

ESSB 5558 - H COMM AMD

By Committee on Commerce & Labor

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

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

15 (a) As of March 31, 2007, was in operation under an unrevoked and
16 unexpired license to conduct house-banked social card games in the
17 location identified in the license;

18 (b) As of March 31, 2007, had submitted a completed application as
19 determined by the commission to obtain a license to conduct
20 house-banked social card games at an identified location;

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

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

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

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

10 (b) A jurisdiction, with a prohibition in effect applying to
11 house-banked social card games that complies with RCW 9.46.295(1)(a),
12 that annexes territory within which a holder of a license issued by the
13 commission to conduct house-banked social card games is conducting such
14 games may prohibit that licensee from conducting such games. To
15 prohibit such activities of the licensee, the jurisdiction must adopt
16 an ordinance, resolution, or other legislative act prohibiting house-
17 banked social card games in the annexed territory and this prohibition
18 may not take effect for eighteen months after the ordinance,
19 resolution, or other legislative act is adopted.

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

22 (a) Selling, exchanging, or otherwise transferring such interests
23 in gambling equipment, subject to commission rules regarding the
24 transfer of gambling equipment; or

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

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

32 LOCAL JURISDICTION OPTIONS. (1) Any license to engage in any of
33 the gambling activities authorized by this chapter (~~as now exists or~~
34 ~~as hereafter amended,~~) and issued under the authority thereof shall be
35 legal authority to engage in the gambling activities for which issued
36 throughout the incorporated and unincorporated area of any county,

1 except that a city or town located therein with respect to that city or
2 town, or a county with respect to all areas within that county except
3 for such cities or towns, may:

4 (a) Absolutely prohibit(~~(, but may not change the scope of~~
5 license~~,~~)) any or all of the gambling activities for which the license
6 was issued. However, such prohibition enacted after the effective date
7 of this section relating to house-banked social card games may not be
8 repealed for at least three years from the effective date of the
9 ordinance, resolution, or other legislative act enacting the
10 prohibition; or

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

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

17 (3) Until July 1, 2010, an ordinance, resolution, or other
18 legislative act that absolutely prohibits the operation of house-banked
19 social card games under subsection (1)(a) of this section that is
20 adopted by a city or town on or after the effective date of this act is
21 subject to referendum under the referendum procedures of RCW 35A.11.100
22 and 35A.29.170. This subsection does not apply to a legislative act
23 prohibiting house-banked social card games in an annexed territory
24 under section 2(2)(b) of this act.

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

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

35 (a) Allows the relocation of house-banked social card games within
36 all or part of the city, town, or county. If the ordinance,

1 resolution, or other legislative act allows such games in only part of
2 the jurisdiction, it must:

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

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

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

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

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

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

24 (C) A tax-supported public elementary or secondary school or
25 private school meeting the requirements for private schools under Title
26 28A RCW; or

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

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

37 (2) The repeal of a land use zone enacted pursuant to this section
38 may not apply for at least three years from the effective date of such

1 ordinance, resolution, or other legislative act to the holder of a
2 license issued by the commission to conduct house-banked social card
3 games who is conducting such games in that location within the
4 jurisdiction on the date that the repeal took effect.

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

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

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

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

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

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

1 provided in section 2 of this act, the commission shall not deny a
2 license to an otherwise qualified applicant in an effort to limit the
3 number of licenses to be issued(~~(: PROVIDED FURTHER, That)~~). The
4 commission or director shall not issue, deny, suspend, or revoke any
5 license because of considerations of race, sex, creed, color, or
6 national origin(~~(: AND PROVIDED FURTHER, That)~~). The commission may
7 authorize the director to temporarily issue or suspend licenses subject
8 to final action by the commission;

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

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

34 (4) To authorize, require, and issue, for a period not to exceed
35 one year, such licenses as the commission may by rule provide, to any
36 person, association, or organization to engage in the selling,
37 distributing, or otherwise supplying or in the manufacturing of devices

1 for use within this state for those activities authorized by this
2 chapter;

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

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

34 (7) To require that applications for all licenses contain such
35 information as may be required by the commission(~~(~~~~PROVIDED, That)~~).
36 All persons (a) having a managerial or ownership interest in any
37 gambling activity, or the building in which any gambling activity
38 occurs, or the equipment to be used for any gambling activity, or (b)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECT: Changes the date for a card game applicant to be in

operation or have submitted a completed application from March 1, 2007, to March 31, 2007.

Clarifies that the local jurisdiction actions to prohibit card games that are subject to referendum do not include actions to prohibit card games in annexed territory.

--- END ---