
HOUSE BILL 1049

State of Washington

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1993 Regular Session

By Representatives Riley, Kremen, G. Fisher, King, Orr, Brumsickle, Dorn, Romero, Appelwick, Springer and Sheldon

Read first time 01/13/93. 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 that 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:

14 The legislature hereby authorizes bona fide charitable or nonprofit
15 organizations to conduct bingo games, raffles, amusement games, and
16 fund raising events, and to utilize punch boards and pull-tabs and
17 video card games and to allow their premises and facilities to be used
18 by only members, their guests, and members of a chapter or unit

1 organized under the same state, regional, or national charter or
2 constitution, to play social card games authorized by the commission,
3 when licensed, conducted or operated pursuant to the provisions of this
4 chapter and rules and regulations adopted pursuant thereto.

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

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

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

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

18 (1) There is levied a tax on all video card games licensed within
19 the state of Washington. The rate of this tax shall be ten percent of
20 the net proceeds from all moneys played into the machine. Net proceeds
21 shall be determined by subtracting from all proceeds the cost of prizes
22 paid out. The tax shall be paid into the state general fund.

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

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

29 The commission shall have the following powers and duties:

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

1 and to revoke or suspend said licenses for violation of any provisions
2 of this chapter or any rules and regulations adopted pursuant thereto:
3 PROVIDED, That the commission shall not deny a license to an otherwise
4 qualified applicant in an effort to limit the number of licenses to be
5 issued: PROVIDED FURTHER, That the commission or director shall not
6 issue, deny, suspend or revoke any license because of considerations of
7 race, sex, creed, color, or national origin: AND PROVIDED FURTHER,
8 That the commission may authorize the director to temporarily issue or
9 suspend licenses subject to final action by the commission;

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

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

35 (4) To authorize, require, and issue, for a period not to exceed
36 one year, such licenses as the commission may by rule provide, to any
37 person, association, or organization to engage in the selling,
38 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(~~(:~~
16 ~~FURTHER, That)~~). If in a particular case the basic license fee
17 established by the commission for a particular class of license is less
18 than the 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(~~(:~~
24 ~~AND PROVIDED FURTHER, That)~~). The
25 commission may establish fees for the furnishing by it to licensees of
26 identification stamps to be affixed to such devices and equipment as
27 required by the commission and for such other special services or
28 programs required or offered by the commission, the amount of each of
29 these fees to be not less than is adequate to offset the cost to the
30 commission of the stamps and of administering their dispersal to
31 licensees or the cost of administering such other special services,
32 requirements or programs;

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

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

1 of any gambling activity, shall be listed on the application for the
2 license and the applicant shall certify on the application, under oath,
3 that the persons named on the application are all of the persons known
4 to have an interest in any gambling activity, building, or equipment by
5 the person making such application(~~(:—PROVIDED FURTHER, That)~~). The
6 commission may require fingerprinting and background checks on any
7 persons seeking licenses under this chapter or of any person holding an
8 interest in any gambling activity, building, or equipment to be used
9 therefor, or of any person participating as an employee in the
10 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
24 ~~((+i))~~ (a) the nature, character, and scope of the activities of the
25 licensee; ~~((+ii))~~ (b) the source of all other income of the licensee;
26 and ~~((+iii))~~ (c) the percentage or extent to which income derived from
27 bingo is used for charitable, as distinguished from nonprofit,
28 purposes;

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

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

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

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

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

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

19 In establishing these maximum limits the commission shall take into
20 account the amount of income received, or expected to be received, from
21 the class of activities to which the limits will apply and the amount
22 of money the games could generate for authorized charitable or
23 nonprofit purposes absent such expenses. The commission may also take
24 into account, in its discretion, other factors, including but not
25 limited to, the local prevailing wage scale and whether charitable
26 purposes are benefited by the activities;

27 (17) To authorize, require, and issue for a period not to exceed
28 one year such licenses or permits, for which the commission may by rule
29 provide, to any person to work for any operator of any gambling
30 activity authorized by this chapter in connection with that activity,
31 or any manufacturer, supplier, or distributor of devices for those
32 activities in connection with such business. The commission shall not
33 require that persons working solely as volunteers in an authorized
34 activity conducted by a bona fide charitable or bona fide nonprofit
35 organization, who receive no compensation of any kind for any purpose
36 from that organization, and who have no managerial or supervisory
37 responsibility in connection with that activity, be licensed to do such
38 work. The commission may require that licensees employing such
39 unlicensed volunteers submit to the commission periodically a list of

1 the names, addresses, and dates of birth of the volunteers. If any
2 volunteer is not approved by the commission, the commission may require
3 that the licensee not allow that person to work in connection with the
4 licensed activity;

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

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

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

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

16 The legislative authority of any county, city-county, city, or
17 town, by local law and ordinance, and in accordance with the provisions
18 of this chapter and rules and regulations promulgated hereunder, may
19 provide for the taxing of any gambling activity authorized by this
20 chapter within its jurisdiction, the tax receipts to go to the county,
21 city-county, city, or town so taxing the same(~~(:—PROVIDED, That any~~
22 ~~such)).~~ A tax imposed by a county alone shall not apply to any
23 gambling activity within a city or town located therein but the tax
24 rate established by a county, if any, shall constitute the tax rate
25 throughout the unincorporated areas of such county: PROVIDED
26 ((FURTHER)), That (1) punch boards and pull-tabs, chances on which
27 shall only be sold to adults, which shall have a fifty cent limit on a
28 single chance thereon, shall be taxed on a basis which shall reflect
29 only the gross receipts from such punch boards and pull-tabs; and (2)
30 no punch board or pull-tab may award as a prize upon a winning number
31 or symbol being drawn the opportunity of taking a chance upon any other
32 punch board or pull-tab; and (3) all prizes for punch boards and pull-
33 tabs must be on display within the immediate area of the premises
34 wherein any such punch board or pull-tab is located and upon a winning
35 number or symbol being drawn, such prize must be immediately removed
36 therefrom, or such omission shall be deemed a fraud for the purposes of
37 this chapter; and (4) when any person shall win over twenty dollars in
38 money or merchandise from any punch board or pull-tab, every licensee

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

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

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

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

34 (3) All furnishings, fixtures, equipment, and stock, including
35 without limitation furnishings and fixtures adaptable to nongambling
36 uses and equipment and stock for printing, recording, computing,
37 transporting, or safekeeping, used in connection with professional
38 gambling or maintaining a gambling premises, and all money or other

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

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

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

28 (4) Whoever knowingly owns, manufactures, possesses, buys, sells,
29 rents, leases, finances, holds a security interest in, stores, repairs,
30 or transports any gambling device or offers or solicits any interest
31 therein, whether through an agent or employee or otherwise, shall be
32 guilty of a felony and fined not more than one hundred thousand dollars
33 or imprisoned not more than five years or both(~~(:—PROVIDED, HOWEVER,~~
34 ~~That)).~~ This subsection shall not apply to persons licensed by the
35 commission, or who are otherwise authorized by this chapter, or by
36 commission rule, to conduct gambling activities without a license,
37 respecting devices which are to be used, or are being used, solely in
38 that activity for which the license was issued, or for which the person
39 has been otherwise authorized 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 devices are a 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 by such persons in furtherance of
7 the activity for which the license was issued, or for which the person
8 is authorized, when such activity is conducted in compliance with the
9 provisions of this chapter, as now or hereafter amended, and in
10 accordance with the rules and regulations adopted pursuant thereto.
11 Subsection (2) of this section shall have no application in the
12 enforcement of this subsection. In the enforcement of this subsection
13 direct possession of any such gambling device shall be presumed to be
14 knowing possession thereof.

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

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