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ENGROSSED SUBSTITUTE SENATE BILL 5287

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State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senator Prentice)

READ FIRST TIME 04/19/05.

1 AN ACT Relating to house-banked social card games; amending RCW  
2 9.46.295 and 9.46.070; and declaring an emergency.

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

4 **Sec. 1.** RCW 9.46.295 and 1974 ex.s. c 155 s 6 are each amended to  
5 read as follows:

6 (1) Any license to engage in any of the gambling activities  
7 authorized by this chapter ((as now exists or as hereafter amended)),  
8 and issued under the authority thereof shall be legal authority to  
9 engage in the gambling activities for which issued throughout the  
10 incorporated and unincorporated area of any county, except that:

11 (a) The commission shall neither issue nor renew any license to  
12 engage in a house-banked card game except in a location specified in a  
13 license to conduct a house-banked card game approved pursuant to  
14 subsection (4) of this section, or that, as of March 10, 2005:

15 (i) Is approved by the commission, is in effect, and is not  
16 subsequently a license at issue in an application for relocation  
17 submitted pursuant to subsection (4) of this section; or

18 (ii) Has been submitted to and has not subsequently been denied by  
19 the commission;

1 (b) A licensee authorized to engage in house-banked card games  
2 pursuant to a license described in (a) of this subsection may continue  
3 to engage only in gambling activity authorized under the license  
4 unless, on the renewal date of the license, the city, town, city-  
5 county, or county with jurisdiction over the location identified in the  
6 license has in effect an ordinance, resolution, or other legislative  
7 act adopted pursuant to (c) of this subsection prohibiting such  
8 gambling activity; and

9 (c) A city located therein with respect to that city, or a county  
10 with respect to all areas within that county except for such cities,  
11 may absolutely prohibit(~~(, but may not change the scope of license,)~~)  
12 any or all of the gambling activities for which the license was issued.

13 (2) Nothing in this section authorizes any city, town, city-county,  
14 or county to adopt or enforce any ordinance, resolution, or other  
15 legislative act changing or purporting to change any provision within  
16 the scope of a license issued under this chapter.

17 (3) For purposes of this section, an ordinance, resolution, or  
18 other legislative act that:

19 (a) Prohibits all house-banked card games within the applicable  
20 jurisdiction on and after the effective date of the legislative act, or  
21 on and after any other date specified in the legislative act, shall be  
22 deemed to be an act adopted in compliance with subsection (1)(c) of  
23 this section;

24 (b) Allows any house-banked card games to continue to operate  
25 within the applicable jurisdiction for an indefinite period after the  
26 effective date of the legislative act, or after another date, if any,  
27 specified in the legislative act, shall be deemed to be an act not in  
28 compliance with subsection (1)(c) of this section, and is null and  
29 void.

30 (4) The commission may issue or renew a license to engage in a  
31 house-banked card game in a location specified in an application  
32 submitted pursuant to rules adopted by the commission to relocate a  
33 licensed premise, if:

34 (a)(i) The licensed premise proposed to be relocated was, as of  
35 March 10, 2005, in a location where a house-banked card game was  
36 licensed to be conducted; (ii) the application for approval to be  
37 relocated is submitted to the commission on or before July 1, 2010; and  
38 (iii) the location to which the applicant requests to be relocated is

1 within the geographic boundaries of the same jurisdiction in which the  
2 licensee is authorized by the commission to operate on the date the  
3 application is submitted;

4 (b) The city, town, city-county, or county in which the licensee  
5 described in (a) of this subsection is licensed by the commission to  
6 operate adopts an ordinance or resolution unequivocally approving and  
7 supporting the licensee's request to relocate: (i) By at least a sixty  
8 percent majority vote of the members of the jurisdiction's legislative  
9 body; and (ii) within ninety days of the date the application described  
10 in (a) of this subsection is submitted; and

11 (c) The commission approves the application to relocate with at  
12 least a sixty percent majority vote of the voting members of the  
13 commission.

14 (5) The commission shall not approve an application submitted  
15 pursuant to subsection (4) of this section if the licensee: (a) Has  
16 previously applied to relocate the premise; or (b) does not meet any  
17 existing standard required to obtain or retain a license to engage in  
18 a house-banked card game.

19 (6) An application to relocate a licensed premise under subsection  
20 (4) of this section shall not be approved, and if previously approved,  
21 the license to engage in a house-banked card game at such location  
22 shall be revoked and not subsequently issued or renewed in any  
23 location, if the licensee who submitted the application under  
24 subsection (4) of this section, or any director, officer, or other  
25 substantial interest holder of the licensed gambling activity, pleads  
26 guilty to or is found guilty of any crime constituting, or if  
27 prosecuted under the laws of Washington would constitute, a class A, B,  
28 or C felony under RCW 9A.20.021 or 9A.20.040 or Title 9 RCW, arising  
29 out of any act or acts that occurred at any time the licensee held a  
30 license issued by the commission.

31 **Sec. 2.** RCW 9.46.070 and 2002 c 119 s 1 are each amended to read  
32 as follows:

33 The commission shall have the following powers and duties:

34 (1) To authorize and issue licenses for a period not to exceed one  
35 year to bona fide charitable or nonprofit organizations approved by the  
36 commission meeting the requirements of this chapter and any rules (~~and~~  
37 ~~regulations~~)) adopted pursuant thereto permitting said organizations to

1 conduct bingo games, raffles, amusement games, and social card games,  
2 to utilize punch boards and pull-tabs in accordance with the provisions  
3 of this chapter and any rules (~~(and regulations)~~) adopted pursuant  
4 thereto and to revoke or suspend said licenses for violation of any  
5 provisions of this chapter or any rules (~~(and regulations)~~) adopted  
6 pursuant thereto(~~(:—PROVIDED, That)~~). However, except as provided in  
7 RCW 9.46.295, the commission shall not deny a license to an otherwise  
8 qualified applicant in an effort to limit the number of licenses to be  
9 issued(~~(:—PROVIDED FURTHER, That)~~). The commission or director shall  
10 not issue, deny, suspend, or revoke any license because of  
11 considerations of race, sex, creed, color, or national origin(~~(:—AND~~  
12 ~~PROVIDED FURTHER, That)~~). The commission may authorize the director to  
13 temporarily issue or suspend licenses subject to final action by the  
14 commission;

15 (2) To authorize and issue licenses for a period not to exceed one  
16 year to any person, association, or organization operating a business  
17 primarily engaged in the selling of items of food or drink for  
18 consumption on the premises, approved by the commission meeting the  
19 requirements of this chapter and any rules (~~(and regulations)~~) adopted  
20 pursuant thereto permitting said person, association, or organization  
21 to utilize punch boards and pull-tabs and to conduct social card games  
22 as a commercial stimulant in accordance with the provisions of this  
23 chapter and any rules (~~(and regulations)~~) adopted pursuant thereto and  
24 to revoke or suspend said licenses for violation of any provisions of  
25 this chapter and any rules (~~(and regulations)~~) adopted pursuant  
26 thereto(~~(:—PROVIDED, That)~~). However, except as provided in RCW  
27 9.46.295, the commission shall not deny a license to an otherwise  
28 qualified applicant in an effort to limit the number of licenses to be  
29 issued(~~(:—PROVIDED FURTHER, That)~~). The commission may authorize the  
30 director to temporarily issue or suspend licenses subject to final  
31 action by the commission;

32 (3) To authorize and issue licenses for a period not to exceed one  
33 year to any person, association, or organization approved by the  
34 commission meeting the requirements of this chapter and meeting the  
35 requirements of any rules and regulations adopted by the commission  
36 pursuant to this chapter as now or hereafter amended, permitting said  
37 person, association, or organization to conduct or operate amusement

1 games in such manner and at such locations as the commission may  
2 determine;

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

9 (5) To establish a schedule of annual license fees for carrying on  
10 specific gambling activities upon the premises, and for such other  
11 activities as may be licensed by the commission, which fees shall  
12 provide to the commission not less than an amount of money adequate to  
13 cover all costs incurred by the commission relative to licensing under  
14 this chapter and the enforcement by the commission of the provisions of  
15 this chapter and rules and regulations adopted pursuant thereto:  
16 PROVIDED, That all licensing fees shall be submitted with an  
17 application therefor and such portion of said fee as the commission may  
18 determine, based upon its cost of processing and investigation, shall  
19 be retained by the commission upon the withdrawal or denial of any such  
20 license application as its reasonable expense for processing the  
21 application and investigation into the granting thereof: PROVIDED  
22 FURTHER, That if in a particular case the basic license fee established  
23 by the commission for a particular class of license is less than the  
24 commission's actual expenses to investigate that particular  
25 application, the commission may at any time charge to that applicant  
26 such additional fees as are necessary to pay the commission for those  
27 costs. The commission may decline to proceed with its investigation  
28 and no license shall be issued until the commission has been fully paid  
29 therefor by the applicant: AND PROVIDED FURTHER, That the commission  
30 may establish fees for the furnishing by it to licensees of  
31 identification stamps to be affixed to such devices and equipment as  
32 required by the commission and for such other special services or  
33 programs required or offered by the commission, the amount of each of  
34 these fees to be not less than is adequate to offset the cost to the  
35 commission of the stamps and of administering their dispersal to  
36 licensees or the cost of administering such other special services,  
37 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 shall require fingerprinting and  
14 national criminal history background checks on any persons seeking  
15 licenses, certifications, or permits under this chapter or of any  
16 person holding an interest in any gambling activity, building, or  
17 equipment to be used therefor, or of any person participating as an  
18 employee in the operation of any gambling activity. All national  
19 criminal history background checks shall be conducted using  
20 fingerprints submitted to the United States department of justice-  
21 federal bureau of investigation. The commission must establish rules  
22 to delineate which persons named on the application are subject to  
23 national criminal history background checks. In identifying these  
24 persons, the commission must take into consideration the nature,  
25 character, size, and scope of the gambling activities requested by the  
26 persons making such applications;

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

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

37 (10) To regulate and establish maximum limitations on income  
38 derived from bingo. In establishing limitations pursuant to this

1 subsection the commission shall take into account (i) the nature,  
2 character, and scope of the activities of the licensee; (ii) the source  
3 of all other income of the licensee; and (iii) the percentage or extent  
4 to which income derived from bingo is used for charitable, as  
5 distinguished from nonprofit, purposes. However, the commission's  
6 powers and duties granted by this subsection are discretionary and not  
7 mandatory;

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

13 (12) To regulate the collection of and the accounting for the fee  
14 which may be imposed by an organization, corporation, or person  
15 licensed to conduct a social card game on a person desiring to become  
16 a player in a social card game in accordance with RCW 9.46.0282;

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

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

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

28 (16) To establish and regulate a maximum limit on salaries or wages  
29 which may be paid to persons employed in connection with activities  
30 conducted by bona fide charitable or nonprofit organizations and  
31 authorized by this chapter, where payment of such persons is allowed,  
32 and to regulate and establish maximum limits for other expenses in  
33 connection with such authorized activities, including but not limited  
34 to rent or lease payments. However, the commissioner's powers and  
35 duties granted by this subsection are discretionary and not mandatory.

36 In establishing these maximum limits the commission shall take into  
37 account the amount of income received, or expected to be received, from  
38 the class of activities to which the limits will apply and the amount

1 of money the games could generate for authorized charitable or  
2 nonprofit purposes absent such expenses. The commission may also take  
3 into account, in its discretion, other factors, including but not  
4 limited to, the local prevailing wage scale and whether charitable  
5 purposes are benefited by the activities;

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

23 (18) To publish and make available at the office of the commission  
24 or elsewhere to anyone requesting it a list of the commission  
25 licensees, including the name, address, type of license, and license  
26 number of each licensee;

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

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

32 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of the  
34 state government and its existing public institutions, and takes effect  
35 immediately.

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