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DIVISION 1: REVENUE AND TAXATION

§ 1503. Amusement Machines.

(a) There is imposed the following annual license fees for the commercial operation of amusement machines in the Commonwealth as follows:

(1) For amusement machines (other than poker, pachinko, or similar amusement machines) whose major element is skill and whose only reward or prize is limited to additional games or other use of the machine (e.g. video games, pinball machines, pool tables, etc.), the annual fee shall be one-hundred-fifty dollars per machine.

(2) For amusement machines whose major element is chance which provide a reward or prize of value, or for poker machines or similar amusement machines, the annual fee shall be six-thousand dollars per machine, slot machine, or other similar amusement machine. Those machines situated in a casino licensed by the Tinian Casino Gaming Control Commission (TCGCC) or similarly established a gaming commission on the islands of Saipan and Rota shall be exempt from the six-thousand dollar annual machine fee imposed by this section.

(3) For all jukeboxes, payment-activated phonographs, CD players or other payment-activated music producing machines, the annual fee shall be one-hundred-fifty dollars per machine.

(4) For all payment-activated kiddie ride machines, designated for children under the age of sixteen, the annual fee shall be twenty-five dollars per machine.

(5) For pachinko slot machines or similar amusement machines, the annual fee shall be six-thousand dollars per machine.

(6) Notwithstanding 4 CMC § 1503(a)(2) and (5) or any other law imposing a license fee, the license fee for poker amusement machines, electronic gaming machines, or electronic table games as defined in 6 CMC § 3154(a)(3) and (4) and situated at a hotel pursuant to 6 CMC § 3156(b), shall be two thousand five hundred dollars per machine or 15% of net gaming proceeds, whichever is greater. The license fee shall be issued on a calendar year basis, payable in advance in one installment. If the 15% net gaming proceeds imposed under this section is greater than the license fee per machine and per server, the fee shall be paid on the 15th day following the close of each month. The term “net gaming proceeds” as used in this section, means the total amount of all credits or cash played, less the total amount of credits or cash won by the patron.

(b) The fees imposed by this section shall be the liability of the licensed owner-operator or lessee of the amusement machine, or any person operating or managing any business at which such amusement machine is offered for patronage.

(c) All license fees shall be paid in full prior to the issuance of a license and shall be nonrefundable. Upon payment of the required fee, each license shall be valid for a period of one year from the date of issuance. Notwithstanding any law

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to the contrary, two-hundred-thousand dollars of the fees collected is hereby earmarked and continuously appropriated each fiscal year without further legislative appropriation to the Department of Finance for enforcement purposes and shall not be reprogrammed for any other purpose. The expenditure authority shall be the Secretary of the Department of Finance.

(d) Every poker machine owner and operator as a condition of any license issued shall maintain and operate poker machines in a separate room. No minor shall be permitted to enter this room and no alcoholic beverages or other intoxicants shall be allowed in this room. A licensed owner-operator who knowingly violates this subsection or who knowingly allows this subsection to be violated shall be guilty of a misdemeanor punishable by up to a five-hundred dollar fine and up to thirty days imprisonment. The Secretary may revoke any or all licenses for all poker machines owned, operated, or controlled by a person convicted under this subsection.

(e) Each Senatorial district may, pursuant to 1 CMC § 1402(c)(5), establish additional license fees for poker machines licensed under subsection (a)(2) of this section and pachinko slot machines licensed under subsection (a)(5) of this section. Any additional fees shall be available for local appropriation under Chapter 4 of Division 1 of Title 4 of the Commonwealth Code.

(f) The Public School System (PSS) shall receive twenty percent of the revenues collected from the winnings tax under 4 CMC § 1505, which shall be reserved for funding the PSS technical education program and for the procurement of student desks and classroom supplies as provided in 4 CMC § 1505. Revenues reserved under 4 CMC § 1505(a) shall be transferred quarterly to the Technical Education Program Fund.

(g) Poker machines licensed prior to April 26, 2006, shall continue to operate under and comply with the provisions of Public Law 13-33 for the duration of the license year, after which this section shall govern the issuance of licenses and the payment of license fees for those machines.

(h) The Secretary of Finance shall be responsible for the enforcement of this section.

Source: PL 9-22, § 1 (§ 1503) (repealing PL 3-11, § 503, as amended by PL 7-47, § 4); amended by PL 9-29, §§ 3, 4, modified; subsections (a)(2), (a)(5), and (c) amended by PL 11-25, §§ 7, 8, and 9, respectively; subsection (e) added by PL 11-25, § 10; subsection (c) amended by PL 13-33, § 2; (a)(2) amended by PL 12-52, § 2; (f) added by PL 14-54, § 5(b), modified; (c) amended by PL 13-33, § 5; (c) amended by PL 15-8, § 3; (c) amended by PL 15-56, § 2; repealed and reenacted by PL 15-78, § 3, modified; Subsection (a)(6) added by PL 18-30 § 6 (Dec. 13, 2013), modified.

Commission Comment: The Commission corrected the spelling of the word “defined” in subsection (a)(6) pursuant to 1 CMC § 3806(g). The Commission struck the figure “\$2,500.00” from subsection (a)(6) pursuant to 1

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CMC § 3806(e). The Commission corrected the capitalization of the phrase “two thousand five hundred dollars” in subsection (a)(6) pursuant to 1 CMC § 3806(f).

PL 9-29, the “The Pachinko Slot Machine Act” (which took effect February 16, 1995), added subsection (a)(5). According to PL 9-29, § 2:

Section 2. Findings. The Legislature finds that:

(a) The majority of the tourists that come to the Northern Mariana Islands come from Japan.

(b) Throughout the Islands of Japan, pachinko slot machines are operated for amusement by the indigenous people.

(c) To provide this same entertainment to the tourists, the operation of Pachinko slot machines should be allowed in the CNMI.

(d) With the present economic condition in the Commonwealth, the revenues anticipated to be generated under existing laws and regulations will not supply adequate funds to maintain a balanced budget.

(e) The need to create additional sources of funds to be appropriated to meet the needs of the CNMI can be achieved by increasing the scope and number of amusement machines allowed to be licensed and operated in the Commonwealth, specifically by legalizing the operation of and providing for the licensing of pachinko slot machines in the Commonwealth.

(f) The legalization of these amusement machines whose major element is chance and which provide a reward or prize of value, will not be socially detrimental to the local people, because the targeted players of the machines are Japanese and Korean tourists.

Section 7 of PL 11-25 amended subsection (a)(2). Section 8 of PL 11-25 amended subsection (a)(5). Section 9 of PL 11-25 amended subsection (c). Section 10 of PL 11-25 added new subsection (e). PL 11-25 took effect on August 10, 1998. Section 2 of PL 11-25 contained findings as follows:

Section 2. Findings. The Legislature finds that 4 CMC § 1402(a), as enacted by Public Law 9-22, was amended by Public Law 9-57. The Legislature further finds that this statute is in need of further amendment to help alleviate the financial crisis facing the Commonwealth government, by eliminating sunset provisions that would reduce tax revenues. Likewise, the excess credit tax on the Earned Income Credit under the Northern Marianas Territorial Income Tax (NMTIT), which was partially eliminated by Public Law 9-22, must be reinstated. The Commonwealth can no longer afford to pay this credit. In addition, the Commonwealth’s implementation of the Earned Income Credit in a manner that diverges from that of the U.S. Internal Revenue Code exposes the CNMI government to potential liability in the tens of millions of dollars. Re imposition of the excess tax credit on the Earned Income Credit will eliminate this risk to the Commonwealth and CNMI taxpayers.

The Legislature also finds and declares that the amendment to 4 CMC § 1402(a) made by Public Law 9-57 had the effect of extending the sunset date for 4 CMC § 1402(a)(16), as amended, until October 6, 1998.

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The Legislature also finds that the ceiling on the number of poker and pachinko slot machine licenses is a deterrent to economic growth in the Commonwealth and should be lifted. Accordingly, the ceiling on poker and pachinko slot machines is repealed and license fees for such machines are increased. Each Senatorial District is authorized to adopt additional license fees which shall be available for local appropriation.

PL 11-25 also contained applicability, severability and saving clauses as follows:

Section 15. Applicability. With respect to Section 8 of this Act, any pachinko slot machine licensed before the effective date of this Act, the fees established in Section 8 shall not apply until January 1, 1999.

...

Section 17. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 18. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 13-33 became effective on November 27, 2002. The second sentence of subsection (c) is unclear; it appears that the words “and thereafter” should have been omitted to remove the confusion and to clearly align the amendment with the stated findings. In addition to severability and savings clauses, PL 13-33 stated:

Section 1. Findings. Businesses that rely on revenues generated by poker machines are having difficulty remaining solvent during the current economic slump. The Legislature finds that such businesses need more flexibility in paying their license fees. This Act will allow payment of poker machine license fees on a quarterly basis.

PL 12-52 was enacted on May 7, 2001 and contained the following findings and purpose, in addition to severability and savings clause provisions:

Section 1. Purpose and Findings. The Legislature and the leadership of the Tinian are all committed to and fully support the development of the island of Tinian. Further, the Legislature is willing to do whatever it can to ensure that the gaming industry on Tinian is able to flourish and succeed so that in turns, Tinian and the Commonwealth may reap the eco-

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conomic benefits of this development. Thus, the Legislature finds that in order to achieve such goals, the gaming industry on Tinian cannot be overburdened by taxes or fees imposed on amusement machines.

PL 14-54, which created subsection (f), was enacted on January 17, 2005. Because the subsection letter specified in PL-54 was already assigned, the Commission designated the next available subsection letter pursuant to its authority by 1 CMC § 3806(a). PL 14-54 contained the following purpose, in addition to severability and savings clause provisions. See the Commission comment to 1 CMC § 2282 regarding other details about PL 14-54.

Section 1. Purpose. The purpose of this Act is to authorize the Public School System to establish a technical education program to gradually fulfill the mandate of the Nonresident Workers Act and to identify sources to adequately fund the program. This Act is based on the findings of a PSS feasibility study submitted to the House of Representatives on May 7, 2004, pursuant to House Resolution No. 14-4.

PL 13-33, which was signed into law on November 27, 2002, contained the following sunset provision which caused its enactment of subsection (c) to automatically expire on November 27, 2005:

Section 5. Effective Date. This Act shall take effect upon its approval by the Governor or it becoming law without such approval and remain in effect for a period of three (3) calendar years, after which it shall expire without further action and 9 1503(c) of Public Law 9-22 shall be automatically reinstated in full force and effect.

PL 15-8 was enacted on April 26, 2006, and contained the following pertinent sections along with severability and savings provisions:

Section 1. Short Title. This Act may be cited as the “Poker Machine License Fees Act of 2006.”

Section 2. Findings and Purpose. The Legislature finds that the government is losing approximately more than seven million dollars annually in poker fees due to current collection practices which include inadequate enforcement measures that has resulted in the under-reporting of earnings, and other fraudulent conduct. The Legislature additionally finds that the quarterly collection of poker and pachinko fees has hampered funded projects, especially funding for student scholarships funded under the Saipan Higher Education Financial Assistance (SHEFA) program. Therefore, the purpose of this Act is to require poker machine license fees to be paid in full prior to the issuance of any poker machine license and to provide that the fees may not be refunded.

...

Section 4. Existing Licenses for Poker Machines. Poker machines licensed before the effective date of this Act shall continue to operate under, and comply with, the provisions of Public Law No. 13-33, for the duration of the license year, after which this Act shall govern the payment and issuance of license fees for those machines.

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PL 15-56 was enacted on April 24, 2007, and contained the following purpose provision in addition to severability and savings clauses:

Section 1. Purpose. The purpose of this bill is to amend section 3 of Public Law 15-8 so that the intent of the Legislature is clear that \$200,000 from the poker fees is earmarked and continuously appropriated each fiscal year for the Department of Finance for enforcement purposes.

PL 15-78 was enacted on August 7, 2007, and contained the following findings and purpose provision in addition to additional enactments (4 CMC §§ 1103 and 1505) and severability and savings clauses. The Commission deleted figures that were mere repetitions of words in the above section pursuant to its authority by 1 CMC § 3806(e).

Section 1. Findings and Purpose. The Commonwealth Legislature finds that the definition of “pachinko slot machine” must be updated to reflect technological developments in the gaming industry. The Legislature intends for all pachinko and similar slot machines to be assessed a licensing fee regardless of whether they are traditional reel machines or the newer computerized equivalent. The Legislature finds that new definitions must be added to 4 CMC § 1103 for the efficient enforcement of the laws governing amusement machines.

The Legislature further finds that 4 CMC § 1503 has been amended numerous times (in particular by Public Laws 12-52, 13-33, 14-54, 15-8, and 15-56) and a full reenactment of the section is necessary to avoid confusion.

The Legislature also finds that incorporating House Bill 15-240 into this bill will avoid confusion with regard to 4 CMC § 1505 and is in the best interest of legislative efficiency.