
SENATE BILL 5535

State of Washington

52nd Legislature

1991 Regular Session

By Senators McMullen, Vognild, Matson, Moore, Sutherland, Amondson, Gaspard, Bauer and Conner.

Read first time February 5, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to video reproduction games; amending RCW
2 9.46.0311, 9.46.0325, 9.46.070, and 9.46.110; reenacting and amending
3 RCW 9.46.230; and adding new sections to chapter 9.46 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.46 RCW
6 to read as follows:

7 "Video card games," as used in this chapter, means video
8 reproductions of authorized card games that allow only for individual
9 play that meet all of the requirements and standards as set forth by
10 the commission and which have been specifically licensed and approved
11 for use within this state by the commission.

12 **Sec. 2.** RCW 9.46.0311 and 1987 c 4 s 26 are each amended to read
13 as follows:

1 The legislature hereby authorizes bona fide charitable or nonprofit
2 organizations to conduct bingo games, raffles, amusement games, and
3 fund raising events, and to utilize punch boards and pull-tabs and
4 video card games and to allow their premises and facilities to be used
5 by only members, their guests, and members of a chapter or unit
6 organized under the same state, regional, or national charter or
7 constitution, to play social card games authorized by the commission,
8 when licensed, conducted or operated pursuant to the provisions of this
9 chapter and rules and regulations adopted pursuant thereto.

10 **Sec. 3.** RCW 9.46.0325 and 1987 c 4 s 29 are each amended to read
11 as follows:

12 The legislature hereby authorizes any person, association or
13 organization operating an established business primarily engaged in the
14 selling of food or drink for consumption on the premises to conduct
15 social card games, video card games, and ~~((to utilize))~~ punch boards
16 and pull-tabs as ~~((a))~~ commercial stimulants to such business when
17 licensed and utilized or operated pursuant to the provisions of this
18 chapter and rules and regulations adopted pursuant thereto.

19 Video card games shall have a minimum payout of eighty percent of
20 amounts played into the machine.

21 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.46 RCW
22 to read as follows:

23 (1) There is hereby levied a tax on all video card games licensed
24 within the state of Washington. The rate of this tax shall be ten
25 percent of the net proceeds from all moneys played into the machine.
26 Net proceeds shall be determined by subtracting from all proceeds the
27 cost of prizes paid out. The tax shall be paid to the department of
28 revenue and shall be deposited as follows: One-half of the receipts

1 shall be placed in the common school construction fund and one-half
2 shall be placed in the local government account hereby created for
3 distribution back to the local governments from which it was collected.

4 (2) Fifty percent of the moneys collected under this section shall
5 be distributed quarterly by the state treasurer to each jurisdiction
6 based on the revenue collected in that jurisdiction under this section.

7 (3) Chapter 82.32 RCW applies to the tax imposed in this section.
8 The tax due dates, reporting periods, and return requirements
9 applicable to chapter 82.04 RCW apply equally to the tax imposed in
10 this section.

11 **Sec. 5.** RCW 9.46.070 and 1987 c 4 s 38 are each amended to read as
12 follows:

13 The commission shall have the following powers and duties:

14 (1) To authorize and issue licenses for a period not to exceed one
15 year to bona fide charitable or nonprofit organizations approved by the
16 commission meeting the requirements of this chapter and any rules and
17 regulations adopted pursuant thereto permitting said organizations to
18 conduct bingo games, raffles, amusement games, and social card games,
19 to utilize punch boards and pull-tabs in accordance with the provisions
20 of this chapter and any rules and regulations adopted pursuant thereto
21 and to revoke or suspend said licenses for violation of any provisions
22 of this chapter or any rules and regulations adopted pursuant thereto:
23 PROVIDED, That the commission shall not deny a license to an otherwise
24 qualified applicant in an effort to limit the number of licenses to be
25 issued: PROVIDED FURTHER, That the commission or director shall not
26 issue, deny, suspend or revoke any license because of considerations of
27 race, sex, creed, color, or national origin: AND PROVIDED FURTHER,
28 That the commission may authorize the director to temporarily issue or
29 suspend licenses subject to final action by the commission;

1 (2) To authorize and issue licenses for a period not to exceed one
2 year to any person, association, or organization operating a business
3 primarily engaged in the selling of items of food or drink for
4 consumption on the premises, approved by the commission meeting the
5 requirements of this chapter and any rules and regulations adopted
6 pursuant thereto permitting said person, association, or organization
7 to utilize punch boards and pull-tabs, video card games, and ~~((to~~
8 ~~conduct))~~ social card games as ~~((a))~~ commercial stimulants in
9 accordance with the provisions of this chapter and any rules and
10 regulations adopted pursuant thereto and to revoke or suspend said
11 licenses for violation of any provisions of this chapter and any rules
12 and regulations adopted pursuant thereto: PROVIDED, That the
13 commission shall not deny a license to an otherwise qualified applicant
14 in an effort to limit the number of licenses to be issued: PROVIDED
15 FURTHER, That the commission may authorize the director to temporarily
16 issue or suspend licenses subject to final action by the commission;

17 (3) To authorize and issue licenses for a period not to exceed one
18 year to any person, association, or organization approved by the
19 commission meeting the requirements of this chapter and meeting the
20 requirements of any rules and regulations adopted by the commission
21 pursuant to this chapter as now or hereafter amended, permitting said
22 person, association, or organization to conduct or operate amusement
23 games in such manner and at such locations as the commission may
24 determine;

25 (4) To authorize, require, and issue, for a period not to exceed
26 one year, such licenses as the commission may by rule provide, to any
27 person, association, or organization to engage in the selling,
28 distributing, or otherwise supplying or in the manufacturing of devices
29 for use within this state for those activities authorized by this
30 chapter;

1 (5) To establish a schedule of annual license fees for carrying on
2 specific gambling activities upon the premises, and for such other
3 activities as may be licensed by the commission, which fees shall
4 provide to the commission not less than an amount of money adequate to
5 cover all costs incurred by the commission relative to licensing under
6 this chapter and the enforcement by the commission of the provisions of
7 this chapter and rules and regulations adopted pursuant thereto:
8 PROVIDED, That all licensing fees shall be submitted with an
9 application therefor and such portion of said fee as the commission may
10 determine, based upon its cost of processing and investigation, shall
11 be retained by the commission upon the withdrawal or denial of any such
12 license application as its reasonable expense for processing the
13 application and investigation into the granting thereof: PROVIDED
14 FURTHER, That if in a particular case the basic license fee established
15 by the commission for a particular class of license is less than the
16 commission's actual expenses to investigate that particular
17 application, the commission may at any time charge to that applicant
18 such additional fees as are necessary to pay the commission for those
19 costs. The commission may decline to proceed with its investigation
20 and no license shall be issued until the commission has been fully paid
21 therefor by the applicant: AND PROVIDED FURTHER, That the commission
22 may establish fees for the furnishing by it to licensees of
23 identification stamps to be affixed to such devices and equipment as
24 required by the commission and for such other special services or
25 programs required or offered by the commission, the amount of each of
26 these fees to be not less than is adequate to offset the cost to the
27 commission of the stamps and of administering their dispersal to
28 licensees or the cost of administering such other special services,
29 requirements or programs;

1 (6) To prescribe the manner and method of payment of taxes, fees
2 and penalties to be paid to or collected by the commission;

3 (7) To require that applications for all licenses contain such
4 information as may be required by the commission: PROVIDED, That all
5 persons (a) having a managerial or ownership interest in any gambling
6 activity, or the building in which any gambling activity occurs, or the
7 equipment to be used for any gambling activity, or (b) participating as
8 an employee in the operation of any gambling activity, shall be listed
9 on the application for the license and the applicant shall certify on
10 the application, under oath, that the persons named on the application
11 are all of the persons known to have an interest in any gambling
12 activity, building, or equipment by the person making such application:
13 PROVIDED FURTHER, That the commission may require fingerprinting and
14 background checks on any persons seeking licenses under this chapter or
15 of any person holding an interest in any gambling activity, building,
16 or equipment to be used therefor, or of any person participating as an
17 employee in the operation of any gambling activity;

18 (8) To require that any license holder maintain records as directed
19 by the commission and submit such reports as the commission may deem
20 necessary;

21 (9) To require that all income from bingo games, raffles, and
22 amusement games be recorded and reported as established by rule or
23 regulation of the commission to the extent deemed necessary by
24 considering the scope and character of the gambling activity in such a
25 manner that will disclose gross income from any gambling activity,
26 amounts received from each player, the nature and value of prizes, and
27 the fact of distributions of such prizes to the winners thereof;

28 (10) To regulate and establish maximum limitations on income
29 derived from bingo: PROVIDED, That in establishing limitations
30 pursuant to this subsection the commission shall take into account (i)

1 the nature, character, and scope of the activities of the licensee;
2 (ii) the source of all other income of the licensee; and (iii) the
3 percentage or extent to which income derived from bingo is used for
4 charitable, as distinguished from nonprofit, purposes;

5 (11) To regulate and establish the type and scope of and manner of
6 conducting the gambling activities authorized by this chapter,
7 including but not limited to, the extent of wager, money, or other
8 thing of value which may be wagered or contributed or won by a player
9 in any such activities;

10 (12) To regulate the collection of and the accounting for the fee
11 which may be imposed by an organization, corporation or person licensed
12 to conduct a social card game on a person desiring to become a player
13 in a social card game in accordance with RCW 9.46.0281(4);

14 (13) To cooperate with and secure the cooperation of county, city,
15 and other local or state agencies in investigating any matter within
16 the scope of its duties and responsibilities;

17 (14) In accordance with RCW 9.46.080, to adopt such rules and
18 regulations as are deemed necessary to carry out the purposes and
19 provisions of this chapter. All rules and regulations shall be adopted
20 pursuant to the administrative procedure act, chapter 34.05 RCW;

21 (15) To set forth for the perusal of counties, city-counties,
22 cities and towns, model ordinances by which any legislative authority
23 thereof may enter into the taxing of any gambling activity authorized
24 by this chapter;

25 (16) To establish and regulate a maximum limit on salaries or wages
26 which may be paid to persons employed in connection with activities
27 conducted by bona fide charitable or nonprofit organizations and
28 authorized by this chapter, where payment of such persons is allowed,
29 and to regulate and establish maximum limits for other expenses in

1 connection with such authorized activities, including but not limited
2 to rent or lease payments((~~-~~))i

3 In establishing these maximum limits the commission shall take into
4 account the amount of income received, or expected to be received, from
5 the class of activities to which the limits will apply and the amount
6 of money the games could generate for authorized charitable or
7 nonprofit purposes absent such expenses. The commission may also take
8 into account, in its discretion, other factors, including but not
9 limited to, the local prevailing wage scale and whether charitable
10 purposes are benefited by the activities;

11 (17) To authorize, require, and issue for a period not to exceed
12 one year such licenses or permits, for which the commission may by rule
13 provide, to any person to work for any operator of any gambling
14 activity authorized by this chapter in connection with that activity,
15 or any manufacturer, supplier, or distributor of devices for those
16 activities in connection with such business. The commission shall not
17 require that persons working solely as volunteers in an authorized
18 activity conducted by a bona fide charitable or bona fide nonprofit
19 organization, who receive no compensation of any kind for any purpose
20 from that organization, and who have no managerial or supervisory
21 responsibility in connection with that activity, be licensed to do such
22 work. The commission may require that licensees employing such
23 unlicensed volunteers submit to the commission periodically a list of
24 the names, addresses, and dates of birth of the volunteers. If any
25 volunteer is not approved by the commission, the commission may require
26 that the licensee not allow that person to work in connection with the
27 licensed activity;

28 (18) To publish and make available at the office of the commission
29 or elsewhere to anyone requesting it a list of the commission

1 licensees, including the name, address, type of license, and license
2 number of each licensee;

3 (19) To establish guidelines for determining what constitutes
4 active membership in bona fide nonprofit or charitable organizations
5 for the purposes of this chapter; and

6 (20) To perform all other matters and things necessary to carry out
7 the purposes and provisions of this chapter.

8 **Sec. 6.** RCW 9.46.110 and 1987 c 4 s 39 are each amended to read as
9 follows:

10 The legislative authority of any county, city-county, city, or
11 town, by local law and ordinance, and in accordance with the provisions
12 of this chapter and rules and regulations promulgated hereunder, may
13 provide for the taxing of any gambling activity authorized by this
14 chapter within its jurisdiction, the tax receipts to go to the county,
15 city-county, city, or town so taxing the same: PROVIDED, That any such
16 tax imposed by a county alone shall not apply to any gambling activity
17 within a city or town located therein but the tax rate established by
18 a county, if any, shall constitute the tax rate throughout the
19 unincorporated areas of such county: PROVIDED FURTHER, That (1) punch
20 boards and pull-tabs, chances on which shall only be sold to adults,
21 which shall have a fifty cent limit on a single chance thereon, shall
22 be taxed on a basis which shall reflect only the gross receipts from
23 such punch boards and pull-tabs; and (2) no punch board or pull-tab may
24 award as a prize upon a winning number or symbol being drawn the
25 opportunity of taking a chance upon any other punch board or pull-tab;
26 and (3) all prizes for punch boards and pull-tabs must be on display
27 within the immediate area of the premises wherein any such punch board
28 or pull-tab is located and upon a winning number or symbol being drawn,
29 such prize must be immediately removed therefrom, or such omission

1 shall be deemed a fraud for the purposes of this chapter; and (4) when
2 any person shall win over twenty dollars in money or merchandise from
3 any punch board or pull-tab, every licensee hereunder shall keep a
4 public record thereof for at least ninety days thereafter containing
5 such information as the commission shall deem necessary: AND PROVIDED
6 FURTHER, That taxation of bingo and raffles shall never be in an amount
7 greater than ten percent of the gross revenue received therefrom less
8 the amount paid for or as prizes. Taxation of amusement games shall
9 only be in an amount sufficient to pay the actual costs of enforcement
10 of the provisions of this chapter by the county, city or town law
11 enforcement agency and in no event shall such taxation exceed two
12 percent of the gross revenue therefrom less the amount paid for as
13 prizes: PROVIDED FURTHER, That no tax shall be imposed under the
14 authority of this chapter on bingo, raffles or amusement games when
15 such activities or any combination thereof are conducted by any bona
16 fide charitable or nonprofit organization as defined in this chapter,
17 which organization has no paid operating or management personnel and
18 has gross income from bingo, raffles or amusement games, or any
19 combination thereof, not exceeding five thousand dollars per year less
20 the amount paid for as prizes. Taxation of punch boards and pull-tabs
21 shall not exceed five percent of gross receipts(~~(, nor shall)~~).
22 Taxation of social card games shall not exceed twenty percent of the
23 gross revenue from such games.

24 **Sec. 7.** RCW 9.46.230 and 1987 s 139 c 202 and 1987 c 4 s 43 are
25 each reenacted and amended to read as follows:

26 (1) Except as authorized under RCW 9.46.0325, all gambling devices
27 as defined in this chapter are common nuisances and shall be subject to
28 seizure, immediately upon detection by any peace officer, and to

1 confiscation and destruction by order of a superior or district court,
2 except when in the possession of officers enforcing this chapter.

3 (2) No property right in any gambling device shall exist or be
4 recognized in any person, except the possessory right of officers
5 enforcing this chapter.

6 (3) All furnishings, fixtures, equipment, and stock, including
7 without limitation furnishings and fixtures adaptable to nongambling
8 uses and equipment and stock for printing, recording, computing,
9 transporting, or safekeeping, used in connection with professional
10 gambling or maintaining a gambling premises, and all money or other
11 things of value at stake or displayed in or in connection with
12 professional gambling or any gambling device used therein, shall be
13 subject to seizure, immediately upon detection, by any peace officer,
14 and unless good cause is shown to the contrary by the owner, shall be
15 forfeited to the state or political subdivision by which seized by
16 order of a court having jurisdiction, for disposition by public auction
17 or as otherwise provided by law. Bona fide liens against property so
18 forfeited, on good cause shown by the lienor, shall be transferred from
19 the property to the proceeds of the sale of the property. Forfeit
20 moneys and other proceeds realized from the enforcement of this
21 subsection shall be paid into the general fund of the state if the
22 property was seized by officers thereof or to the political subdivision
23 or other public agency, if any, whose officers made the seizure, except
24 as otherwise provided by law. This subsection shall not apply to such
25 items which are actually being used by, or being held for use by, a
26 person licensed by the commission or who is otherwise authorized by
27 this chapter or by commission rule to conduct gambling activities
28 without a license in connection with gambling activities authorized by
29 this section when:

1 (a) The person is acting in conformance with the provisions of
2 chapter 9.46 RCW, as now or hereafter amended, and the rules and
3 regulations adopted pursuant thereto; and

4 (b) The items are of the type and kind traditionally and usually
5 employed in connection with the particular activity. Nor shall this
6 subsection apply to any act or acts in furtherance of such activities
7 when conducted in compliance with the provisions of this chapter and in
8 accordance with the rules and regulations adopted pursuant thereto.

9 (4) Whoever knowingly owns, manufactures, possesses, buys, sells,
10 rents, leases, finances, holds a security interest in, stores, repairs,
11 or transports any gambling device or offers or solicits any interest
12 therein, whether through an agent or employee or otherwise, shall be
13 guilty of a felony and fined not more than one hundred thousand dollars
14 or imprisoned not more than five years or both: PROVIDED, HOWEVER,
15 That this subsection shall not apply to persons licensed by the
16 commission, or who are otherwise authorized by this chapter, or by
17 commission rule, to conduct gambling activities without a license,
18 respecting devices which are to be used, or are being used, solely in
19 that activity for which the license was issued, or for which the person
20 has been otherwise authorized when:

21 (a) The person is acting in conformance with the provisions of
22 chapter 9.46 RCW, as now or hereafter amended, and the rules and
23 regulations adopted pursuant thereto; and

24 (b) The devices are a type and kind traditionally and usually
25 employed in connection with the particular activity. Nor shall this
26 subsection apply to any act or acts by such persons in furtherance of
27 the activity for which the license was issued, or for which the person
28 is authorized, when such activity is conducted in compliance with the
29 provisions of this chapter, as now or hereafter amended, and in
30 accordance with the rules and regulations adopted pursuant thereto.

1 Subsection (2) of this section shall have no application in the
2 enforcement of this subsection. In the enforcement of this subsection
3 direct possession of any such gambling device shall be presumed to be
4 knowing possession thereof.

5 (5) Whoever knowingly prints, makes, possesses, stores, or
6 transports any gambling record, or buys, sells, offers, or solicits any
7 interest therein, whether through an agent or employee or otherwise,
8 shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this
9 subsection shall not apply to records relating to and kept for
10 activities authorized by this chapter when the records are of the type
11 and kind traditionally and usually employed in connection with the
12 particular activity. Nor shall this subsection apply to any act or
13 acts in furtherance of such activities when conducted in compliance
14 with the provisions of this chapter and in accordance with the rules
15 and regulations adopted pursuant thereto. In the enforcement of this
16 subsection direct possession of any such gambling record shall be
17 presumed to be knowing possession thereof.