

HOUSE BILL REPORT

2SHB 2228

As Passed Legislature

Title: An act relating to clarifying the state's public policy on gambling by restricting the frequency of lottery games, addressing problem and compulsive gambling, and enhancing the enforcement of the state's gambling laws.

Brief Description: Clarifying the state's public policy on gambling.

Sponsors: By House Committee on Revenue (originally sponsored by Representatives Heavey, Lisk, Springer, Schmidt, Van Luven and Roland).

Brief History:

Reported by House Committee on:
Commerce & Labor, January 21, 1994, DPS;
Revenue, February 8, 1994, DP2S;
Passed House, February 14, 1994, 91-5;
Amended by Senate;
House concurred;
Passed Legislature, March 7, 1994, 90-5.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer; and Veloria.

Staff: Jim Kelley (786-7166).

HOUSE COMMITTEE ON REVENUE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 15 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Anderson; Brown; Caver; Cothorn; Leonard; Romero; Rust; Talcott; Thibaudeau; Van Luven and Wang.

Staff: Bob Longman (786-7139).

Background:

Public policy statement

The Washington State Gambling Code contains a series of legislative policy declarations. For the purpose of negotiating tribal gaming compacts, the Gambling Commission has summarized these declarations into the following statement of the public policy of Washington on gambling: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling by limiting the nature and scope of gambling activities and by strict regulation and control."

Frequency of Lottery games

The frequency with which the Lottery offers any of its games is strictly within the agency's discretion.

Problem and compulsive gambling

In 1992, the Lottery Commission contracted with Rachel Volberg, Ph.D., to conduct both an adult and an adolescent prevalence study of problem and compulsive gambling in this state. These studies were conducted in the spring and summer of 1992. Dr. Volberg estimated that between 14,400 and 49,800 Washington residents can be classified as current probable compulsive gamblers. In addition, an estimated 43,300 to 93,700 Washington residents can be classified as current problem gamblers. Among adolescents, an estimated 23,000 to 33,700 can be classified as at-risk gamblers and an additional 950 to 4,700 adolescents in Washington can be classified as problem gamblers. Despite these statistics, a limited number of treatment options exist for problem and compulsive gamblers in Washington.

The Gambling Commission and the Lottery Commission have each adopted policies on compulsive gambling. These policies recognize that compulsive gambling exists in this state and pledge the resources of the agencies to assist in public awareness and education and research activities related to compulsive gambling. The Gambling Commission has developed a compulsive gambling education and awareness training program, has entered into a contract with the State Council on Problem Gambling to provide public education and awareness programs, information and referral services, and training seminars for mental health professionals, and has also included in all of the tribal gaming compacts a provision that requires any civil fines collected by the Gambling Commission or Tribal Gaming Agency as a result of infractions of gambling laws be paid to the State Council on Problem Gambling.

The Lottery Commission provides funding for the 1-800 information and referral hotline operated by the State Council on Problem Gambling. The Lottery Commission, Gambling Commission and Horse Racing Commission, in cooperation with the State Council on Problem Gambling, jointly developed an informational brochure on compulsive gambling. This brochure is distributed state-wide to gambling licensees, lottery retailers, state and local government offices and other appropriate locations.

Enforcement of gambling laws

The Washington State Gambling Code includes procedures for the seizure and forfeiture of illegal gambling-related assets. This section of the gambling code has not been substantively amended since 1981, despite subsequent court decisions interpreting the drug forfeiture statute upon which the gambling forfeiture statute was modeled. The Gambling Commission has expressed concerns about its ability to effectively administer the current statute. Proceeds realized from the enforcement of this statute are paid into the state general fund if the property was seized by a state agency or to the local government if the property was seized by a local government law enforcement agency.

"Gambling devices" are prohibited in Washington. The gambling code definition of "gambling device" describes the characteristics of the machines, but does not specifically list the types of gambling devices. The Gambling Commission has uniformly applied the prohibition to slot machines and electronic gambling devices.

The provisions defining first and second degree professional gambling include as an element that a certain volume of illegal activity must have occurred in any "calendar month." Courts have interpreted this to mean only within one month, such as July or August. For example, if certain activities began on the 25th day of a certain month, then only those activities occurring before the first of the next month are counted.

The director of the Gambling Commission may only appoint two Assistant Directors. With the advent of the tribal gaming compacting process, the Gambling Commission has expressed a desire to have the flexibility to reorganize.

Recommendations of the Gambling Policy Task Force

In 1993, the Legislature adopted EHCR 4403, creating the State Gambling Policy Task Force. The task force was made up of 11 voting members: ten legislators and the Governor's designee, and three nonvoting members: one representative

each from the Horse Racing Commission, the Lottery Commission and the Gambling Commission. The purpose of the task force was to examine: (1) The current nature and scope of authorized gambling in the state; (2) the future of gambling in the state; (3) the need for defining a clear public policy on gambling; and (4) the feasibility of merging the Gambling Commission, Lottery Commission, and Horse Racing Commission into one state agency. The task force submitted its final report to the Legislature on January 1, 1994. The final report included the following recommendations:

"The Washington State Gambling Policy Task Force recommends that, at this time, the state should remain on its present course regarding gambling policy. It is important that the state not expand gambling opportunities until it becomes more clear how the expansion of gambling will affect all of us. Specifically, for the near-term future, the task force recommends the following:

1. The Legislature should codify the following statement of Washington's public policy toward gambling in statute: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."
2. The task force concurs with the approach taken by the state's negotiating team toward the negotiation of tribal gaming compacts. The negotiations should continue in the manner in which they have proceeded. The state's negotiating team, within the parameters of federal law, has protected and preserved the state's public policy toward gambling. Critical elements of the state's negotiating strategy which are supported by this task force include: (1) strict limitations on the number of tables allowed; (2) strict limits on the size of allowable wagers; (3) strict limitations on the scope of gaming allowed, consistent with the public policy of the state toward gaming; (4) insistence on a state role in regulation, including background checks and audits; (5) dedicating the profits from at least one table per casino to nonprofit/charitable organizations; (6) encouraging programs for problem gamblers including the dedication of money collected from civil fines to problem gambling; and (7) insisting on the dedication of at least 2 percent of

the net win to local jurisdictions for law enforcement.

3. The Legislature should amend the gambling code to aid the Gambling Commission in enforcing the public policy of the state and in fighting illegal gambling. These changes should include: (1) clarifying the unconditional ban on slot machines and video gaming devices in Washington; (2) strengthening the Gambling Commission's authority to seize illegal gambling-related assets; and (3) streamlining the reporting requirements for commercial stimulant operators, to the extent that this can be accomplished consistently with the public policy of the state toward gambling.
4. The Legislature should amend the state lottery statute to require prior legislative approval of any on-line game operated more frequently than once every 24 hours.
5. The Legislature should not authorize any person or state agency to operate video poker, any other video gambling device, or slot machines.
6. The Legislature should not adopt the British Columbia model of professionally managed, fixed location, charitable casinos. The task force recommends that the Legislature continue to explore ways for charities to improve the current gambling system of raffles, bingo, and casino nights to enable them to raise more money more efficiently.
7. The Legislature should not merge the state's gambling-related agencies. The jurisdiction of the Gambling Commission, the Lottery Commission, and the Horse Racing Commission should remain the same.
8. Services for problem and compulsive gamblers should continue to be offered. The Gambling Commission, the Lottery Commission, and the Horse Racing Commission should continue to provide resources for the support of these services. The Gambling Commission, Horse Racing Commission and Lottery Commission should jointly develop informational signs concerning problem gambling which include the toll free hot line number to be placed in the establishments of gambling licensees and lottery retailers.
9. Should ongoing negotiations taking place at the federal level among the states, the tribes and the

federal government regarding modifications to the Indian Gaming Regulatory Act (IGRA) be unsuccessful, the Legislature should adopt a joint memorial to Congress requesting clarification of IGRA.

10. The task force recognizes that some charities have experienced a reduction in revenues due to increased gambling activity in the state. Therefore, the task force encourages the representatives of the tribes currently under compact or involved in active negotiations with the state, representatives of charitable organization, and the Gambling Commission to continue to develop solutions that would increase charitable dollars and make recommendations regarding whether the solutions should be adopted via legislation, agency rulemaking, or tribal compact.
11. The task force recognizes that there is a need to update certain gambling policies. The Legislature, in consultation with the Gambling Commission, should consider making limited modifications to existing policies."

Summary of Bill:

Public policy statement

The following statement of Washington's public policy toward gambling is codified: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

Frequency of Lottery games

Prior legislative approval is required before the Lottery may conduct any on-line game more frequently than once every twenty-four hours. "On-line game" is defined as a game in which the player pays a fee to a lottery retailer and selects a combination of numbers or symbols and the lottery separately selects the winning combination or combinations.

Problem and compulsive gambling

The Legislature recognizes that some people in Washington are problem or compulsive gamblers and that the state has the responsibility to continue to provide resources for the support of services for problem and compulsive gamblers. The Gambling Commission, Horse Racing Commission, and Lottery Commission are required to jointly develop

informational signs about problem and compulsive gambling to be placed in gambling establishments.

Enforcement of gambling laws

Procedures for the seizure and forfeiture of gambling-related assets are updated. The changes are patterned after recent changes in the drug forfeiture statute. The changes provide greater protection for property owners who are unaware of the illegal activities being conducted on their property. The net proceeds of gambling-related property seizures go exclusively to the Gambling Commission to defray enforcement costs. Gambling devices on cruise ships are exempt from the penalty and seizure provisions if the devices are not operated for gambling purposes within the state.

Slot machines, video pull-tabs, video poker, and electronic games of chance are specifically added to the definition of "gambling device."

References to "calendar month" in the provisions defining first and second degree professional gambling are amended to read "thirty-day period."

The director of the Gambling Commission may appoint three Assistant Directors.

Fiscal Note: Requested February 9, 1994.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: (Commerce & Labor) The Gambling Commission supports this bill in its entirety. This bill allows for greater enforcement of our gambling laws and protects due process rights. The language on gaming devices merely clarifies current law. The Lottery Commission supports this bill with the changes made in the substitute bill.

(Revenue) (First Substitute Bill) The Lottery Commission supports the bill. The on-line game limit of once per day is consistent with current practice. The bill needs to be amended to clear up a possible problem with gambling devices on cruise ships. The casinos on cruise ships only operate while the ship is outside state waters. When cruise ships enter Washington ports for maintenance and repairs and other reasons, it needs to be clear that they are not violating laws relating to gambling devices.

Testimony Against: (Commerce & Labor) None.
(Revenue) None.

Witnesses: (Commerce & Labor) (In favor) Frank Miller, Washington State Gambling Commission; and Evelyn Yenson, Washington State Lottery Commission (prefers substitute bill).

(Revenue) (First substitute bill) Roger Wilson, Lottery Commission; and Joe Daniels, Washington State Coalition of Travel and Holland America.