
ENGROSSED SUBSTITUTE SENATE BILL 5558

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Prentice, Honeyford, Kohl-Welles,
Delvin, Franklin, Pflug, Keiser, Marr, Fairley and Clements)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to regulating house-banked social card games;
2 amending RCW 9.46.295 and 9.46.070; adding new sections to chapter 9.46
3 RCW; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** POLICY STATEMENT. In keeping with the
6 gambling policy statement in RCW 9.46.010, the legislature intends to:

7 (1) Limit the number of licenses that may be issued for conducting
8 house-banked social card games; and

9 (2) Grant local jurisdictions limited authority to determine the
10 areas within which house-banked social card games may be conducted.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.46 RCW
12 to read as follows:

13 LIMIT ON HOUSE-BANKED CARD GAME LICENSES. (1) Except as provided in
14 RCW 9.46.295 and section 4 of this act, the commission may not accept
15 or approve an application to be licensed to conduct house-banked social
16 card games unless the applicant:

17 (a) As of March 1, 2007, was in operation under an unrevoked and

1 unexpired license to conduct house-banked social card games in the
2 location identified in the license;

3 (b) As of March 1, 2007, had submitted a completed application as
4 determined by the commission to obtain a license to conduct
5 house-banked social card games at an identified location;

6 (c) Has purchased a substantial interest in, or substantially all
7 of the assets of, a business issued a license under (a) or (b) of this
8 subsection to conduct house-banked social card games and the
9 application is for a license to continue to conduct such games in the
10 location identified in the previous license; or

11 (d) Having been issued a license under (a), (b), or (c) of this
12 subsection, submits a timely application to renew the license for the
13 location identified in the license.

14 (2) Notwithstanding any ordinance, resolution, or legislative act
15 in existence before the effective date of this section, a city, town,
16 or county may not prohibit the holder of a license issued by the
17 commission to conduct house-banked social card games from conducting
18 such games in the location identified by such license except as
19 follows:

20 (a) The jurisdiction has a prohibition in effect, enacted after the
21 effective date of this section, applying to house-banked social card
22 games that complies with RCW 9.46.295(1)(a).

23 (b) A jurisdiction, with a prohibition in effect applying to
24 house-banked social card games that complies with RCW 9.46.295(1)(a),
25 that annexes territory within which a holder of a license issued by the
26 commission to conduct house-banked social card games is conducting such
27 games may prohibit that licensee from conducting such games. To
28 prohibit such activities of the licensee, the jurisdiction must adopt
29 an ordinance, resolution, or other legislative act prohibiting house-
30 banked social card games in the annexed territory and this prohibition
31 may not take effect for eighteen months after the ordinance,
32 resolution, or other legislative act is adopted.

33 (3) This section does not restrict a holder of a license issued by
34 the commission to conduct house-banked social card games from:

35 (a) Selling, exchanging, or otherwise transferring such interests
36 in gambling equipment, subject to commission rules regarding the
37 transfer of gambling equipment; or

1 (b) Relocating that business, subject to the commission's review
2 and approval, but only if the jurisdiction to which the licensee
3 proposes to relocate has in effect an ordinance, resolution, or other
4 legislative act enacted pursuant to section 4 of this act and the
5 proposed location complies with section 4 of this act.

6 **Sec. 3.** RCW 9.46.295 and 1974 ex.s. c 155 s 6 are each amended to
7 read as follows:

8 LOCAL JURISDICTION OPTIONS. (1) Any license to engage in any of
9 the gambling activities authorized by this chapter ((as now exists or
10 as hereafter amended,)) and issued under the authority thereof shall be
11 legal authority to engage in the gambling activities for which issued
12 throughout the incorporated and unincorporated area of any county,
13 except that a city or town located therein with respect to that city or
14 town, or a county with respect to all areas within that county except
15 for such cities or towns, may:

16 (a) Absolutely prohibit((, but may not change the scope of
17 license,)) any or all of the gambling activities for which the license
18 was issued. However, such prohibition enacted after the effective date
19 of this section relating to house-banked social card games may not be
20 repealed for at least three years from the effective date of the
21 ordinance, resolution, or other legislative act enacting the
22 prohibition; or

23 (b) Determine, in accordance with section 4 of this act, the areas
24 within which house-banked social card games may be relocated.

25 (2) This section does not authorize any city, town, or county to
26 adopt or enforce any ordinance, resolution, or other legislative act
27 changing or purporting to change the scope of a license issued under
28 this chapter.

29 (3) Until July 1, 2010, an ordinance, resolution, or other
30 legislative act that absolutely prohibits the operation of house-banked
31 social card games under subsection (1)(a) of this section that is
32 adopted by a city or town on or after the effective date of this act is
33 subject to referendum under the referendum procedures of RCW 35A.11.100
34 and 35A.29.170.

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

1 RELOCATION ZONING ORDINANCES AUTHORIZED. (1) A city, town, or
2 county that has, pursuant to chapter 36.70A RCW, adopted a
3 comprehensive land use plan containing a statement identifying the
4 jurisdiction's policy regarding the extent to which licensed gambling
5 activity is to be allowed within the jurisdiction may enact, amend, and
6 enforce an ordinance, resolution, or other legislative act, consistent
7 with the policy statement in the comprehensive plan and subject to
8 subsection (2) of this section, that does the following:

9 (a) Allows the relocation of house-banked social card games within
10 all or part of the city, town, or county. If the ordinance,
11 resolution, or other legislative act allows such games in only part of
12 the jurisdiction, it must:

13 (i) Designate a land use zone or zones that is not less than and
14 that is wholly contained in one-third of the land use zone or zones
15 within which eating and drinking establishments licensed by the liquor
16 control board are allowed to operate;

17 (ii) Apply uniformly throughout each designated land use zone or
18 zones within the jurisdiction, with no authority to grant variances or
19 nonconforming uses based on house-banked social card games; and

20 (iii) Apply only to house-banked social card games that did not
21 have an identified location under section 2(1) of this act in the
22 jurisdiction. However, the house-banked card game licensee may
23 relocate that business into the designated land use zone if it meets
24 the requirements of this section; or

25 (b)(i) Prohibits house-banked social card games from relocating
26 within up to five hundred feet of any of the following uses that
27 existed on the initial date of application for relocation of the
28 license:

29 (A) A building used exclusively for religious worship, religious
30 schooling, or other activity in connection therewith;

31 (B) A residence located in a zone that is identified specifically
32 in a local ordinance or legislative enactment as being composed
33 predominantly of single-family or multifamily residences;

34 (C) A tax-supported public elementary or secondary school or
35 private school meeting the requirements for private schools under Title
36 28A RCW; or

37 (D) Publicly owned or leased buildings designated within the
38 jurisdiction's comprehensive plan and used exclusively by the

1 jurisdiction as a place of business for its employees, elected
2 officials, or for public meetings, including but not limited to any
3 library, courthouse, jail, police station, or fire station.

4 (ii) Any distances established for the purposes of this subsection
5 (1)(b) must be measured in a straight line from the perimeter property
6 line of the grounds of the use identified under this subsection to the
7 nearest property line of the property within which an applicant has
8 applied to locate house-banked social card games.

9 (2) The repeal of a land use zone enacted pursuant to this section
10 may not apply for at least three years from the effective date of such
11 ordinance, resolution, or other legislative act to the holder of a
12 license issued by the commission to conduct house-banked social card
13 games who is conducting such games in that location within the
14 jurisdiction on the date that the repeal took effect.

15 (3) For the purposes of this section, "land use zone" means any
16 area within a jurisdiction that: (a) Is defined by an action of a
17 jurisdiction's legislative body and appears on the jurisdiction's land
18 use zoning map; (b) is situated within a single, continuous, and
19 discrete boundary perimeter; and (c) has land uses within the area that
20 are subject to the same zoning regulations, definitions, or standards
21 as may be determined by the jurisdiction.

22 (4) The land use petition act, chapter 36.70C RCW, governs
23 challenges regarding the adoption or enforcement of an ordinance,
24 resolution, or other legislative act enacted or amended pursuant to
25 this section.

26 (5) The commission, its members, and staff are absolutely immune
27 from any legal action relating to a decision of the commission: To
28 issue, renew, or not issue a license under this section or section 2 of
29 this act; or that is based on the commission's interpretation of this
30 section, section 2 of this act, or any local ordinance, resolution, or
31 other legislative act enacted or amended under this section. No court,
32 board, agency, entity, or tribunal of any kind has jurisdiction to join
33 the commission as a party to any such legal action.

34 **Sec. 5.** RCW 9.46.070 and 2002 c 119 s 1 are each amended to read
35 as follows:

36 POWERS AND DUTIES OF GAMBLING COMMISSION. The commission shall
37 have the following powers and duties:

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

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

36 (3) To authorize and issue licenses for a period not to exceed one
37 year to any person, association, or organization approved by the
38 commission meeting the requirements of this chapter and meeting the

1 requirements of any rules (~~and regulations~~) adopted by the commission
2 pursuant to this chapter (~~as now or hereafter amended~~), permitting
3 (~~said~~) such person, association, or organization to conduct or
4 operate amusement games in such manner and at such locations as the
5 commission may determine;

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

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

1 cost to the commission of the stamps and of administering their
2 dispersal to licensees or the cost of administering such other special
3 services, requirements or programs;

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

6 (7) To require that applications for all licenses contain such
7 information as may be required by the commission(~~(+ PROVIDED, That)~~).

8 All persons (a) having a managerial or ownership interest in any
9 gambling activity, or the building in which any gambling activity
10 occurs, or the equipment to be used for any gambling activity, or (b)
11 participating as an employee in the operation of any gambling activity,
12 shall be listed on the application for the license and the applicant
13 shall certify on the application, under oath, that the persons named on
14 the application are all of the persons known to have an interest in any
15 gambling activity, building, or equipment by the person making such
16 application(~~(+ PROVIDED FURTHER, That)~~). The commission shall require
17 fingerprinting and national criminal history background checks on any
18 persons seeking licenses, certifications, or permits under this chapter
19 or of any person holding an interest in any gambling activity,
20 building, or equipment to be used therefor, or of any person
21 participating as an employee in the operation of any gambling activity.
22 All national criminal history background checks shall be conducted
23 using fingerprints submitted to the United States department of
24 justice-federal bureau of investigation. The commission must establish
25 rules to delineate which persons named on the application are subject
26 to national criminal history background checks. In identifying these
27 persons, the commission must take into consideration the nature,
28 character, size, and scope of the gambling activities requested by the
29 persons making such applications;

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

33 (9) To require that all income from bingo games, raffles, and
34 amusement games be recorded and reported as established by rule (~~(or~~
35 ~~regulation)~~) of the commission to the extent deemed necessary by
36 considering the scope and character of the gambling activity in such a
37 manner that will disclose gross income from any gambling activity,

1 amounts received from each player, the nature and value of prizes, and
2 the fact of distributions of such prizes to the winners thereof;

3 (10) To regulate and establish maximum limitations on income
4 derived from bingo. In establishing limitations pursuant to this
5 subsection the commission shall take into account (i) the nature,
6 character, and scope of the activities of the licensee; (ii) the source
7 of all other income of the licensee; and (iii) the percentage or extent
8 to which income derived from bingo is used for charitable, as
9 distinguished from nonprofit, purposes. However, the commission's
10 powers and duties granted by this subsection are discretionary and not
11 mandatory;

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

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

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

24 (14) In accordance with RCW 9.46.080, to adopt such rules (~~and~~
25 ~~regulations~~) as are deemed necessary to carry out the purposes and
26 provisions of this chapter. All rules (~~and regulations~~) shall be
27 adopted pursuant to the administrative procedure act, chapter 34.05
28 RCW;

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

33 (16) To establish and regulate a maximum limit on salaries or wages
34 which may be paid to persons employed in connection with activities
35 conducted by bona fide charitable or nonprofit organizations and
36 authorized by this chapter, where payment of such persons is allowed,
37 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. However, the commissioner's powers and
3 duties granted by this subsection are discretionary and not mandatory.

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

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

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

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

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

1 NEW SECTION. **Sec. 6.** CAPTIONS. Captions as used in this act do
2 not constitute any part of the law.

3 NEW SECTION. **Sec. 7.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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