

CERTIFICATION OF ENROLLMENT

SENATE BILL 5034

Chapter 394, Laws of 1997

(partial veto)

55th Legislature
1997 Regular Session

GAMBLING--MANAGEMENT AND OPERATION OF ACTIVITIES OF CHARITABLE AND
NONPROFIT ORGANIZATIONS--PUNCH BOARDS AND PULL-TABS

EFFECTIVE DATE: 7/27/97

Passed by the Senate April 27, 1997
YEAS 34 NAYS 14

BRAD OWEN

President of the Senate

Passed by the House April 27, 1997
YEAS 93 NAYS 5

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 16, 1997, with the
exception of section 1 and 2, which are
vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SENATE BILL 5034 as passed by the
Senate and the House of
Representatives on the dates hereon
set forth.

MIKE O'CONNELL

Secretary

FILED

May 16, 1997 - 3:20 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5034

AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senator Roach

Read first time 01/13/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to gambling; and amending RCW 9.46.0209, 9.46.0205,
2 9.46.120, and 9.46.110.

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

4 **Sec. 1. RCW 9.46.0209 and 1987 c 4 s 4 are each amended to read*
5 *as follows:*

6 *"Bona fide charitable or nonprofit organization," as used in this*
7 *chapter, means: (1) Any organization duly existing under the*
8 *provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural*
9 *fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or*
10 *any nonprofit corporation duly existing under the provisions of chapter*
11 *24.03 RCW for charitable, benevolent, eleemosynary, educational, civic,*
12 *patriotic, political, social, fraternal, athletic or agricultural*
13 *purposes only, or any nonprofit organization, whether incorporated or*
14 *otherwise, when found by the commission to be organized and operating*
15 *for one or more of the aforesaid purposes only, all of which in the*
16 *opinion of the commission have been organized and are operated*
17 *primarily for purposes other than the operation of gambling activities*
18 *authorized under this chapter; or (2) any corporation which has been*
19 *incorporated under Title 36 U.S.C. and whose principal purposes are to*

1 furnish volunteer aid to members of the armed forces of the United
2 States and also to carry on a system of national and international
3 relief and to apply the same in mitigating the sufferings caused by
4 pestilence, famine, fire, floods, and other national calamities and to
5 devise and carry on measures for preventing the same. Such an
6 organization must have been organized and continuously operating for at
7 least twelve calendar months immediately preceding making application
8 for any license to operate a gambling activity, or the operation of any
9 gambling activity authorized by this chapter for which no license is
10 required. It must have not less than ((fifteen)) seven bona fide
11 active members each with the right to an equal vote in the election of
12 the officers, or board members, if any, who determine the policies of
13 the organization in order to receive a gambling license. An
14 organization must demonstrate to the commission that it has made
15 significant progress toward the accomplishment of the purposes of the
16 organization during the twelve consecutive month period preceding the
17 date of application for a license or license renewal. The fact that
18 contributions to an organization do not qualify for charitable
19 contribution deduction purposes or that the organization is not
20 otherwise exempt from payment of federal income taxes pursuant to the
21 internal revenue code of 1954, as amended, shall constitute prima facie
22 evidence that the organization is not a bona fide charitable or
23 nonprofit organization for the purposes of this section.

24 Any person, association or organization which pays its employees,
25 including members, compensation other than is reasonable therefor under
26 the local prevailing wage scale shall be deemed paying compensation
27 based in part or whole upon receipts relating to gambling activities
28 authorized under this chapter and shall not be a bona fide charitable
29 or nonprofit organization for the purposes of this chapter.

30 *Sec. 1 was vetoed. See message at end of chapter.

31 *Sec. 2. RCW 9.46.0205 and 1987 c 4 s 3 are each amended to read
32 as follows:

33 (1) "Bingo," as used in this chapter, means a game ((conducted only
34 in the county within which the organization is principally located)) in
35 which prizes are awarded on the basis of designated numbers or symbols
36 on a card conforming to numbers or symbols selected at random and in
37 which no cards are sold except at the time and place of ((said)) the

1 game, (~~when said~~) except as authorized by the commission for joint
2 bingo games.

3 (2) The game (~~is~~) shall be conducted only by:

4 (a) A bona fide charitable or nonprofit organization which does not
5 conduct or allow its premises to be used for conducting bingo on more
6 than three occasions per week and which does not conduct bingo in any
7 location which is used for conducting bingo on more than three
8 occasions per week(~~or~~); or (~~if~~)

9 (b) An agricultural fair authorized under chapters 15.76 and 36.37
10 RCW, which does not conduct bingo on more than twelve consecutive days
11 in any calendar year(~~and~~).

12 (3) Except in the case of any agricultural fair as authorized under
13 chapters 15.76 and 36.37 RCW, no person other than a bona fide member
14 or an employee of (~~said~~) the organization (~~takes~~) may take any part
15 in the management or operation of (~~said~~) the game unless approved by
16 the commission, and no person who takes any part in the management or
17 operation of (~~said~~) the game (~~takes~~) may take any part in the
18 management or operation of any game conducted by any other organization
19 or any other branch of the same organization(~~or~~) unless approved by
20 the commission(~~and~~).

21 (4) No part of the proceeds (~~thereof~~) from a bingo game may inure
22 to the benefit of any person other than the organization conducting
23 (~~said~~) the game.

24 (5) A bingo game must be conducted only in the county where the
25 sponsoring organization is principally located, except as authorized by
26 the commission for joint bingo games. For the purposes of this
27 section, the organization shall be deemed to be principally located in
28 the county within which it has its primary business office. If the
29 organization has no business office, the organization shall be deemed
30 to be located in the county of principal residence of its chief
31 executive officer(~~or~~—PROVIDED, That)). Any organization which is
32 conducting any licensed and established bingo game in any locale as of
33 January 1, 1981, shall be exempt from the requirement that such game be
34 conducted in the county in which the organization is principally
35 located.

36 (6) The commission may authorize joint bingo games conducted by two
37 or more bona fide charitable or nonprofit organizations if the prizes
38 are pooled and the games are conducted during each organization's

1 normal period of operation. The commission may adopt rules for the
2 operation, management, and location of the games.

3 *Sec. 2 was vetoed. See message at end of chapter.

4 **Sec. 3.** RCW 9.46.120 and 1987 c 4 s 40 are each amended to read as
5 follows:

6 (1) Except in the case of an agricultural fair as authorized under
7 chapters 15.76 and 36.37 RCW, no person other than a member of a bona
8 fide charitable or nonprofit organization (and their employees) or any
9 other person, association or organization (and their employees)
10 approved by the commission, shall take any part in the management or
11 operation of any gambling activity authorized under this chapter(~~(,~~
12 ~~and~~)) unless approved by the commission. No person who takes any part
13 in the management or operation of any such gambling activity shall take
14 any part in the management or operation of any gambling activity
15 conducted by any other organization or any other branch of the same
16 organization(~~(,~~) unless approved by the commission(~~(,~~and)). No part
17 of the proceeds (~~(thereof)) of the activity~~ shall inure to the benefit
18 of any person other than the organization conducting such gambling
19 activities or if such gambling activities be for the charitable benefit
20 of any specific persons designated in the application for a license,
21 then only for such specific persons as so designated.

22 (2) No bona fide charitable or nonprofit organization or any other
23 person, association or organization shall conduct any gambling activity
24 authorized under this chapter in any leased premises if rental for such
25 premises is unreasonable or to be paid, wholly or partly, on the basis
26 of a percentage of the receipts or profits derived from such gambling
27 activity.

28 **Sec. 4.** RCW 9.46.110 and 1994 c 301 s 2 are each amended to read
29 as follows:

30 (1) The legislative authority of any county, city-county, city, or
31 town, by local law and ordinance, and in accordance with the provisions
32 of this chapter and rules (~~(and regulations promulgated hereunder))~~
33 adopted under this chapter, may provide for the taxing of any gambling
34 activity authorized by this chapter within its jurisdiction, the tax
35 receipts to go to the county, city-county, city, or town so taxing the
36 (~~(same: PROVIDED, That))~~ activity. Any such tax imposed by a county
37 alone shall not apply to any gambling activity within a city or town

1 located (~~therein~~) in the county but the tax rate established by a
2 county, if any, shall constitute the tax rate throughout the
3 unincorporated areas of such county(~~(:—PROVIDED FURTHER, That (1)~~
4 ~~punch boards and pull tabs, chances on which shall)~~).

5 (2) The operation of punch boards and pull-tabs are subject to the
6 following conditions:

7 (a) Chances may only be sold to adults(~~(, which shall have a fifty~~
8 cent limit on a single chance thereon, shall be taxed on a basis which
9 shall reflect only the gross receipts from such punch boards and pull-
10 tabs; and (2));

11 (b) The price of a single chance may not exceed one dollar;

12 (c) No punch board or pull-tab license may award as a prize upon a
13 winning number or symbol being drawn the opportunity of taking a chance
14 upon any other punch board or pull-tab; (~~and (3)~~)

15 (d) All prizes (~~for punch boards and pull tabs~~) available to be
16 won must be described on an information flare. All merchandise prizes
17 must be on display within the immediate area of the premises
18 (~~wherein~~) in which any such punch board or pull-tab is located
19 (~~and~~). Upon a winning number or symbol being drawn, (~~such~~) a
20 merchandise prize must be immediately removed (~~therefrom~~) from the
21 display and awarded to the winner. All references to cash or
22 merchandise prizes, with a value over twenty dollars, must be removed
23 immediately from the information flare when won, or such omission shall
24 be deemed a fraud for the purposes of this chapter; and (~~(4)~~)

25 (e) When any person (~~shall win over twenty dollars in~~) wins money
26 or merchandise from any punch board or pull-tab over an amount
27 determined by the commission, every licensee (~~hereunder~~) shall keep
28 a public record (~~thereof~~) of the award for at least ninety days
29 (~~thereafter~~) containing such information as the commission shall deem
30 necessary(~~(:—AND PROVIDED FURTHER, That)~~).

31 (3)(a) Taxation of bingo and raffles shall never be in an amount
32 greater than ten percent of the gross (~~revenue received therefrom~~)
33 receipts from a bingo game or raffle less the amount (~~paid for or~~)
34 awarded as cash or merchandise prizes.

35 (b) Taxation of amusement games shall only be in an amount
36 sufficient to pay the actual costs of enforcement of the provisions of
37 this chapter by the county, city or town law enforcement agency and in
38 no event shall such taxation exceed two percent of the gross (~~revenue~~

1 ~~therefrom~~) receipts from the amusement game less the amount (~~paid~~
2 ~~for~~) awarded as prizes (~~PROVIDED FURTHER, That~~).

3 (c) No tax shall be imposed under the authority of this chapter on
4 bingo or amusement games when such activities or any combination
5 thereof are conducted by any bona fide charitable or nonprofit
6 organization as defined in this chapter, which organization has no paid
7 operating or management personnel and has gross (~~income~~) receipts
8 from bingo or amusement games, or a combination thereof, not exceeding
9 five thousand dollars per year, less the amount (~~paid for~~) awarded as
10 cash or merchandise prizes.

11 (d) No tax shall be imposed on the first ten thousand dollars of
12 (net proceeds) gross receipts less the amount awarded as cash or
13 merchandise prizes from raffles conducted by any bona fide charitable
14 or nonprofit organization as defined in this chapter.

15 (e) Taxation of punch boards and pull-tabs for bona fide charitable
16 or nonprofit organizations is based on gross receipts from the
17 operation of the games less the amount awarded as cash or merchandise
18 prizes, and shall not exceed (~~five~~) a rate of ten percent (~~of gross~~
19 ~~receipts, nor shall~~). At the option of the county, city-county, city,
20 or town, the taxation of punch boards and pull-tabs for commercial
21 stimulant operators may be based on gross receipts from the operation
22 of the games, and may not exceed a rate of five percent, or may be
23 based on gross receipts from the operation of the games less the amount
24 awarded as cash or merchandise prizes, and may not exceed a rate of ten
25 percent.

26 (f) Taxation of social card games may not exceed twenty percent of
27 the gross revenue from such games.

28 (4) Taxes imposed under this chapter become a lien upon personal
29 and real property used in the gambling activity in the same manner as
30 provided for under RCW 84.60.010. The lien shall attach on the date
31 the tax becomes due and shall relate back and have priority against
32 real and personal property to the same extent as ad valorem taxes.

Passed the Senate April 27, 1997.

Passed the House April 27, 1997.

Approved by the Governor May 16, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 16, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 1 and
3 2, Senate Bill No. 5034 entitled:

4 "AN ACT Relating to gambling;"

5 This legislation combines several provisions relating to authorized
6 gambling activities for bona fide nonprofit or charitable organizations
7 and to authorized gambling activities for commercial stimulant
8 licensees.

9 Section 1 would reduce the minimum number of members that a
10 charitable organization must have in order to conduct authorized
11 gambling activities from 15 to seven. This limitation is on the number
12 of active members in the organization and not on the number of board
13 members. I am concerned that if this change is made, it will encourage
14 small groups of people to form nonprofit organizations for the primary
15 purpose of engaging in charitable gaming activities, in violation of
16 the gambling code.

17 Section 2 would authorize charitable or nonprofit organizations to
18 operate joint bingo games in which the prizes are pooled during their
19 normal days of operation. Despite agreements that have been reached
20 between the association representing charitable gaming licensees and
21 the Washington State Gambling Commission regarding limitations that
22 could be placed on joint bingo operations to ensure better control, I
23 am concerned that this change in the law would make high stakes
24 gambling even more accessible to the public than it already is.
25 Although I sympathize with the difficulty sometimes encountered by
26 charitable organizations in raising funds for very important causes,
27 this concern does not justify an expansion of authorized gambling in
28 this state.

29 For these reasons, I have vetoed sections 1 and 2 of Senate Bill
30 No. 5034. With the exception of sections 1 and 2, Senate Bill No. 5034
31 is approved."