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**HOUSE BILL 1114**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Appleton and Buys

AN ACT Relating to authorizing and regulating internet poker; amending RCW 9.46.0265, 9.46.228, 9.46.072, 9.46.010, and 9.46.070; adding new sections to chapter 9.46 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the internet is an integral tool in the everyday lives of Washingtonians. Commerce, communication, and entertainment are just some of the areas in which this technological aid thrives.

(2) Poker has long been an authorized activity in Washington state, and with the internet as a technological aid, poker can be conducted in a virtual environment and played from the privacy of one's own computer or mobile device. Despite a lack of regulation due to prohibition, playing poker over the internet remains popular with Washington state players.

(3) To better protect the people of Washington from potential danger from, and to maintain oversight of the systems used to carry out internet poker, the legislature finds it to be in the interest of the people to establish a regulatory framework by which entities, as authorized by the Washington state gambling commission or a tribal regulator, may offer poker games to players within Washington state over the internet.

(4) Where feasible, the governor may enter into multistate agreements allowing for shared player liquidity across common platforms.

NEW SECTION. **Sec.**  (1) The legislature hereby authorizes the conducting and playing of internet poker games for money, on any internet capable consumer device, and where those games are conducted pursuant to the provisions of this chapter, and any rules and regulations adopted by the commission.

(2) To implement a system of internet poker and assure that rigorous standards are met, the commission must establish a two-tiered licensing regime, creating licensees to operate an internet card room and to operate an internet poker network.

(3) The commission must:

(a) Develop rules governing individuals seeking to open an internet poker account or participate as a player in internet poker games offered by authorized internet card rooms, to determine suitability to play. Where conflicts of interest may arise, individuals may be denied participation pursuant to those rules. All persons creating an internet poker account must be eighteen years of age or older. Players may create an account from any location, but must be physically located within the borders of the state of Washington at the time of play;

(b) Develop protocols related to the resolution of disputes arising between players, networks, or operators. All parties must agree to settle disputes arising from internet poker under the jurisdiction of the superior court of Thurston county;

(c) Establish a code of conduct governing commission employees that ensures, to the maximum extent possible, that persons subject to this chapter avoid situations, relationships, or associations that may represent or lead to an actual or perceived conflict of interest;

(d) Provide for the establishment and collection of all license and certification fees and taxes imposed by this chapter. All fees and taxes must be deposited into the gambling revolving fund under RCW 9.46.100;

(e) Develop and enforce requirements for responsible gaming and player protection, including but not limited to privacy and confidentiality standards and duties, and develop a program for recognizing and addressing behavior associated with problem gambling;

(f) Develop requirements for conducting transactions between players and internet poker rooms;

(g) Take enforcement action against those operating illegal internet gambling businesses within the state of Washington, and those who continue to offer illegal internet gambling to people in the state of Washington;

(h) Develop and administer civil penalties for those who violate this chapter or the rules adopted by the commission.

(4) The commission may develop rules to assure that qualified internet card room operators have access to internet poker networks and to prevent anticompetitive exclusions.

NEW SECTION. **Sec.**  (1) The commission may issue a license to operate an internet poker network, to firms, partnerships, or corporations registered to do business in Washington state, and that have:

(a) Submitted to testing, auditing, and recordkeeping provisions established by the commission, and satisfy the requirements thereof, as well as comply with all state and federal requirements;

(b) Demonstrated one or more mechanisms to reasonably verify that all persons accessing the game system are registered and age-verified users, and who can access games only from within the state of Washington, or within another state where they are licensed and with which Washington state has agreed to share player liquidity;

(c) Demonstrated systems designed to detect and prevent the unauthorized use of internet poker accounts, and to detect and prevent fraud, money laundering, and collusion;

(d) Demonstrated systems designed to detect behaviors associated with problem gambling, and provide a program to address problem gambling, according to the provisions of this chapter;

(e) Complied with all provisions of this chapter, and any and all rules adopted by the commission pursuant to this act.

(2) Any person, firm, partnership, or corporation licensed to operate an internet poker network is authorized to:

(a) Provide business-to-business services to those authorized tribes and licensees to facilitate the play of internet poker games within the borders of Washington state, including managing player accounts, facilitating payment to and from those accounts, and providing software platforms;

(b) Serve multiple customers within a network, and allow those customers to share player liquidity where desired, and provide customer specific games and tables.

(3) The commission must have access to equipment and systems to carry out oversight duties. Internet poker network operators may use a single national data center, so long as reporting servers from which regulators may access and receive information necessary to carry out that oversight are located within the state of Washington.

(4) The commission must institute significant fees to operate an internet poker network, with the intent to capture nine percent of the total gross revenue generated from internet poker. Five percent of the fees must be directed toward combating problem gambling.

(5) The commission must establish a time frame for implementation that provides regulators time to establish and adopt their rules, provide for testing of applicants' systems, and to allow all operators meeting the standards set forth the opportunity to launch their services on the same date.

NEW SECTION. **Sec.**  (1) The commission may issue a license to operate an internet poker room, to firms, partnerships, or corporations, registered to do business in Washington state, and that:

(a) Currently offer poker games on their premises, and who are duly licensed to do so, that license having been in good standing for two years prior to application;

(b) Have submitted to testing, auditing, and recordkeeping provisions established by the commission, and satisfy the requirements thereof, as well as comply with all state and federal requirements;

(c) Have contracted for services from a licensed internet poker network operator;

(d) Is bonded to cover total of all funds held in player accounts, or in the amount of one million dollars, whichever is higher. Player funds must be available for withdrawal upon demand in person, or within three business days by other transmission;

(e) Complies with all provisions of this chapter, and any and all rules adopted by the commission pursuant to this act.

(2) Any person, firm, partnership, or corporation licensed to operate an internet poker room is authorized to:

(a) Register and maintain player accounts, and process deposits to and withdrawals from those accounts;

(b) Conduct internet poker games over a licensed internet poker network in compliance with the provisions of this chapter and all rules adopted by the commission.

(3) An internet poker license is valid for a period of one year after the date of issuance and may be renewable based on a determination by the commission that the licensee continues to meet all the requirements of this chapter and rules adopted by the commission.

(4) An internet poker license is nontransferrable.

(5) No person or entity with an ownership interest in any entity licensed to operate an internet poker network may hold any interest in a tribe or licensed card room offering internet poker.

(6) Any person, association, corporation, partnership, or entity authorized under this chapter to offer internet poker games is wholly responsible for all funds held in player accounts for the purpose of said players' participation in internet poker games.

NEW SECTION. **Sec.**  The commission must establish regulations covering ancillary services to internet poker rooms and internet poker networks, where those services are directly related to gambling activity, and may approve those deemed suitable to offer such services pursuant to those rules.

NEW SECTION. **Sec.**  "Internet poker," as used in this chapter, means the game of poker played over the internet, in which players compete only against other players, on a common platform, and where only the players have a stake in the outcomes of games.

NEW SECTION. **Sec.**  "Internet poker network," as used in this chapter, means a system by which an operator may serve multiple, interconnected internet poker rooms, commonly referred to as skins, using common software and systems to conduct and manage games for a variety of authorized operators within a shared player pool.

NEW SECTION. **Sec.**  "Internet poker room," as used in this chapter, means a group of players participating in internet poker games via a unique brand operated by an authorized entity, within an internet poker network.

**Sec.**  RCW 9.46.0265 and 1997 c 118 s 2 are each amended to read as follows:

(1) "Player," as used in this chapter, means a:

(a) Natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants shall not be considered as rendering material assistance to the establishment, conduct or operation of the social game merely by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises for the game, or supplying cards or other equipment to be used in the games;

(b) Participant in an internet poker game playing against one or more other players from a personal computer or mobile device using an authorized software from within the state of Washington.

(2) A person who engages in "bookmaking" as defined in this chapter is not a "player." A person who pays a fee or "vigorish" enabling him or her to place a wager with a bookmaker, or pays a fee other than as authorized by this chapter to participate in a card game, contest of chance, lottery, or gambling activity, is not a player.

**Sec.**  RCW 9.46.228 and 2009 c 357 s 2 are each amended to read as follows:

(1) It is unlawful for any person under the age of eighteen to play in authorized gambling activities including, but not limited to, punchboards, pull‑tabs, internet poker, or card games, or to participate in fund‑raising events. Persons under the age of eighteen may play bingo, raffles, and amusement game activities only as provided in commission rules.

(2) A person under the age of eighteen who violates subsection (1) of this section by engaging in, or attempting to engage in, prohibited gambling activities commits a class 2 civil infraction under chapter 7.80 RCW and is subject to a fine set out in chapter 7.80 RCW, up to four hours of community restitution, and any court imposed costs.

(3) The juvenile court divisions in superior courts within the state have jurisdiction for enforcement of this section.

(4)(a) An employer may conduct an in-house controlled purchase program authorized for the purposes of employee training and employer self-compliance checks.

(b) The civil infraction provisions of this section do not apply to a person under the age of eighteen who is participating in an in-house controlled purchase program authorized by the commission under rules adopted by the commission. Violations occurring under an in-house controlled purchase program authorized by the commission may not be used for criminal or administrative prosecution.

(c) An employer who conducts an in‑house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in‑house controlled purchase program. The written description must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding unauthorized persons engaging in gambling activities during a controlled purchase program authorized under this section.

(5) A person under the age of eighteen who violates subsection (1) of this section shall not collect any winnings or recover any losses arising as a result of unlawfully participating in any gambling activity. Additionally, any money or anything of value which has been obtained by, or is owed to, any person under the age of eighteen as a result of such participation shall be forfeited to the department of social and health services division of alcohol and substance abuse or its successor and used for a program related to youth problem gambling awareness, prevention, and/or education. Any person claiming any money or things of value subject to forfeiture under this subsection will receive notice and an opportunity for a hearing under RCW 9.46.231.

**Sec.**  RCW 9.46.072 and 2002 c 369 s 3 are each amended to read as follows:

(1) An entity licensed under RCW 9.46.070((~~(1)~~)) which conducts or allows its premises to be used for conducting bingo on more than three occasions per week, and any web site promoting regulated Washington state internet poker, shall include the following statement in any advertising or promotion of gambling activity conducted by the licensee:

"CAUTION: Participation in gambling activity may result in pathological gambling behavior causing emotional and financial harm. For help, call 1-800-547-6133."

(2) Authorized internet poker providers shall display, and require manual acknowledgment of by the user, the following message before log in may be completed:

"This internet poker software is certified by the state of Washington, and is operated within the requirements of state and federal laws. Participation in gambling activity may result in pathological gambling behavior causing emotional and/or financial harm. For help, call 1-800-547-6133."

(3) For purposes of this section, "advertising" includes print media, point-of-sale advertising, electronic media, billboards, and radio advertising.

**Sec.**  RCW 9.46.010 and 1996 c 101 s 2 are each amended to read as follows:

The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control.

It is hereby declared to be the policy of the legislature, recognizing the ((~~close relationship between professional gambling and organized crime, to restrain all persons from seeking profit from professional gambling activities in this state; to restrain all persons from patronizing such professional gambling activities; to safeguard the public against the evils induced by common gamblers and common gambling houses engaged in professional gambling; and at the same time, both to preserve the freedom of the press and~~))need to protect the public by ensuring that gambling activities in this state are well regulated, to avoid restricting participation by individuals in activities and social pastimes, ((~~which activities and social pastimes are more for amusement rather than for profit, do not maliciously affect the public, and do not breach the peace~~))to restrain underage individuals from accessing gambling activities, to safeguard the public against potential criminal activity associated with unlawful gambling, to recognize the need to have available help to individuals who may suffer gambling addictions, and to assure those operating gambling facilities do so under the careful supervision of the commission.

The legislature further declares that the raising of funds for the promotion of bona fide charitable or nonprofit organizations is in the public interest as is participation in such activities and social pastimes as are hereinafter in this chapter authorized.

The legislature further declares that the conducting of bingo, raffles, and amusement games and the operation of punchboards, pull-tabs, card games and other social pastimes, when conducted pursuant to the provisions of this chapter and any rules and regulations adopted pursuant thereto, are hereby authorized, as are only such lotteries for which no valuable consideration has been paid or agreed to be paid as hereinafter in this chapter provided.

The legislature further declares that fishing derbies shall not constitute any form of gambling and shall not be considered as a lottery, a raffle, or an amusement game and shall not be subject to the provisions of this chapter or any rules and regulations adopted hereunder.

The legislature further declares that raffles authorized by the fish and wildlife commission involving hunting big game animals or wild turkeys shall not be subject to the provisions of this chapter or any rules and regulations adopted hereunder, with the exception of this section and RCW 9.46.400.

The legislature finds that to protect those who may choose to wager on internet poker games, the legislature declares it to be the interest of the state and its citizens to create parameters to secure a responsible, fair, and legal system of internet poker that complies with current federal law. The legislature further declares that conducting and participating in internet poker games, when conducted pursuant to the provisions of this chapter and any rules and regulations adopted pursuant thereto, are hereby authorized.

All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end.

**Sec.**  RCW 9.46.070 and 2012 c 116 s 1 are each amended to read as follows:

The commission shall have the following powers and duties:

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

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

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

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

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

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or (b) participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

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

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

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

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

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

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

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

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

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

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

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

(18) To establish regulations to implement a system of internet poker, as authorized in this chapter, and in accordance with state and federal law, and to authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting the person, association, or organization to conduct or operate internet poker games, or provide services to facilitate such games, in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

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

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

((~~(20)~~))(21) To renew the license of every person who applies for renewal within six months after being honorably discharged, removed, or released from active military service in the armed forces of the United States upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license;

((~~(21)~~))(22) To issue licenses under subsections (1) through (4) of this section that are valid for a period of up to eighteen months, if it chooses to do so, in order to transition to the use of the business licensing services program through the department of revenue; and

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

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

NEW SECTION. **Sec.**  Sections 2 through 8 of this act are each added to chapter 9.46 RCW.

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