal gaming facility, for any reason other than to carry out their duties of employment, they will be escorted from the premises; and

(8) 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 under RCW 9.46.071 and WAC 230-23-030; and

(9) To not recover any losses from the purchase of chips and/or participating in authorized gambling activities.

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NEW SECTION

WAC 230-23-025 Disclosure of self-exclusion information. (1)

Personal information submitted by a participant under the self-exclusion program is exempt from public disclosure under the Public Records Act and may not be disseminated for any purpose other than the administration of the self-exclusion program or as otherwise permitted by law.

(2) No house-banked card room licensee, employee, or agent thereof shall disclose the name of, or any information about any participant who has requested self-exclusion to anyone other than employees and agents of the house-banked card room licensee whose duties and functions require access to such information.

(3) The licensee may release the names and identifying information of participants on the self-exclusion list to contracted service providers that provide check cashing, cash advances, marketing, automated teller machines, and other financial services.

(a) The identifying information must be limited to the address, driver's license or state-issued identification number, photograph, and physical description; and

(b) Only the name and identifying information may be disclosed to contracted service providers. The licensee must neither disclose the reasons for providing the name and identifying information nor disclose that the person is on the self-exclusion list; and

(c) The licensee must require by written contract that the contracted service provider implement measures designed to ensure the confidentiality of the names and identifying information and to prohibit the release of the names and identifying information to any other person or entity; and

(d) The licensee must immediately report to us all instances of a participant accessing or attempting to access the services provided by the contracted service providers.

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NEW SECTION**WAC 230-23-030 Licensee responsibilities.** Each licensee must:

- (1) Make available to all patrons the self-exclusion form developed and provided by us; and
 - (2) Accept completed self-exclusion forms, including:
 - (a) Verifying the participant's identity as required on the form; and
 - (b) Forwarding the form to us within 72 hours of receipt; and
 - (3) Upon enrollment, provide the participant with information and resources for treatment of gambling problems or gambling disorders; and
 - (4) Designate a person or persons to be the contact person with us for purposes of self-exclusion procedures, including receipt and maintenance of the self-exclusion list, submission of the licensee's procedures, and all other communications between us and the licensee for self-exclusion purposes; and
 - (5) Implement updates to the state-wide self-exclusion list within 48 hours of being notified by us that the self-exclusion list has been modified; and
 - (6) Upon discovery that a participant has breached their self-exclusion and obtained access to the licensed premises, the licensee must take steps to:
 - (a) Immediately remove the participant from the premises; and
 - (b) Confiscate 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; and
 - (c) Notify us of the breach within 72 hours; and
 - (7) Train all new employees, within three days of hiring, and annually retrain all employees who directly interact with gaming patrons in gaming areas. The training must, at a minimum, consist of:
 - (a) Information concerning the nature of gambling disorders; and
 - (b) The procedures for requesting self-exclusion; and
 - (c) Assisting patrons in obtaining information about gambling problem and gambling disorder treatment programs.
- This section must not be construed to impose a duty upon employees of the licensee to identify individuals with gambling problems or gambling disorders or impose a liability for failure to do so; and
- (8) Notify participants who have requested to be excluded from house-banked card room licensees of this rule of the new statewide program, provide them with the form, and information on how they can participate in the statewide self-exclusion program. This must be accomplished within three business days following the effective date of this rule; and
 - (9) Establish procedures and systems for our review and approval, which:
 - (a) Utilize player tracking systems and other electronic means, including checking all taxable patron winnings against the self-exclusion list, to assist in determining whether a participant has engaged in any authorized activities; and
 - (b) Close 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 gaming facilities will be closed and zeroed out; and

(c) Deny check cashing privileges, player club membership, complimentary goods and services, and other similar privileges and benefits to any participant; and

(d) Ensure participants do not receive targeted mailings, telemarketing promotions, player club materials, or other promotional materials relative to gaming activities at house-banked card room licenses; and

(e) Verify patrons who win a jackpot prize are not participants of the program before payment of funds; and

(f) Ensure participants are not gambling in their establishment; and

(g) Ensure the confidentiality of the identity and personal information of participants; and

(h) 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 are confiscated under RCW 9.46.071, in which the licensee will:

(i) Issue check(s) for the same monetary value confiscated within three business days after collecting or refusing to pay any winnings from gambling or chips in the possession of a participant on the self-exclusion list as follows:

(A) A minimum of 70 percent of the confiscated funds must be dispersed to the problem gambling account created in RCW 41.05.751; and

(B) The remainder of the confiscated funds, if any, must be distributed to a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling; and

(ii) Document and retain for one year:

(A) Surveillance evidence identifying the date, time, and amount of money or things of value forfeited, the name and identity verification of the participant on the self-exclusion list; and

(B) A copy of the canceled check remitting the forfeited funds as required above.

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NEW SECTION

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.

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NEW SECTION

WAC 230-23-040 Annual reporting. Commission staff must report within 12 months of the effective date of these rules and then annually thereafter on the efficacy of the self-exclusion program.

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