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**SUBSTITUTE HOUSE BILL 1652**

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**State of Washington                      52nd Legislature                      1991 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Braddock, Holland, Ebersole, Wilson, Dorn, Lisk, Appelwick, Brumsickle, R. King, Kremen, Prince, Bowman and Day).

Read first time March 6, 1991.

1            AN ACT Relating to video reproduction games; amending RCW  
2 9.46.0311, 9.46.0325, 9.46.070, and 9.46.110; reenacting and amending  
3 RCW 9.46.230; and adding new sections to chapter 9.46 RCW.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 9.46 RCW  
6 to read as follows:

7            "Video card games," as used in this chapter, means video  
8 reproductions of authorized card games that use a fifty-two card or  
9 standard poker card deck that allow only for individual play that meet  
10 all of the requirements and standards as set forth by the commission  
11 and which have been specifically licensed and approved for use within  
12 this state by the commission.

13            **Sec. 2.** RCW 9.46.0311 and 1987 c 4 s 26 are each amended to read  
14 as follows:

1       The legislature hereby authorizes bona fide charitable or nonprofit  
2 organizations to conduct bingo games, raffles, amusement games, and  
3 fund raising events, and to utilize punch boards and pull-tabs and  
4 video card games and to allow their premises and facilities to be used  
5 by only members, their guests, and members of a chapter or unit  
6 organized under the same state, regional, or national charter or  
7 constitution, to play social card games authorized by the commission,  
8 when licensed, conducted or operated pursuant to the provisions of this  
9 chapter and rules and regulations adopted pursuant thereto.

10       **Sec. 3.** RCW 9.46.0325 and 1987 c 4 s 29 are each amended to read  
11 as follows:

12       The legislature hereby authorizes any person, association or  
13 organization operating an established business primarily engaged in the  
14 selling of food or drink for consumption on the premises to conduct  
15 social card games, video card games, and ~~((to utilize))~~ punch boards  
16 and pull-tabs as ~~((a))~~ commercial stimulants to such business when  
17 licensed and utilized or operated pursuant to the provisions of this  
18 chapter and rules and regulations adopted pursuant thereto.

19       Video card games shall have a minimum payout of eighty percent of  
20 amounts played into the machine.

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

23       (1) There is hereby levied a tax on all video card games licensed  
24 within the state of Washington. The rate of this tax shall be ten  
25 percent of the net proceeds from all moneys played into the machine.  
26 Net proceeds shall be determined by subtracting from all proceeds the  
27 cost of prizes paid out. The tax shall be paid to the department of  
28 revenue and shall be deposited as follows: One-half of the receipts

1 shall be placed in the common school construction fund and one-half  
2 shall be placed in the local government account hereby created for  
3 distribution back to the local governments from which it was collected.

4 (2) Fifty percent of the moneys collected under this section shall  
5 be distributed quarterly by the state treasurer to each jurisdiction  
6 based on the revenue collected in that jurisdiction under this section.

7 (3) Chapter 82.04 RCW applies to the tax imposed in this section.  
8 The tax due dates, reporting periods, and return requirements  
9 applicable to chapter 82.32 RCW apply equally to the tax imposed in  
10 this section.

11 **Sec. 5.** RCW 9.46.070 and 1987 c 4 s 38 are each amended to read as  
12 follows:

13 The commission shall have the following powers and duties:

14 (1) To authorize and issue licenses for a period not to exceed one  
15 year to bona fide charitable or nonprofit organizations approved by the  
16 commission meeting the requirements of this chapter and any rules and  
17 regulations adopted pursuant thereto permitting said organizations to  
18 conduct bingo games, raffles, amusement games, ~~((and))~~ social card  
19 games, and video card games, to utilize punch boards and pull-tabs in  
20 accordance with the provisions of this chapter and any rules and  
21 regulations adopted pursuant thereto and to revoke or suspend said  
22 licenses for violation of any provisions of this chapter or any rules  
23 and regulations adopted pursuant thereto: PROVIDED, That the  
24 commission shall not deny a license to an otherwise qualified applicant  
25 in an effort to limit the number of licenses to be issued: PROVIDED  
26 FURTHER, That the commission or director shall not issue, deny, suspend  
27 or revoke any license because of considerations of race, sex, creed,  
28 color, or national origin: AND PROVIDED FURTHER, That the commission

1 may authorize the director to temporarily issue or suspend licenses  
2 subject to final action by the commission;

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

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

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

1 licensees or the cost of administering such other special services,  
2 requirements or programs;

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

5 (7) To require that applications for all licenses contain such  
6 information as may be required by the commission: PROVIDED, That all  
7 persons (a) having a managerial or ownership interest in any gambling  
8 activity, or the building in which any gambling activity occurs, or the  
9 equipment to be used for any gambling activity, or (b) participating as  
10 an employee in the operation of any gambling activity, shall be listed  
11 on the application for the license and the applicant shall certify on  
12 the application, under oath, that the persons named on the application  
13 are all of the persons known to have an interest in any gambling  
14 activity, building, or equipment by the person making such application:  
15 PROVIDED FURTHER, That the commission may require fingerprinting and  
16 background checks on any persons seeking licenses under this chapter or  
17 of any person holding an interest in any gambling activity, building,  
18 or equipment to be used therefor, or of any person participating as an  
19 employee in the operation of any gambling activity;

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;

1 (10) To regulate and establish maximum limitations on income  
2 derived from bingo: PROVIDED, That in establishing limitations  
3 pursuant to this subsection the commission shall take into account (i)  
4 the nature, character, and scope of the activities of the licensee;  
5 (ii) the source of all other income of the licensee; and (iii) the  
6 percentage or extent to which income derived from bingo is used for  
7 charitable, as distinguished from nonprofit, purposes;

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

13 (12) To regulate the collection of and the accounting for the fee  
14 which may be imposed by an organization, corporation or person licensed  
15 to conduct a social card game on a person desiring to become a player  
16 in a social card game in accordance with RCW 9.46.0281(4);

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

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

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

28 (16) To establish and regulate a maximum limit on salaries or wages  
29 which may be paid to persons employed in connection with activities  
30 conducted by bona fide charitable or nonprofit organizations and

1 authorized by this chapter, where payment of such persons is allowed,  
2 and to regulate and establish maximum limits for other expenses in  
3 connection with such authorized activities, including but not limited  
4 to rent or lease payments((~~-~~))i

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

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

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

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

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

10 **Sec. 6.** RCW 9.46.110 and 1987 c 4 s 39 are each amended to read as  
11 follows:

12 The legislative authority of any county, city-county, city, or  
13 town, by local law and ordinance, and in accordance with the provisions  
14 of this chapter and rules and regulations promulgated hereunder, may  
15 provide for the taxing of any gambling activity authorized by this  
16 chapter within its jurisdiction, the tax receipts to go to the county,  
17 city-county, city, or town so taxing the same: PROVIDED, That any such  
18 tax imposed by a county alone shall not apply to any gambling activity  
19 within a city or town located therein but the tax rate established by  
20 a county, if any, shall constitute the tax rate throughout the  
21 unincorporated areas of such county: PROVIDED FURTHER, That (1) punch  
22 boards and pull-tabs, chances on which shall only be sold to adults,  
23 which shall have a fifty cent limit on a single chance thereon, shall  
24 be taxed on a basis which shall reflect only the gross receipts from  
25 such punch boards and pull-tabs; and (2) no punch board or pull-tab may  
26 award as a prize upon a winning number or symbol being drawn the  
27 opportunity of taking a chance upon any other punch board or pull-tab;  
28 and (3) all prizes for punch boards and pull-tabs must be on display  
29 within the immediate area of the premises wherein any such punch board

1 or pull-tab is located and upon a winning number or symbol being drawn,  
2 such prize must be immediately removed therefrom, or such omission  
3 shall be deemed a fraud for the purposes of this chapter; and (4) when  
4 any person shall win over twenty dollars in money or merchandise from  
5 any punch board or pull-tab, every licensee hereunder shall keep a  
6 public record thereof for at least ninety days thereafter containing  
7 such information as the commission shall deem necessary: AND PROVIDED  
8 FURTHER, That taxation of bingo and raffles shall never be in an amount  
9 greater than ten percent of the gross revenue received therefrom less  
10 the amount paid for or as prizes. Taxation of amusement games shall  
11 only be in an amount sufficient to pay the actual costs of enforcement  
12 of the provisions of this chapter by the county, city or town law  
13 enforcement agency and in no event shall such taxation exceed two  
14 percent of the gross revenue therefrom less the amount paid for as  
15 prizes: PROVIDED FURTHER, That no tax shall be imposed under the  
16 authority of this chapter on bingo, raffles or amusement games when  
17 such activities or any combination thereof are conducted by any bona  
18 fide charitable or nonprofit organization as defined in this chapter,  
19 which organization has no paid operating or management personnel and  
20 has gross income from bingo, raffles or amusement games, or any  
21 combination thereof, not exceeding five thousand dollars per year less  
22 the amount paid for as prizes. Taxation of punch boards and pull-tabs  
23 shall not exceed five percent of gross receipts(~~(, nor shall)~~).  
24 Taxation of social card games shall not exceed twenty percent of the  
25 gross revenue from such games.

26 **Sec. 7.** RCW 9.46.230 and 1987 s 139 c 202 and 1987 c 4 s 43 are  
27 each reenacted and amended to read as follows:

28 (1) Except as authorized under RCW 9.46.0325, all gambling devices  
29 as defined in this chapter are common nuisances and shall be subject to

1 seizure, immediately upon detection by any peace officer, and to  
2 confiscation and destruction by order of a superior or district court,  
3 except when in the possession of officers enforcing this chapter.

4 (2) No property right in any gambling device shall exist or be  
5 recognized in any person, except the possessory right of officers  
6 enforcing this chapter.

7 (3) All furnishings, fixtures, equipment, and stock, including  
8 without limitation furnishings and fixtures adaptable to nongambling  
9 uses and equipment and stock for printing, recording, computing,  
10 transporting, or safekeeping, used in connection with professional  
11 gambling or maintaining a gambling premises, and all money or other  
12 things of value at stake or displayed in or in connection with  
13 professional gambling or any gambling device used therein, shall be  
14 subject to seizure, immediately upon detection, by any peace officer,  
15 and unless good cause is shown to the contrary by the owner, shall be  
16 forfeited to the state or political subdivision by which seized by  
17 order of a court having jurisdiction, for disposition by public auction  
18 or as otherwise provided by law. Bona fide liens against property so  
19 forfeited, on good cause shown by the lienor, shall be transferred from  
20 the property to the proceeds of the sale of the property. Forfeit  
21 moneys and other proceeds realized from the enforcement of this  
22 subsection shall be paid into the general fund of the state if the  
23 property was seized by officers thereof or to the political subdivision  
24 or other public agency, if any, whose officers made the seizure, except  
25 as otherwise provided by law. This subsection shall not apply to such  
26 items which are actually being used by, or being held for use by, a  
27 person licensed by the commission or who is otherwise authorized by  
28 this chapter or by commission rule to conduct gambling activities  
29 without a license in connection with gambling activities authorized by  
30 this section when:

1 (a) The person is acting in conformance with the provisions of  
2 chapter 9.46 RCW, as now or hereafter amended, and the rules and  
3 regulations adopted pursuant thereto; and

4 (b) The items are of the type and kind traditionally and usually  
5 employed in connection with the particular activity. Nor shall this  
6 subsection apply to any act or acts in furtherance of such activities  
7 when conducted in compliance with the provisions of this chapter and in  
8 accordance with the rules and regulations adopted pursuant thereto.

9 (4) Whoever knowingly owns, manufactures, possesses, buys, sells,  
10 rents, leases, finances, holds a security interest in, stores, repairs,  
11 or transports any gambling device or offers or solicits any interest  
12 therein, whether through an agent or employee or otherwise, shall be  
13 guilty of a felony and fined not more than one hundred thousand dollars  
14 or imprisoned not more than five years or both: PROVIDED, HOWEVER,  
15 That this subsection shall not apply to persons licensed by the  
16 commission, or who are otherwise authorized by this chapter, or by  
17 commission rule, to conduct gambling activities without a license,  
18 respecting devices which are to be used, or are being used, solely in  
19 that activity for which the license was issued, or for which the person  
20 has been otherwise authorized when:

21 (a) The person is acting in conformance with the provisions of  
22 chapter 9.46 RCW, as now or hereafter amended, and the rules and  
23 regulations adopted pursuant thereto; and

24 (b) The devices are a type and kind traditionally and usually  
25 employed in connection with the particular activity. Nor shall this  
26 subsection apply to any act or acts by such persons in furtherance of  
27 the activity for which the license was issued, or for which the person  
28 is authorized, when such activity is conducted in compliance with the  
29 provisions of this chapter, as now or hereafter amended, and in  
30 accordance with the rules and regulations adopted pursuant thereto.

1 Subsection (2) of this section shall have no application in the  
2 enforcement of this subsection. In the enforcement of this subsection  
3 direct possession of any such gambling device shall be presumed to be  
4 knowing possession thereof.

5 (5) Whoever knowingly prints, makes, possesses, stores, or  
6 transports any gambling record, or buys, sells, offers, or solicits any  
7 interest therein, whether through an agent or employee or otherwise,  
8 shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this  
9 subsection shall not apply to records relating to and kept for  
10 activities authorized by this chapter when the records are of the type  
11 and kind traditionally and usually employed in connection with the  
12 particular activity. Nor shall this subsection apply to any act or  
13 acts in furtherance of such activities when conducted in compliance  
14 with the provisions of this chapter and in accordance with the rules  
15 and regulations adopted pursuant thereto. In the enforcement of this  
16 subsection direct possession of any such gambling record shall be  
17 presumed to be knowing possession thereof.