
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)(a) A city or town with a population of less than twenty-five
30 thousand that adopts an ordinance, resolution, or other legislative act
31 that absolutely prohibits the operation of house-banked social card
32 games under subsection (1)(a) of this section shall provide for a
33 referendum procedure to apply to such ordinance, resolution, or other
34 legislative act. This referendum procedure shall specify that a
35 referendum petition may be filed within seven days of passage of the
36 ordinance, resolution, or other legislative act, with a filing officer,
37 as identified in the ordinance, resolution, or other legislative act.

1 Within ten days, the filing officer shall confer with the petitioner
2 concerning form and style of the petition, issue the petition an
3 identification number, and produce an accurate, concise, and positive
4 ballot title from the city or town's legal counsel. The petitioner
5 shall have thirty days from the date of official notification from the
6 filing officer in which to secure the signatures of not less than
7 fifteen percent of the registered voters of the city or town, as of the
8 last municipal general election, upon petition forms which contain the
9 ballot title and the full text of the measure to be referred. The
10 filing officer shall verify the sufficiency of the signatures on the
11 petition and, if sufficient valid signatures are properly submitted,
12 shall certify the referendum measure to the next general election
13 ballot within the city or town.

14 (b) This referendum procedure shall be exclusive in all instances
15 for any city or town identified in this subsection that adopts an
16 ordinance, resolution, or other legislative act that absolutely
17 prohibits the operation of house-banked card games pursuant to
18 subsection (1)(a) of this section and shall supersede the procedures
19 provided under chapters 35.17 and 35A.11 RCW and all other statutory or
20 charter provisions for initiative or referendum which might otherwise
21 apply.

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

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

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

36 (i) Designate a land use zone or zones that is not less than and

1 that is wholly contained in one-third of the land use zone or zones
2 within which eating and drinking establishments licensed by the liquor
3 control board are allowed to operate;

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

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

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

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

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

21 (C) A tax-supported public elementary or secondary school or
22 private school meeting the requirements for private schools under Title
23 28A RCW; or

24 (D) Publicly owned or leased buildings designated within the
25 jurisdiction's comprehensive plan and used exclusively by the
26 jurisdiction as a place of business for its employees, elected
27 officials, or for public meetings, including but not limited to any
28 library, courthouse, jail, police station, or fire station.

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

34 (2) The repeal of a land use zone enacted pursuant to this section
35 may not apply for at least three years from the effective date of such
36 ordinance, resolution, or other legislative act to the holder of a
37 license issued by the commission to conduct house-banked social card

1 games who is conducting such games in that location within the
2 jurisdiction on the date that the repeal took effect.

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

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

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

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

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

26 (1) To authorize and issue licenses for a period not to exceed one
27 year to bona fide charitable or nonprofit organizations approved by the
28 commission meeting the requirements of this chapter and any rules (~~and~~
29 ~~regulations~~) adopted pursuant thereto permitting said organizations to
30 conduct bingo games, raffles, amusement games, and social card games,
31 to utilize punch boards and pull-tabs in accordance with the provisions
32 of this chapter and any rules (~~and regulations~~) adopted pursuant
33 thereto and to revoke or suspend (~~said~~) such licenses for violation
34 of any provisions of this chapter or any rules (~~and regulations~~)
35 adopted pursuant thereto(~~:- PROVIDED, That~~). However, except as
36 provided in section 2 of this act, the commission shall not deny a
37 license to an otherwise qualified applicant in an effort to limit the

1 number of licenses to be issued(~~(: PROVIDED FURTHER, That)~~). The
2 commission or director shall not issue, deny, suspend, or revoke any
3 license because of considerations of race, sex, creed, color, or
4 national origin(~~(: AND PROVIDED FURTHER, That)~~). The commission may
5 authorize the director to temporarily issue or suspend licenses subject
6 to final action by the commission;

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

24 (3) To authorize and issue licenses for a period not to exceed one
25 year to any person, association, or organization approved by the
26 commission meeting the requirements of this chapter and meeting the
27 requirements of any rules (~~(and regulations)~~) adopted by the commission
28 pursuant to this chapter (~~(as now or hereafter amended)~~), permitting
29 (~~(said)~~) such person, association, or organization to conduct or
30 operate amusement games in such manner and at such locations as the
31 commission may determine;

32 (4) To authorize, require, and issue, for a period not to exceed
33 one year, such licenses as the commission may by rule provide, to any
34 person, association, or organization to engage in the selling,
35 distributing, or otherwise supplying or in the manufacturing of devices
36 for use within this state for those activities authorized by this
37 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~~) such fee as the
10 commission may determine, based upon its cost of processing and
11 investigation, shall be retained by the commission upon the withdrawal
12 or denial of any such license application as its reasonable expense for
13 processing the application and investigation into the granting
14 thereof(~~(~~~~PROVIDED FURTHER, That~~)). If in a particular case the
15 basic license fee established by the commission for a particular class
16 of license is less than the commission's actual expenses to investigate
17 that particular application, the commission may at any time charge to
18 that applicant such additional fees as are necessary to pay the
19 commission for those costs. The commission may decline to proceed with
20 its investigation and no license shall be issued until the commission
21 has been fully paid therefor by the applicant(~~(~~~~AND PROVIDED FURTHER,~~
22 ~~That~~)). The commission may establish fees for the furnishing by it to
23 licensees of identification stamps to be affixed to such devices and
24 equipment as required by the commission and for such other special
25 services or programs required or offered by the commission, the amount
26 of each of these fees to be not less than is adequate to offset the
27 cost to the commission of the stamps and of administering their
28 dispersal to licensees or the cost of administering such other special
29 services, requirements or programs;

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

32 (7) To require that applications for all licenses contain such
33 information as may be required by the commission(~~(~~~~PROVIDED, That~~)).
34 All persons (a) having a managerial or ownership interest in any
35 gambling activity, or the building in which any gambling activity
36 occurs, or the equipment to be used for any gambling activity, or (b)
37 participating as an employee in the operation of any gambling activity,
38 shall be listed on the application for the license and the applicant

1 shall certify on the application, under oath, that the persons named on
2 the application are all of the persons known to have an interest in any
3 gambling activity, building, or equipment by the person making such
4 application(~~(+ PROVIDED FURTHER, That)~~). The commission shall require
5 fingerprinting and national criminal history background checks on any
6 persons seeking licenses, certifications, or permits under this chapter
7 or of any person holding an interest in any gambling activity,
8 building, or equipment to be used therefor, or of any person
9 participating as an employee in the operation of any gambling activity.
10 All national criminal history background checks shall be conducted
11 using fingerprints submitted to the United States department of
12 justice-federal bureau of investigation. The commission must establish
13 rules to delineate which persons named on the application are subject
14 to national criminal history background checks. In identifying these
15 persons, the commission must take into consideration the nature,
16 character, size, and scope of the gambling activities requested by the
17 persons making such applications;

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. In establishing limitations pursuant to this
30 subsection the commission shall take into account (i) the nature,
31 character, and scope of the activities of the licensee; (ii) the source
32 of all other income of the licensee; and (iii) the percentage or extent
33 to which income derived from bingo is used for charitable, as
34 distinguished from nonprofit, purposes. However, the commission's
35 powers and duties granted by this subsection are discretionary and not
36 mandatory;

37 (11) To regulate and establish the type and scope of and manner of
38 conducting the gambling activities authorized by this chapter,

1 including but not limited to, the extent of wager, money, or other
2 thing of value which may be wagered or contributed or won by a player
3 in any such activities;

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

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

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

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

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

28 In establishing these maximum limits the commission shall take into
29 account the amount of income received, or expected to be received, from
30 the class of activities to which the limits will apply and the amount
31 of money the games could generate for authorized charitable or
32 nonprofit purposes absent such expenses. The commission may also take
33 into account, in its discretion, other factors, including but not
34 limited to, the local prevailing wage scale and whether charitable
35 purposes are benefited by the activities;

36 (17) To authorize, require, and issue for a period not to exceed
37 one year such licenses or permits, for which the commission may by rule
38 provide, to any person to work for any operator of any gambling

1 activity authorized by this chapter in connection with that activity,
2 or any manufacturer, supplier, or distributor of devices for those
3 activities in connection with such business. The commission shall not
4 require that persons working solely as volunteers in an authorized
5 activity conducted by a bona fide charitable or bona fide nonprofit
6 organization, who receive no compensation of any kind for any purpose
7 from that organization, and who have no managerial or supervisory
8 responsibility in connection with that activity, be licensed to do such
9 work. The commission may require that licensees employing such
10 unlicensed volunteers submit to the commission periodically a list of
11 the names, addresses, and dates of birth of the volunteers. If any
12 volunteer is not approved by the commission, the commission may require
13 that the licensee not allow that person to work in connection with the
14 licensed activity;

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

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

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

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

26 NEW SECTION. **Sec. 7.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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