

2 **2SHB 2228** - S COMM AMD  
3 By Committee on Labor & Commerce

4 ADOPTED 3/4/94

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature intends with this act to  
8 clarify the state's public policy on gambling regarding the frequency  
9 of state lottery drawings, the means of addressing problem and  
10 compulsive gambling, and the enforcement of the state's gambling laws.  
11 This act is intended to clarify the specific types of games prohibited  
12 in chapter 9.46 RCW and is not intended to add to existing law  
13 regarding prohibited activities. The legislature recognizes that slot  
14 machines, video pull-tabs, video poker, and other electronic games of  
15 chance have been considered to be gambling devices before the effective  
16 date of this act.

17 **Sec. 2.** RCW 9.46.010 and 1975 1st ex.s. c 259 s 1 are each amended  
18 to read as follows:

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

23 It is hereby declared to be the policy of the legislature,  
24 recognizing the close relationship between professional gambling and  
25 organized crime, to restrain all persons from seeking profit from  
26 professional gambling activities in this state; to restrain all persons  
27 from patronizing such professional gambling activities; to safeguard  
28 the public against the evils induced by common gamblers and common  
29 gambling houses engaged in professional gambling; and at the same time,  
30 both to preserve the freedom of the press and to avoid restricting  
31 participation by individuals in activities and social pastimes, which  
32 activities and social pastimes are more for amusement rather than for  
33 profit, do not maliciously affect the public, and do not breach the  
34 peace.

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

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

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

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

20 **Sec. 3.** RCW 67.70.010 and 1987 c 511 s 1 are each amended to read  
21 as follows:

22 For the purposes of this chapter:

23 (1) "Commission" means the state lottery commission established by  
24 this chapter;

25 (2) (~~("Lottery" or "state lottery" means the lottery established  
26 and operated pursuant to this chapter;~~

27 (3)) "Director" means the director of the state lottery  
28 established by this chapter;

29 (3) "Lottery" or "state lottery" means the lottery established and  
30 operated pursuant to this chapter;

31 (4) "On-line game" means a lottery game in which a player pays a  
32 fee to a lottery retailer and selects a combination of digits, numbers,  
33 or symbols, type and amount of play, and receives a computer-generated  
34 ticket with those selections, and the lottery separately draws or  
35 selects the winning combination or combinations.

36 **Sec. 4.** RCW 67.70.040 and 1991 c 359 s 1 are each amended to read  
37 as follows:

1 The commission shall have the power, and it shall be its duty:

2 (1) To promulgate such rules governing the establishment and  
3 operation of a state lottery as it deems necessary and desirable in  
4 order that such a lottery be initiated at the earliest feasible and  
5 practicable time, and in order that such lottery produce the maximum  
6 amount of net revenues for the state consonant with the dignity of the  
7 state and the general welfare of the people. Such rules shall include,  
8 but shall not be limited to, the following:

9 (a) The type of lottery to be conducted which may include the  
10 selling of tickets or shares. The use of electronic or mechanical  
11 devices or video terminals which allow for individual play against such  
12 devices or terminals shall be prohibited. Approval of the legislature  
13 shall be required before entering any agreement with other state  
14 lotteries to conduct shared games;

15 (b) The price, or prices, of tickets or shares in the lottery;

16 (c) The numbers and sizes of the prizes on the winning tickets or  
17 shares;

18 (d) The manner of selecting the winning tickets or shares;

19 (e) The manner and time of payment of prizes to the holder of  
20 winning tickets or shares which, at the director's option, may be paid  
21 in lump sum amounts or installments over a period of years;

22 (f) The frequency of the drawings or selections of winning tickets  
23 or shares(~~(, without limitation)~~). Approval of the legislature is  
24 required before conducting any on-line game in which the drawing or  
25 selection of winning tickets occurs more frequently than once every  
26 twenty-four hours;

27 (g) Without limit as to number, the type or types of locations at  
28 which tickets or shares may be sold;

29 (h) The method to be used in selling tickets or shares;

30 (i) The licensing of agents to sell or distribute tickets or  
31 shares, except that a person under the age of eighteen shall not be  
32 licensed as an agent;

33 (j) The manner and amount of compensation, if any, to be paid  
34 licensed sales agents necessary to provide for the adequate  
35 availability of tickets or shares to prospective buyers and for the  
36 convenience of the public;

37 (k) The apportionment of the total revenues accruing from the sale  
38 of lottery tickets or shares and from all other sources among: (i) The  
39 payment of prizes to the holders of winning tickets or shares, which

1 shall not be less than forty-five percent of the gross annual revenue  
2 from such lottery, (~~less amounts of unclaimed prizes deposited in the~~  
3 ~~general fund under RCW 67.70.190 during the fiscal year ending June 30,~~  
4 ~~1989,~~) (ii) transfers to the lottery administrative account created by  
5 RCW 67.70.260, and (iii) transfer to the state's general fund.  
6 Transfers to the state general fund shall be made in compliance with  
7 RCW 43.01.050;

8 (1) Such other matters necessary or desirable for the efficient and  
9 economical operation and administration of the lottery and for the  
10 convenience of the purchasers of tickets or shares and the holders of  
11 winning tickets or shares.

12 (2) To ensure that in each place authorized to sell lottery tickets  
13 or shares, on the back of the ticket or share, and in any advertising  
14 or promotion there shall be conspicuously displayed an estimate of the  
15 probability of purchasing a winning ticket.

16 (3) To amend, repeal, or supplement any such rules from time to  
17 time as it deems necessary or desirable.

18 (4) To advise and make recommendations to the director for the  
19 operation and administration of the lottery.

20 **Sec. 5.** RCW 67.70.190 and 1988 c 289 s 802 are each amended to  
21 read as follows:

22 (~~(1)~~) Unclaimed prizes shall be retained in the state lottery  
23 account for the person entitled thereto for one hundred eighty days  
24 after the drawing in which the prize is won, or after the official end  
25 of the game for instant prizes. If no claim is made for the prize  
26 within this time, the prize shall be retained in the state lottery fund  
27 for further use as prizes(~~, except as provided in subsection (2) of~~  
28 ~~this section~~), and all rights to the prize shall be extinguished.

29 (~~(2) During the fiscal year ending June 30, 1989, moneys from~~  
30 ~~unclaimed prizes shall be used as follows:~~

31 (a) ~~Fifty percent of the moneys, not exceeding one million dollars,~~  
32 ~~shall be deposited quarterly in the general fund.~~

33 (b) ~~The remainder of the moneys shall be retained in the state~~  
34 ~~lottery account for further use as prizes.)~~

35 NEW SECTION. **Sec. 6.** The legislature recognizes that some  
36 individuals in this state are problem or compulsive gamblers. Because  
37 the state promotes and regulates gambling through the activities of the

1 state lottery commission, the Washington horse racing commission, and  
2 the Washington state gambling commission, the state has the  
3 responsibility to continue to provide resources for the support of  
4 services for problem and compulsive gamblers. Therefore, the  
5 Washington state gambling commission, the Washington horse racing  
6 commission, and the state lottery commission shall jointly develop  
7 informational signs concerning problem and compulsive gambling which  
8 include a toll-free hot line number for problem and compulsive  
9 gamblers. The signs shall be placed in the establishments of gambling  
10 licensees, horse racing licensees, and lottery retailers.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 9.46 RCW  
12 to read as follows:

13 (1) The following are subject to seizure and forfeiture and no  
14 property right exists in them:

15 (a) All gambling devices as defined in this chapter;

16 (b) All furnishings, fixtures, equipment, and stock, including  
17 without limitation furnishings and fixtures adaptable to nongambling  
18 uses and equipment and stock for printing, recording, computing,  
19 transporting, or safekeeping, used in connection with professional  
20 gambling or maintaining a gambling premises;

21 (c) All conveyances, including aircraft, vehicles, or vessels, that  
22 are used, or intended for use, in any manner to facilitate the sale,  
23 delivery, receipt, or operation of any gambling device, or the  
24 promotion or operation of a professional gambling activity, except  
25 that:

26 (i) A conveyance used by any person as a common carrier in the  
27 transaction of business as a common carrier is not subject to  
28 forfeiture under this section unless it appears that the owner or other  
29 person in charge of the conveyance is a consenting party or privy to a  
30 violation of this chapter;

31 (ii) A conveyance is not subject to forfeiture under this section  
32 by reason of any act or omission established by the owner thereof to  
33 have been committed or omitted without the owner's knowledge or  
34 consent;

35 (iii) A forfeiture of a conveyance encumbered by a bona fide  
36 security interest is subject to the interest of the secured party if  
37 the secured party neither had knowledge of nor consented to the act or  
38 omission; and

1 (iv) If the owner of a conveyance has been arrested under this  
2 chapter the conveyance in which the person is arrested may not be  
3 subject to forfeiture unless it is seized or process is issued for its  
4 seizure within ten days of the owner's arrest;

5 (d) All books, records, and research products and materials,  
6 including formulas, microfilm, tapes, and electronic data that are  
7 used, or intended for use, in violation of this chapter;

8 (e) All moneys, negotiable instruments, securities, or other  
9 tangible or intangible property of value at stake or displayed in or in  
10 connection with professional gambling activity or furnished or intended  
11 to be furnished by any person to facilitate the promotion or operation  
12 of a professional gambling activity;

13 (f) All tangible or intangible personal property, proceeds, or  
14 assets acquired in whole or in part with proceeds traceable to  
15 professional gambling activity and all moneys, negotiable instruments,  
16 and securities used or intended to be used to facilitate any violation  
17 of this chapter. A forfeiture of money, negotiable instruments,  
18 securities, or other tangible or intangible property encumbered by a  
19 bona fide security interest is subject to the interest of the secured  
20 party if, at the time the security interest was created, the secured  
21 party neither had knowledge of nor consented to the act or omission.  
22 Personal property may not be forfeited under this subsection (1)(f), to  
23 the extent of the interest of an owner, by reason of any act or  
24 omission that that owner establishes was committed or omitted without  
25 the owner's knowledge or consent; and

26 (g) All real property, including any right, title, and interest in  
27 the whole of any lot or tract of land, and any appurtenances or  
28 improvements that:

29 (i) Have been used with the knowledge of the owner for the  
30 manufacturing, processing, delivery, importing, or exporting of any  
31 illegal gambling equipment, or operation of a professional gambling  
32 activity that would constitute a felony violation of this chapter; or

33 (ii) Have been acquired in whole or in part with proceeds traceable  
34 to a professional gambling activity, if the activity is not less than  
35 a class C felony.

36 Real property forfeited under this chapter that is encumbered by a  
37 bona fide security interest remains subject to the interest of the  
38 secured party if the secured party, at the time the security interest  
39 was created, neither had knowledge of nor consented to the act or

1 omission. Property may not be forfeited under this subsection, to the  
2 extent of the interest of an owner, by reason of any act or omission  
3 committed or omitted without the owner's knowledge or consent.

4 (2)(a) A law enforcement officer of this state may seize real or  
5 personal property subject to forfeiture under this chapter upon process  
6 issued by any superior court having jurisdiction over the property.  
7 Seizure of real property includes the filing of a lis pendens by the  
8 seizing agency. Real property seized under this section may not be  
9 transferred or otherwise conveyed until ninety days after seizure or  
10 until a judgment of forfeiture is entered, whichever is later, but real  
11 property seized under this section may be transferred or conveyed to  
12 any person or entity who acquires title by foreclosure or deed in lieu  
13 of foreclosure of a bona fide security interest.

14 (b) Seizure of personal property without process may be made if:

15 (i) The seizure is incident to an arrest or a search under a search  
16 warrant or an inspection under an administrative inspection warrant;

17 (ii) The property subject to seizure has been the subject of a  
18 prior judgment in favor of the state in a criminal injunction or  
19 forfeiture proceeding based upon this chapter;

20 (iii) A law enforcement officer has probable cause to believe that  
21 the property is directly or indirectly dangerous to health or safety;  
22 or

23 (iv) The law enforcement officer has probable cause to believe that  
24 the property was used or is intended to be used in violation of this  
25 chapter.

26 (3) In the event of seizure under subsection (2) of this section,  
27 proceedings for forfeiture are deemed commenced by the seizure. The  
28 law enforcement agency under whose authority the seizure was made shall  
29 cause notice to be served within fifteen days following the seizure on  
30 the owner of the property seized and the person in charge thereof and  
31 any person having any known right or interest therein, including any  
32 community property interest, of the seizure and intended forfeiture of  
33 the seized property. Service of notice of seizure of real property  
34 must be made according to the rules of civil procedure. However, the  
35 state may not obtain a default judgment with respect to real property  
36 against a party who is served by substituted service absent an  
37 affidavit stating that a good faith effort has been made to ascertain  
38 if the defaulted party is incarcerated within the state, and that there  
39 is no present basis to believe that the party is incarcerated within

1 the state. Notice of seizure in the case of property subject to a  
2 security interest that has been perfected by filing a financing  
3 statement in accordance with chapter 62A.9 RCW, or a certificate of  
4 title, must be made by service upon the secured party or the secured  
5 party's assignee at the address shown on the financing statement or the  
6 certificate of title. The notice of seizure in other cases may be  
7 served by any method authorized by law or court rule including but not  
8 limited to service by certified mail with return receipt requested.  
9 Service by mail is deemed complete upon mailing within the fifteen-day  
10 period following the seizure.

11 (4) If no person notifies the seizing law enforcement agency in  
12 writing of the person's claim of ownership or right to possession of  
13 items specified in subsection (1) (c), (e), (f), or (g) of this section  
14 within forty-five days of the seizure in the case of personal property  
15 and ninety days in the case of real property, the item seized is deemed  
16 forfeited. The community property interest in real property of a  
17 person whose spouse committed a violation giving rise to seizure of the  
18 real property may not be forfeited if the person did not participate in  
19 the violation.

20 (5) If any person notifies the seizing law enforcement agency in  
21 writing of the person's claim of ownership or right to possession of  
22 items specified in subsection (1) (b), (c), (d), (e), (f), or (g) of  
23 this section within forty-five days of the seizure in the case of  
24 personal property and ninety days in the case of real property, the  
25 person or persons must be afforded a reasonable opportunity to be heard  
26 as to the claim or right. The hearing must be before the chief law  
27 enforcement officer of the seizing agency or the chief law enforcement  
28 officer's designee, except if the seizing agency is a state agency as  
29 defined in RCW 34.12.020(4), the hearing must be before the chief law  
30 enforcement officer of the seizing agency or an administrative law  
31 judge appointed under chapter 34.12 RCW, except that any person  
32 asserting a claim or right may remove the matter to a court of  
33 competent jurisdiction. Removal of any matter involving personal  
34 property may only be accomplished according to the rules of civil  
35 procedure. The person seeking removal of the matter must serve process  
36 against the state, county, political subdivision, or municipality that  
37 operates the seizing agency, and any other party of interest, in  
38 accordance with RCW 4.28.080 or 4.92.020, within forty-five days after  
39 the person seeking removal has notified the seizing law enforcement



1 agency of the person's claim of ownership or right to possession. The  
2 court to which the matter is to be removed must be the district court  
3 if the aggregate value of personal property is within the  
4 jurisdictional limit set forth in RCW 3.66.020. A hearing before the  
5 seizing agency and any appeal therefrom must be under Title 34 RCW. In  
6 a court hearing between two or more claimants to the article or  
7 articles involved, the prevailing party is entitled to a judgment for  
8 costs and reasonable attorneys' fees. In cases involving personal  
9 property, the burden of producing evidence is upon the person claiming  
10 to be the lawful owner or the person claiming to have the lawful right  
11 to possession of the property. In cases involving real property, the  
12 burden of producing evidence is upon the law enforcement agency. The  
13 burden of proof that the seized real property is subject to forfeiture  
14 is upon the law enforcement agency. The seizing law enforcement agency  
15 shall promptly return the article or articles to the claimant upon a  
16 final determination by the administrative law judge or court that the  
17 claimant is the present lawful owner or is lawfully entitled to  
18 possession thereof of items specified in subsection (1) (b), (c), (d),  
19 (e), (f), or (g) of this section.

20 (6) If property is forfeited under this chapter the seizing law  
21 enforcement agency may:

22 (a) Retain it for official use or upon application by any law  
23 enforcement agency of this state release the property to the agency for  
24 training or use in enforcing this chapter;

25 (b) Sell that which is not required to be destroyed by law and  
26 which is not harmful to the public; or

27 (c) Destroy any articles that may not be lawfully possessed within  
28 the state of Washington, or that have a fair market value of less than  
29 one hundred dollars.

30 (7)(a) If property is forfeited, the seizing agency shall keep a  
31 record indicating the identity of the prior owner, if known, a  
32 description of the property, the disposition of the property, the value  
33 of the property at the time of seizure, and the amount of proceeds  
34 realized from disposition of the property. The net proceeds of  
35 forfeited property is the value of the forfeitable interest in the  
36 property after deducting the cost of satisfying any bona fide security  
37 interest to which the property is subject at the time of seizure, and  
38 in the case of sold property, after deducting the cost of sale,

1 including reasonable fees or commissions paid to independent selling  
2 agents.

3 (b) Each seizing agency shall retain records of forfeited property  
4 for at least seven years.

5 (c) Each seizing agency shall file a report including a copy of the  
6 records of forfeited property with the state treasurer the calendar  
7 quarter after the end of the fiscal year.

8 (d) The annual report need not include a record of forfeited  
9 property that is still being held for use as evidence during the  
10 investigation or prosecution of a case or during the appeal from a  
11 conviction.

12 (8) The seizing law enforcement agency shall retain forfeited  
13 property and net proceeds exclusively for the expansion and improvement  
14 of gambling-related law enforcement activity. Money retained under  
15 this section may not be used to supplant preexisting funding sources.

16 (9) Gambling devices that are possessed, transferred, sold, or  
17 offered for sale in violation of this chapter are contraband and must  
18 be seized and summarily forfeited to the state. Gambling equipment  
19 that is seized or comes into the possession of a law enforcement  
20 agency, the owners of which are unknown, are contraband and must be  
21 summarily forfeited to the state.

22 (10) Upon the entry of an order of forfeiture of real property, the  
23 court shall forward a copy of the order to the assessor of the county  
24 in which the property is located. The superior court shall enter  
25 orders for the forfeiture of real property, subject to court rules.  
26 The seizing agency shall file such an order in the county auditor's  
27 records in the county in which the real property is located.

28 (11)(a) A landlord may assert a claim against proceeds from the  
29 sale of assets seized and forfeited under subsection (6)(b) of this  
30 section, only if:

31 (i) A law enforcement officer, while acting in his or her official  
32 capacity, directly caused damage to the complaining landlord's property  
33 while executing a search of a tenant's residence; and

34 (ii) The landlord has applied any funds remaining in the tenant's  
35 deposit, to which the landlord has a right under chapter 59.18 RCW, to  
36 cover the damage directly caused by a law enforcement officer before  
37 asserting a claim under this section.

38 (A) Only if the funds applied under (a)(ii) of this subsection are  
39 insufficient to satisfy the damage directly caused by a law enforcement

1 officer, may the landlord seek compensation for the damage by filing a  
2 claim against the governmental entity under whose authority the law  
3 enforcement agency operates within thirty days after the search; and

4 (B) Only if the governmental entity denies or fails to respond to  
5 the landlord's claim within sixty days of the date of filing, may the  
6 landlord collect damages under this subsection by filing within thirty  
7 days of denial or the expiration of the sixty-day period, whichever  
8 occurs first, a claim with the seizing law enforcement agency. The  
9 seizing law enforcement agency shall notify the landlord of the status  
10 of the claim by the end of the thirty-day period. This section does  
11 not require the claim to be paid by the end of the sixty-day or thirty-  
12 day period.

13 (b) For any claim filed under (a)(ii) of this subsection, the law  
14 enforcement agency shall pay the claim unless the agency provides  
15 substantial proof that the landlord either:

16 (i) Knew or consented to actions of the tenant in violation of this  
17 chapter; or

18 (ii) Failed to respond to a notification of the illegal activity,  
19 provided by a law enforcement agency within seven days of receipt of  
20 notification of the illegal activity.

21 (12) The landlord's claim for damages under subsection (11) of this  
22 section may not include a claim for loss of business and is limited to:

23 (a) Damage to tangible property and clean-up costs;

24 (b) The lesser of the cost of repair or fair market value of the  
25 damage directly caused by a law enforcement officer;

26 (c) The proceeds from the sale of the specific tenant's property  
27 seized and forfeited under subsection (6)(b) of this section; and

28 (d) The proceeds available after the seizing law enforcement agency  
29 satisfies any bona fide security interest in the tenant's property and  
30 costs related to sale of the tenant's property as provided by  
31 subsection (7)(a) of this section.

32 (13) Subsections (11) and (12) of this section do not limit any  
33 other rights a landlord may have against a tenant to collect for  
34 damages. However, if a law enforcement agency satisfies a landlord's  
35 claim under subsection (11) of this section, the rights the landlord  
36 has against the tenant for damages directly caused by a law enforcement  
37 officer under the terms of the landlord and tenant's contract are  
38 subrogated to the law enforcement agency.

1       **Sec. 8.** RCW 9.46.0241 and 1987 c 4 s 11 are each amended to read  
2 as follows:

3       "Gambling device," as used in this chapter, means: (1) Any device  
4 or mechanism the operation of which a right to money, credits, deposits  
5 or other things of value may be created, in return for a consideration,  
6 as the result of the operation of an element of chance, including, but  
7 not limited to slot machines, video pull-tabs, video poker, and other  
8 electronic games of chance; (2) any device or mechanism which, when  
9 operated for a consideration, does not return the same value or thing  
10 of value for the same consideration upon each operation thereof; (3)  
11 any device, mechanism, furniture, fixture, construction or installation  
12 designed primarily for use in connection with professional gambling;  
13 and (4) any subassembly or essential part designed or intended for use  
14 in connection with any such device, mechanism, furniture, fixture,  
15 construction or installation. In the application of this definition,  
16 a pinball machine or similar mechanical amusement device which confers  
17 only an immediate and unrecorded right of replay on players thereof,  
18 which does not contain any mechanism which varies the chance of winning  
19 free games or the number of free games which may be won or a mechanism  
20 or a chute for dispensing coins or a facsimile thereof, and which  
21 prohibits multiple winnings depending upon the number of coins inserted  
22 and requires the playing of five balls individually upon the insertion  
23 of a nickel or dime, as the case may be, to complete any one operation  
24 thereof, shall not be deemed a gambling device: PROVIDED, That owning,  
25 possessing, buying, selling, renting, leasing, financing, holding a  
26 security interest in, storing, repairing and transporting such pinball  
27 machines or similar mechanical amusement devices shall not be deemed  
28 engaging in professional gambling for the purposes of this chapter and  
29 shall not be a violation of this chapter: PROVIDED FURTHER, That any  
30 fee for the purchase or rental of any such pinball machines or similar  
31 amusement devices shall have no relation to the use to which such  
32 machines are put but be based only upon the market value of any such  
33 machine, regardless of the location of or type of premises where used,  
34 and any fee for the storing, repairing and transporting thereof shall  
35 have no relation to the use to which such machines are put, but be  
36 commensurate with the cost of labor and other expenses incurred in any  
37 such storing, repairing and transporting.

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

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

15        (1) The person is acting in conformance with this chapter and the  
16 rules adopted under this chapter; and

17        (2) The devices are a type and kind traditionally and usually  
18 employed in connection with the particular activity. This section also  
19 does not apply to any act or acts by the persons in furtherance of the  
20 activity for which the license was issued, or for which the person is  
21 authorized, when the activity is conducted in compliance with this  
22 chapter and in accordance with the rules adopted under this chapter.  
23 In the enforcement of this section direct possession of any such a  
24 gambling device is presumed to be knowing possession thereof.

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

27        Whoever knowingly prints, makes, possesses, stores, or transports  
28 any gambling record, or buys, sells, offers, or solicits any interest  
29 therein, whether through an agent or employee or otherwise, is guilty  
30 of a gross misdemeanor. However, this section does not apply to  
31 records relating to and kept for activities authorized by this chapter  
32 when the records are of the type and kind traditionally and usually  
33 employed in connection with the particular activity. This section also  
34 does not apply to any act or acts in furtherance of the activities when  
35 conducted in compliance with this chapter and in accordance with the  
36 rules adopted under this chapter. In the enforcement of this section  
37 direct possession of any such a gambling record is presumed to be  
38 knowing possession thereof.

1       **Sec. 11.** RCW 9.46.220 and 1991 c 261 s 10 are each amended to read  
2 as follows:

3       (1) A person is guilty of professional gambling in the first degree  
4 if he or she engages in, or knowingly causes, aids, abets, or conspires  
5 with another to engage in professional gambling as defined in this  
6 chapter, and:

7       (a) While engaging in professional gambling acts in concert with or  
8 conspires with five or more people;

9       (b) Accepts wagers exceeding five thousand dollars during any  
10 (~~calendar month~~) thirty-day period on future contingent events; or

11       (c) Operates, manages, or profits from the operation of a premises  
12 or location where persons are charged a fee to participate in card  
13 games, lotteries, or other gambling activities that are not authorized  
14 by this chapter or licensed by the commission.

15       (2) However, this section shall not apply to those activities  
16 enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in  
17 furtherance of such activities when conducted in compliance with the  
18 provisions of this chapter and in accordance with the rules adopted  
19 pursuant to this chapter.

20       (3) Professional gambling in the first degree is a class B felony  
21 subject to the penalty set forth in RCW 9A.20.021.

22       **Sec. 12.** RCW 9.46.221 and 1991 c 261 s 11 are each amended to read  
23 as follows:

24       (1) A person is guilty of professional gambling in the second  
25 degree if he or she engages in or knowingly causes, aids, abets, or  
26 conspires with another to engage in professional gambling as defined in  
27 this chapter, and:

28       (a) While engaging in professional gambling acts in concert with or  
29 conspires with less than five people;

30       (b) Accepts wagers exceeding two thousand dollars during any  
31 (~~calendar month~~) thirty-day period on future contingent events;

32       (c) Maintains a "gambling premises" as defined in this chapter; or

33       (d) Maintains gambling records as defined in RCW (~~9.46.020~~)  
34 9.46.0253.

35       (2) However, this section shall not apply to those activities  
36 enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in  
37 furtherance of such activities when conducted in compliance with the

1 provisions of this chapter and in accordance with the rules adopted  
2 pursuant to this chapter.

3 (3) Professional gambling in the second degree is a class C felony  
4 subject to the penalty set forth in RCW 9A.20.021.

5 **Sec. 13.** RCW 9.46.222 and 1991 c 261 s 12 are each amended to read  
6 as follows:

7 (1) A person is guilty of professional gambling in the third degree  
8 if he or she engages in, or knowingly causes, aids, abets, or conspires  
9 with another to engage in professional gambling as defined in this  
10 chapter(~~(7)~~), and:

11 (a) His or her conduct does not constitute first or second degree  
12 professional gambling;

13 (b) He or she operates any of the unlicensed gambling activities  
14 authorized by this chapter in a manner other than as prescribed by this  
15 chapter; or

16 (c) He or she is directly employed in but not managing or directing  
17 any gambling operation.

18 (2) This section shall not apply to those activities enumerated in  
19 RCW 9.46.0305 through 9.46.0361 or to any acts in furtherance of such  
20 activities when conducted in compliance with the provisions of this  
21 chapter and the rules adopted pursuant to this chapter.

22 (3) Professional gambling in the third degree is a gross  
23 misdemeanor subject to the penalty established in RCW 9A.20.021.

24 **Sec. 14.** RCW 9.46.080 and 1981 c 139 s 6 are each amended to read  
25 as follows:

26 The commission shall employ a full time director, who shall be the  
27 administrator for the commission in carrying out its powers and duties  
28 and who shall issue rules and regulations adopted by the commission  
29 governing the activities authorized hereunder and shall supervise  
30 commission employees in carrying out the purposes and provisions of  
31 this chapter. In addition, the director shall employ a deputy  
32 director, (~~(two)~~) not more than three assistant directors, together  
33 with such investigators and enforcement officers and such staff as the  
34 commission determines is necessary to carry out the purposes and  
35 provisions of this chapter. The director, the deputy director,  
36 (~~(both)~~) the assistant directors, and personnel occupying positions  
37 requiring the performing of undercover investigative work shall be

1 exempt from the provisions of chapter 41.06 RCW, as now law or  
2 hereafter amended. Neither the director nor any commission employee  
3 working therefor shall be an officer or manager of any bona fide  
4 charitable or bona fide nonprofit organization, or of any organization  
5 which conducts gambling activity in this state.

6 The director, subject to the approval of the commission, is  
7 authorized to enter into agreements on behalf of the commission for  
8 mutual assistance and services, based upon actual costs, with any state  
9 or federal agency or with any city, town, or county, and such state or  
10 local agency is authorized to enter into such an agreement with the  
11 commission. If a needed service is not available from another agency  
12 of state government within a reasonable time, the director may obtain  
13 that service from private industry.

14 **Sec. 15.** RCW 9.46.235 and 1987 c 191 s 1 are each amended to read  
15 as follows:

16 (1) For purposes of a prosecution under (~~(RCW 9.46.230(4))~~) section  
17 9 of this act or a seizure, confiscation, or destruction order under  
18 (~~(RCW 9.46.230(1))~~) section 7 of this act, it shall be a defense that  
19 the gambling device involved is an antique slot machine and that the  
20 antique slot machine was not operated for gambling purposes while in  
21 the owner's or defendant's possession. Operation of an antique slot  
22 machine shall be only by free play or with coins provided at no cost by  
23 the owner. No slot machine, having been seized under this chapter, may  
24 be altered, destroyed, or disposed of without affording the owner  
25 thereof an opportunity to present a defense under this section. If the  
26 defense is applicable, the antique slot machine shall be returned to  
27 the owner or defendant, as the court may direct.

28 (2) (~~(RCW 9.46.230(2))~~) Section 7 of this act shall have no  
29 application to any antique slot machine that has not been operated for  
30 gambling purposes while in the owner's possession.

31 (3) For the purposes of this section, a slot machine shall be  
32 conclusively presumed to be an antique slot machine if it is at least  
33 twenty-five years old.

34 (4) Sections 7 and 9 of this act do not apply to gambling devices  
35 on board a passenger cruise ship which has been registered and bonded  
36 with the federal maritime commission, if the gambling devices are not  
37 operated for gambling purposes within the state.



1       **Sec. 16.** RCW 9.46.260 and 1973 1st ex.s. c 218 s 26 are each  
2 amended to read as follows:

3       Proof of possession of any device used for professional gambling or  
4 any record relating to professional gambling specified in ((RCW  
5 9.46.230)) section 9 of this act is prima facie evidence of possession  
6 thereof with knowledge of its character or contents.

7       **Sec. 17.** RCW 9A.82.010 and 1992 c 210 s 6 and 1992 c 145 s 13 are  
8 each reenacted and amended to read as follows:

9       Unless the context requires the contrary, the definitions in this  
10 section apply throughout this chapter.

11       (1) "Creditor" means a person making an extension of credit or a  
12 person claiming by, under, or through a person making an extension of  
13 credit.

14       (2) "Debtor" means a person to whom an extension of credit is made  
15 or a person who guarantees the repayment of an extension of credit or  
16 in any manner undertakes to indemnify the creditor against loss  
17 resulting from the failure of a person to whom an extension is made to  
18 repay the same.

19       (3) "Extortionate extension of credit" means an extension of credit  
20 with respect to which it is the understanding of the creditor and the  
21 debtor at the time the extension is made that delay in making repayment  
22 or failure to make repayment could result in the use of violence or  
23 other criminal means to cause harm to the person, reputation, or  
24 property of any person.

25       (4) "Extortionate means" means the use, or an express or implicit  
26 threat of use, of violence or other criminal means to cause harm to the  
27 person, reputation, or property of any person.

28       (5) "To collect an extension of credit" means to induce in any way  
29 a person to make repayment thereof.

30       (6) "To extend credit" means to make or renew a loan or to enter  
31 into an agreement, tacit or express, whereby the repayment or  
32 satisfaction of a debt or claim, whether acknowledged or disputed,  
33 valid or invalid, and however arising, may or shall be deferred.

34       (7) "Repayment of an extension of credit" means the repayment,  
35 satisfaction, or discharge in whole or in part of a debt or claim,  
36 acknowledged or disputed, valid or invalid, resulting from or in  
37 connection with that extension of credit.

1 (8) "Dealer in property" means a person who buys and sells property  
2 as a business.

3 (9) "Stolen property" means property that has been obtained by  
4 theft, robbery, or extortion.

5 (10) "Traffic" means to sell, transfer, distribute, dispense, or  
6 otherwise dispose of stolen property to another person, or to buy,  
7 receive, possess, or obtain control of stolen property, with intent to  
8 sell, transfer, distribute, dispense, or otherwise dispose of the  
9 property to another person.

10 (11) "Control" means the possession of a sufficient interest to  
11 permit substantial direction over the affairs of an enterprise.

12 (12) "Enterprise" includes any individual, sole proprietorship,  
13 partnership, corporation, business trust, or other profit or nonprofit  
14 legal entity, and includes any union, association, or group of  
15 individuals associated in fact although not a legal entity, and both  
16 illicit and licit enterprises and governmental and nongovernmental  
17 entities.

18 (13) "Financial institution" means any bank, trust company, savings  
19 and loan association, savings bank, mutual savings bank, credit union,  
20 or loan company under the jurisdiction of the state or an agency of the  
21 United States.

22 (14) "Criminal profiteering" means any act, including any  
23 anticipatory or completed offense, committed for financial gain, that  
24 is chargeable or indictable under the laws of the state in which the  
25 act occurred and, if the act occurred in a state other than this state,  
26 would be chargeable or indictable under the laws of this state had the  
27 act occurred in this state and punishable as a felony and by  
28 imprisonment for more than one year, regardless of whether the act is  
29 charged or indicted, as any of the following:

30 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

31 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;

32 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;

33 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;

34 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
35 9A.56.080;

36 (f) Child selling or child buying, as defined in RCW 9A.64.030;

37 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and  
38 9A.68.050;

1 (h) Gambling, as defined in RCW 9.46.220 and (~~9.46.230~~) sections  
2 9 and 10 of this act;

3 (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

4 (j) Extortionate extension of credit, as defined in RCW 9A.82.020;

5 (k) Advancing money for use in an extortionate extension of credit,  
6 as defined in RCW 9A.82.030;

7 (l) Collection of an extortionate extension of credit, as defined  
8 in RCW 9A.82.040;

9 (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;

10 (n) Delivery or manufacture of controlled substances or possession  
11 with intent to deliver or manufacture controlled substances under  
12 chapter 69.50 RCW;

13 (o) Trafficking in stolen property, as defined in RCW 9A.82.050;

14 (p) Leading organized crime, as defined in RCW 9A.82.060;

15 (q) Money laundering, as defined in RCW 9A.83.020;

16 (r) Obstructing criminal investigations or prosecutions in  
17 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
18 9A.76.070, or 9A.76.180;

19 (s) Fraud in the purchase or sale of securities, as defined in RCW  
20 21.20.010;

21 (t) Promoting pornography, as defined in RCW 9.68.140;

22 (u) Sexual exploitation of children, as defined in RCW 9.68A.040,  
23 9.68A.050, and 9.68A.060;

24 (v) Promoting prostitution, as defined in RCW 9A.88.070 and  
25 9A.88.080;

26 (w) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

27 (x) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

28 (y) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

29 (z) A pattern of equity skimming, as defined in RCW 61.34.020; or

30 (aa) Commercial telephone solicitation in violation of RCW  
31 19.158.040(1).

32 (15) "Pattern of criminal profiteering activity" means engaging in  
33 at least three acts of criminal profiteering, one of which occurred  
34 after July 1, 1985, and the last of which occurred within five years,  
35 excluding any period of imprisonment, after the commission of the  
36 earliest act of criminal profiteering. In order to constitute a  
37 pattern, the three acts must have the same or similar intent, results,  
38 accomplices, principals, victims, or methods of commission, or be  
39 otherwise interrelated by distinguishing characteristics including a

1 nexus to the same enterprise, and must not be isolated events.  
2 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by  
3 any person other than the attorney general or county prosecuting  
4 attorney in which one or more acts of fraud in the purchase or sale of  
5 securities are asserted as acts of criminal profiteering activity, it  
6 is a condition to civil liability under RCW 9A.82.100 that the  
7 defendant has been convicted in a criminal proceeding of fraud in the  
8 purchase or sale of securities under RCW 21.20.400 or under the laws of  
9 another state or of the United States requiring the same elements of  
10 proof, but such conviction need not relate to any act or acts asserted  
11 as acts of criminal profiteering activity in such civil action under  
12 RCW 9A.82.100.

13 (16) "Records" means any book, paper, writing, record, computer  
14 program, or other material.

15 (17) "Documentary material" means any book, paper, document,  
16 writing, drawing, graph, chart, photograph, phonograph record, magnetic  
17 tape, computer printout, other data compilation from which information  
18 can be obtained or from which information can be translated into usable  
19 form, or other tangible item.

20 (18) "Unlawful debt" means any money or other thing of value  
21 constituting principal or interest of a debt that is legally  
22 unenforceable in the state in full or in part because the debt was  
23 incurred or contracted:

24 (a) In violation of any one of the following:

25 (i) Chapter 67.16 RCW relating to horse racing;

26 (ii) Chapter 9.46 RCW relating to gambling;

27 (b) In a gambling activity in violation of federal law; or

28 (c) In connection with the business of lending money or a thing of  
29 value at a rate that is at least twice the permitted rate under the  
30 applicable state or federal law relating to usury.

31 (19)(a) "Beneficial interest" means:

32 (i) The interest of a person as a beneficiary under a trust  
33 established under Title 11 RCW in which the trustee for the trust holds  
34 legal or record title to real property;

35 (ii) The interest of a person as a beneficiary under any other  
36 trust arrangement under which a trustee holds legal or record title to  
37 real property for the benefit of the beneficiary; or

1 (iii) The interest of a person under any other form of express  
2 fiduciary arrangement under which one person holds legal or record  
3 title to real property for the benefit of the other person.

4 (b) "Beneficial interest" does not include the interest of a  
5 stockholder in a corporation or the interest of a partner in a general  
6 partnership or limited partnership.

7 (c) A beneficial interest shall be considered to be located where  
8 the real property owned by the trustee is located.

9 (20) "Real property" means any real property or interest in real  
10 property, including but not limited to a land sale contract, lease, or  
11 mortgage of real property.

12 (21)(a) "Trustee" means:

13 (i) A person acting as a trustee under a trust established under  
14 Title 11 RCW in which the trustee holds legal or record title to real  
15 property;

16 (ii) A person who holds legal or record title to real property in  
17 which another person has a beneficial interest; or

18 (iii) A successor trustee to a person who is a trustee under  
19 subsection (21)(a) (i) or (ii) of this section.

20 (b) "Trustee" does not mean a person appointed or acting as:

21 (i) A personal representative under Title 11 RCW;

22 (ii) A trustee of any testamentary trust;

23 (iii) A trustee of any indenture of trust under which a bond is  
24 issued; or

25 (iv) A trustee under a deed of trust.

26 **Sec. 18.** RCW 10.105.900 and 1993 c 288 s 1 are each amended to  
27 read as follows:

28 This chapter does not apply to property subject to forfeiture under  
29 chapter 66.32 RCW, RCW 69.50.505, 9.41.098, (~~9.46.230~~) section 7 of  
30 this act, 9A.82.100, 9A.83.030, 7.48.090, or 77.12.101.

31 NEW SECTION. **Sec. 19.** RCW 9.46.230 and 1987 c 202 s 139, 1987 c  
32 4 s 43, 1981 c 139 s 12, 1977 ex.s. c 326 s 16, 1974 ex.s. c 155 s 5,  
33 1974 ex.s. c 135 s 5, & 1973 1st ex.s. c 218 s 23 are each repealed.

34 NEW SECTION. **Sec. 20.** This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately."

3 **2SHB 2228** - S COMM AMD  
4 By Committee on Labor & Commerce

5 ADOPTED 3/4/94

6 On page 1, line 4 of the title, after "laws;" strike the remainder  
7 of the title and insert "amending RCW 9.46.010, 67.70.010, 67.70.040,  
8 67.70.190, 9.46.0241, 9.46.220, 9.46.221, 9.46.222, 9.46.080, 9.46.235,  
9 9.46.260, and 10.105.900; reenacting and amending RCW 9A.82.010; adding  
10 new sections to chapter 9.46 RCW; creating new sections; repealing RCW  
11 9.46.230; prescribing penalties; and declaring an emergency."

--- END ---