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**SENATE BILL 6436**

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**State of Washington**                      **52nd Legislature**                      **1992 Regular Session**

**By** Senators Matson, Moore, McMullen, Amondson and Vognild

Read first time 01/30/92. Referred to Committee on Commerce & Labor.

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 allow only for individual  
9 play that meet all of the requirements and standards as set forth by  
10 the commission and which have been specifically licensed and approved  
11 for use within this state by the commission.

12            **Sec. 2.** RCW 9.46.0311 and 1987 c 4 s 26 are each amended to read  
13 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 into the state general  
28 fund.

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

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

7 The commission shall have the following powers and duties:

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

24 (2) To authorize and issue licenses for a period not to exceed one  
25 year to any person, association, or organization operating a business  
26 primarily engaged in the selling of items of food or drink for  
27 consumption on the premises, approved by the commission meeting the  
28 requirements of this chapter and any rules and regulations adopted  
29 pursuant thereto permitting said person, association, or organization

1 to utilize punch boards and pull-tabs, video card games, and ((to  
2 ~~conduct~~)) social card games as ((a)) commercial stimulants in  
3 accordance with the provisions of this chapter and any rules and  
4 regulations adopted pursuant thereto and to revoke or suspend said  
5 licenses for violation of any provisions of this chapter and any rules  
6 and regulations adopted pursuant thereto: PROVIDED, That the  
7 commission shall not deny a license to an otherwise qualified applicant  
8 in an effort to limit the number of licenses to be issued: PROVIDED  
9 FURTHER, That the commission may authorize the director to temporarily  
10 issue or suspend licenses subject to final action by the commission;

11 (3) To authorize and issue licenses for a period not to exceed one  
12 year to any person, association, or organization approved by the  
13 commission meeting the requirements of this chapter and meeting the  
14 requirements of any rules and regulations adopted by the commission  
15 pursuant to this chapter as now or hereafter amended, permitting said  
16 person, association, or organization to conduct or operate amusement  
17 games in such manner and at such locations as the commission may  
18 determine;

19 (4) To authorize, require, and issue, for a period not to exceed  
20 one year, such licenses as the commission may by rule provide, to any  
21 person, association, or organization to engage in the selling,  
22 distributing, or otherwise supplying or in the manufacturing of devices  
23 for use within this state for those activities authorized by this  
24 chapter;

25 (5) To establish a schedule of annual license fees for carrying on  
26 specific gambling activities upon the premises, and for such other  
27 activities as may be licensed by the commission, which fees shall  
28 provide to the commission not less than an amount of money adequate to  
29 cover all costs incurred by the commission relative to licensing under  
30 this chapter and the enforcement by the commission of the provisions of

1 this chapter and rules and regulations adopted pursuant thereto:  
2 PROVIDED, That all licensing fees shall be submitted with an  
3 application therefor and such portion of said fee as the commission may  
4 determine, based upon its cost of processing and investigation, shall  
5 be retained by the commission upon the withdrawal or denial of any such  
6 license application as its reasonable expense for processing the  
7 application and investigation into the granting thereof: PROVIDED  
8 FURTHER, That if in a particular case the basic license fee established  
9 by the commission for a particular class of license is less than the  
10 commission's actual expenses to investigate that particular  
11 application, the commission may at any time charge to that applicant  
12 such additional fees as are necessary to pay the commission for those  
13 costs. The commission may decline to proceed with its investigation  
14 and no license shall be issued until the commission has been fully paid  
15 therefor by the applicant: AND PROVIDED FURTHER, That the commission  
16 may establish fees for the furnishing by it to licensees of  
17 identification stamps to be affixed to such devices and equipment as  
18 required by the commission and for such other special services or  
19 programs required or offered by the commission, the amount of each of  
20 these fees to be not less than is adequate to offset the cost to the  
21 commission of the stamps and of administering their dispersal to  
22 licensees or the cost of administering such other special services,  
23 requirements or programs;

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

26 (7) To require that applications for all licenses contain such  
27 information as may be required by the commission: PROVIDED, That all  
28 persons (a) having a managerial or ownership interest in any gambling  
29 activity, or the building in which any gambling activity occurs, or the  
30 equipment to be used for any gambling activity, or (b) participating as

1 an employee in the operation of any gambling activity, shall be listed  
2 on the application for the license and the applicant shall certify on  
3 the application, under oath, that the persons named on the application  
4 are all of the persons known to have an interest in any gambling  
5 activity, building, or equipment by the person making such application:  
6 PROVIDED FURTHER, That the commission may require fingerprinting and  
7 background checks on any persons seeking licenses under this chapter or  
8 of any person holding an interest in any gambling activity, building,  
9 or equipment to be used therefor, or of any person participating as an  
10 employee in the operation of any gambling activity;

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

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

21 (10) To regulate and establish maximum limitations on income  
22 derived from bingo: PROVIDED, That in establishing limitations  
23 pursuant to this subsection the commission shall take into account (i)  
24 the nature, character, and scope of the activities of the licensee;  
25 (ii) the source of all other income of the licensee; and (iii) the  
26 percentage or extent to which income derived from bingo is used for  
27 charitable, as distinguished from nonprofit, purposes;

28 (11) To regulate and establish the type and scope of and manner of  
29 conducting the gambling activities authorized by this chapter,  
30 including but not limited to, the extent of wager, money, or other

1 thing of value which may be wagered or contributed or won by a player  
2 in any such activities;

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

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

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

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

18 (16) To establish and regulate a maximum limit on salaries or wages  
19 which may be paid to persons employed in connection with activities  
20 conducted by bona fide charitable or nonprofit organizations and  
21 authorized by this chapter, where payment of such persons is allowed,  
22 and to regulate and establish maximum limits for other expenses in  
23 connection with such authorized activities, including but not limited  
24 to rent or lease payments(~~(-)~~);

25 In establishing these maximum limits the commission shall take into  
26 account the amount of income received, or expected to be received, from  
27 the class of activities to which the limits will apply and the amount  
28 of money the games could generate for authorized charitable or  
29 nonprofit purposes absent such expenses. The commission may also take  
30 into account, in its discretion, other factors, including but not

1 limited to, the local prevailing wage scale and whether charitable  
2 purposes are benefited by the activities;

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

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

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

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

1       **Sec. 6.** RCW 9.46.110 and 1991 c 161 s 1 are each amended to read  
2 as follows:

3       The legislative authority of any county, city-county, city, or  
4 town, by local law and ordinance, and in accordance with the provisions  
5 of this chapter and rules and regulations promulgated hereunder, may  
6 provide for the taxing of any gambling activity authorized by this  
7 chapter within its jurisdiction, the tax receipts to go to the county,  
8 city-county, city, or town so taxing the same: PROVIDED, That any such  
9 tax imposed by a county alone shall not apply to any gambling activity  
10 within a city or town located therein but the tax rate established by  
11 a county, if any, shall constitute the tax rate throughout the  
12 unincorporated areas of such county: PROVIDED FURTHER, That (1) punch  
13 boards and pull-tabs, chances on which shall only be sold to adults,  
14 which shall have a fifty cent limit on a single chance thereon, shall  
15 be taxed on a basis which shall reflect only the gross receipts from  
16 such punch boards and pull-tabs; and (2) no punch board or pull-tab may  
17 award as a prize upon a winning number or symbol being drawn the  
18 opportunity of taking a chance upon any other punch board or pull-tab;  
19 and (3) all prizes for punch boards and pull-tabs must be on display  
20 within the immediate area of the premises wherein any such punch board  
21 or pull-tab is located and upon a winning number or symbol being drawn,  
22 such prize must be immediately removed therefrom, or such omission  
23 shall be deemed a fraud for the purposes of this chapter; and (4) when  
24 any person shall win over twenty dollars in money or merchandise from  
25 any punch board or pull-tab, every licensee hereunder shall keep a  
26 public record thereof for at least ninety days thereafter containing  
27 such information as the commission shall deem necessary: AND PROVIDED  
28 FURTHER, That taxation of bingo and raffles shall never be in an amount  
29 greater than ten percent of the gross revenue received therefrom less  
30 the amount paid for or as prizes. Taxation of amusement games shall

1 only be in an amount sufficient to pay the actual costs of enforcement  
2 of the provisions of this chapter by the county, city or town law  
3 enforcement agency and in no event shall such taxation exceed two  
4 percent of the gross revenue therefrom less the amount paid for as  
5 prizes: PROVIDED FURTHER, That no tax shall be imposed under the  
6 authority of this chapter on bingo or amusement games when such  
7 activities or any combination thereof are conducted by any bona fide  
8 charitable or nonprofit organization as defined in this chapter, which  
9 organization has no paid operating or management personnel and has  
10 gross income from bingo or amusement games, or a combination thereof,  
11 not exceeding five thousand dollars per year, less the amount paid for  
12 as prizes. No tax shall be imposed on the first ten thousand dollars  
13 of net proceeds from raffles conducted by any bona fide charitable or  
14 nonprofit organization as defined in this chapter. Taxation of punch  
15 boards and pull-tabs shall not exceed five percent of gross receipts(~~(7~~  
16 ~~nor shall~~)). Taxation of social card games shall not exceed twenty  
17 percent of the gross revenue from such games.

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

20 (1) Except as authorized under RCW 9.46.0325, all gambling devices  
21 as defined in this chapter are common nuisances and shall be subject to  
22 seizure, immediately upon detection by any peace officer, and to  
23 confiscation and destruction by order of a superior or district court,  
24 except when in the possession of officers enforcing this chapter.

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

28 (3) All furnishings, fixtures, equipment, and stock, including  
29 without limitation furnishings and fixtures adaptable to nongambling

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

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

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

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

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

16 (b) The devices are a type and kind traditionally and usually  
17 employed in connection with the particular activity. Nor shall this  
18 subsection apply to any act or acts by such persons in furtherance of  
19 the activity for which the license was issued, or for which the person  
20 is authorized, when such activity is conducted in compliance with the  
21 provisions of this chapter, as now or hereafter amended, and in  
22 accordance with the rules and regulations adopted pursuant thereto.  
23 Subsection (2) of this section shall have no application in the  
24 enforcement of this subsection. In the enforcement of this subsection  
25 direct possession of any such gambling device shall be presumed to be  
26 knowing possession thereof.

27 (5) Whoever knowingly prints, makes, possesses, stores, or  
28 transports any gambling record, or buys, sells, offers, or solicits any  
29 interest therein, whether through an agent or employee or otherwise,  
30 shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this

1 subsection shall not apply to records relating to and kept for  
2 activities authorized by this chapter when the records are of the type  
3 and kind traditionally and usually employed in connection with the  
4 particular activity. Nor shall this subsection apply to any act or  
5 acts in furtherance of such activities when conducted in compliance  
6 with the provisions of this chapter and in accordance with the rules  
7 and regulations adopted pursuant thereto. In the enforcement of this  
8 subsection direct possession of any such gambling record shall be  
9 presumed to be knowing possession thereof.