
HOUSE BILL 2228

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Heavey, Lisk, Springer, Schmidt, Van Luven and Roland

Read first time 01/11/94. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to clarifying the state's public policy on gambling
2 by restricting the frequency of lottery games, addressing problem and
3 compulsive gambling, and enhancing the enforcement of the state's
4 gambling laws; amending RCW 9.46.010, 67.70.010, 67.70.040, 9.46.0241,
5 9.46.220, 9.46.221, 9.46.222, 9.46.080, 9.46.235, 9.46.260, and
6 10.105.900; reenacting and amending RCW 9A.82.010; adding new sections
7 to chapter 9.46 RCW; creating a new section; repealing RCW 9.46.230;
8 prescribing penalties; and declaring an emergency.

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

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

12 The public policy of the state of Washington on gambling is to keep
13 the criminal element out of gambling and to promote the social welfare
14 of the people by limiting the nature and scope of gambling activities
15 and by strict regulation and control.

16 It is hereby declared to be the policy of the legislature,
17 recognizing the close relationship between professional gambling and
18 organized crime, to restrain all persons from seeking profit from
19 professional gambling activities in this state; to restrain all persons

1 from patronizing such professional gambling activities; to safeguard
2 the public against the evils induced by common gamblers and common
3 gambling houses engaged in professional gambling; and at the same time,
4 both to preserve the freedom of the press and to avoid restricting
5 participation by individuals in activities and social pastimes, which
6 activities and social pastimes are more for amusement rather than for
7 profit, do not maliciously affect the public, and do not breach the
8 peace.

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

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

20 The legislature further declares that fishing derbies shall not
21 constitute any form of gambling and shall not be considered as a
22 lottery, a raffle, or an amusement game and shall not be subject to the
23 provisions of this chapter or any rules and regulations adopted
24 hereunder.

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

28 **Sec. 2.** RCW 67.70.010 and 1987 c 511 s 1 are each amended to read
29 as follows:

30 For the purposes of this chapter:

31 (1) "Commission" means the state lottery commission established by
32 this chapter;

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

35 ~~(3))~~ "Director" means the director of the state lottery
36 established by this chapter;

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

1 (4) "On-line game" means a lottery game in which a player pays a
2 fee to a lottery retailer and selects a combination of digits, numbers,
3 or symbols, type and amount of play, and receives a computer-generated
4 ticket with those selections, and the lottery holds a drawing to
5 determine the winning combination or combinations of selections.

6 **Sec. 3.** RCW 67.70.040 and 1991 c 359 s 1 are each amended to read
7 as follows:

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

9 (1) To promulgate such rules governing the establishment and
10 operation of a state lottery as it deems necessary and desirable in
11 order that such a lottery be initiated at the earliest feasible and
12 practicable time, and in order that such lottery produce the maximum
13 amount of net revenues for the state consonant with the dignity of the
14 state and the general welfare of the people. Such rules shall include,
15 but shall not be limited to, the following:

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

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

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

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

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

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

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

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

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

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

8 (k) The apportionment of the total revenues accruing from the sale
9 of lottery tickets or shares and from all other sources among: (i) The
10 payment of prizes to the holders of winning tickets or shares, which
11 shall not be less than forty-five percent of the gross annual revenue
12 from such lottery, less amounts of unclaimed prizes deposited in the
13 general fund under RCW 67.70.190 during the fiscal year ending June 30,
14 1989, (ii) transfers to the lottery administrative account created by
15 RCW 67.70.260, and (iii) transfer to the state's general fund.
16 Transfers to the state general fund shall be made in compliance with
17 RCW 43.01.050;

18 (l) Such other matters necessary or desirable for the efficient and
19 economical operation and administration of the lottery and for the
20 convenience of the purchasers of tickets or shares and the holders of
21 winning tickets or shares.

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

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

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

30 NEW SECTION. **Sec. 4.** The legislature recognizes that some
31 individuals in this state are problem or compulsive gamblers. Because
32 the state promotes and regulates gambling through the activities of the
33 state lottery commission, the Washington horse racing commission, and
34 the Washington state gambling commission, the state has the
35 responsibility to continue to provide resources for the support of
36 services for problem and compulsive gamblers. Therefore, the
37 Washington state gambling commission, the Washington horse racing
38 commission, and the state lottery commission shall jointly develop

1 informational signs concerning problem and compulsive gambling which
2 include the toll-free hot line number for problem and compulsive
3 gamblers. The signs shall be placed in the establishments of gambling
4 licensees, horse racing licensees, and lottery retailers.

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

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

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

10 (b) All furnishings, fixtures, equipment, and stock, including
11 without limitation furnishings and fixtures adaptable to nongambling
12 uses and equipment and stock for printing, recording, computing,
13 transporting, or safekeeping, used in connection with professional
14 gambling or maintaining a gambling premises;

15 (c) All conveyances, including aircraft, vehicles, or vessels, that
16 are used, or intended for use, in any manner to facilitate the sale,
17 delivery, receipt, or operation of any gambling device, or the
18 promotion or operation of a professional gambling activity, except
19 that:

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

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

29 (iii) A forfeiture of a conveyance encumbered by a bona fide
30 security interest is subject to the interest of the secured party if
31 the secured party neither had knowledge of nor consented to the act or
32 omission; and

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

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

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

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

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

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

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

32 Real property forfeited under this chapter that is encumbered by a
33 bona fide security interest remains subject to the interest of the
34 secured party if the secured party, at the time the security interest
35 was created, neither had knowledge of nor consented to the act or
36 omission. Property may not be forfeited under this subsection, to the
37 extent of the interest of an owner, by reason of any act or omission
38 committed or omitted without the owner's knowledge or consent.

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

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

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

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

17 (iii) A law enforcement officer has probable cause to believe that
18 the property is directly or indirectly dangerous to health or safety;
19 or

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

23 (3) In the event of seizure under subsection (2) of this section,
24 proceedings for forfeiture are deemed commenced by the seizure. The
25 law enforcement agency under whose authority the seizure was made shall
26 cause notice to be served within fifteen days following the seizure on
27 the owner of the property seized and the person in charge thereof and
28 any person having any known right or interest therein, including any
29 community property interest, of the seizure and intended forfeiture of
30 the seized property. Service of notice of seizure of real property
31 must be made according to the rules of civil procedure. However, the
32 state may not obtain a default judgment with respect to real property
33 against a party who is served by substituted service absent an
34 affidavit stating that a good faith effort has been made to ascertain
35 if the defaulted party is incarcerated within the state, and that there
36 is no present basis to believe that the party is incarcerated within
37 the state. Notice of seizure in the case of property subject to a
38 security interest that has been perfected by filing a financing
39 statement in accordance with chapter 62A.9 RCW, or a certificate of

1 title, must be made by service upon the secured party or the secured
2 party's assignee at the address shown on the financing statement or the
3 certificate of title. The notice of seizure in other cases may be
4 served by any method authorized by law or court rule including but not
5 limited to service by certified mail with return receipt requested.
6 Service by mail is deemed complete upon mailing within the fifteen-day
7 period following the seizure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (A) Only if the funds applied under (a)(ii) of this subsection are
35 insufficient to satisfy the damage directly caused by a law enforcement
36 officer, may the landlord seek compensation for the damage by filing a
37 claim against the governmental entity under whose authority the law
38 enforcement agency operates within thirty days after the search; and

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

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

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

15 (ii) Failed to respond to a notification of the illegal activity,
16 provided by a law enforcement agency within seven days of receipt of
17 notification of the illegal activity.

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

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

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

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

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

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

36 **Sec. 6.** RCW 9.46.0241 and 1987 c 4 s 11 are each amended to read
37 as follows:

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

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

1 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, is guilty
5 of a felony and shall be fined not more than one hundred thousand
6 dollars or imprisoned not more than five years or both. However, this
7 section does not apply to persons licensed by the commission, or who
8 are otherwise authorized by this chapter, or by commission rule, to
9 conduct gambling activities without a license, respecting devices that
10 are to be used, or are being used, solely in that activity for which
11 the license was issued, or for which the person has been otherwise
12 authorized if:

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

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

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.46 RCW
24 to read as follows:

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

1 **Sec. 9.** 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. 10.** 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. 11.** 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. 12.** 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~~) assistant directors, together with such investigators
33 and enforcement officers and such staff as the commission determines is
34 necessary to carry out the purposes and provisions of this chapter.
35 The director, the deputy director, (~~both~~) the assistant directors,
36 and personnel occupying positions requiring the performing of
37 undercover investigative work shall be exempt from the provisions of

1 chapter 41.06 RCW, as now law or hereafter amended. Neither the
2 director nor any commission employee working therefor shall be an
3 officer or manager of any bona fide charitable or bona fide nonprofit
4 organization, or of any organization which conducts gambling activity
5 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. 13.** 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 7 of this act or a seizure, confiscation, or destruction order under
18 (~~(RCW 9.46.230(1))~~) section 5 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 5 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 **Sec. 14.** RCW 9.46.260 and 1973 1st ex.s. c 218 s 26 are each
35 amended to read as follows:

36 Proof of possession of any device used for professional gambling or
37 any record relating to professional gambling specified in (~~(RCW~~

1 9.46.230)) section 7 of this act is prima facie evidence of possession
2 thereof with knowledge of its character or contents.

3 **Sec. 15.** RCW 9A.82.010 and 1992 c 210 s 6 and 1992 c 145 s 13 are
4 each reenacted and amended to read as follows:

5 Unless the context requires the contrary, the definitions in this
6 section apply throughout this chapter.

7 (1) "Creditor" means a person making an extension of credit or a
8 person claiming by, under, or through a person making an extension of
9 credit.

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

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

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

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

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

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

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

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

1 (10) "Traffic" means to sell, transfer, distribute, dispense, or
2 otherwise dispose of stolen property to another person, or to buy,
3 receive, possess, or obtain control of stolen property, with intent to
4 sell, transfer, distribute, dispense, or otherwise dispose of the
5 property to another person.

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

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

14 (13) "Financial institution" means any bank, trust company, savings
15 and loan association, savings bank, mutual savings bank, credit union,
16 or loan company under the jurisdiction of the state or an agency of the
17 United States.

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

- 26 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 27 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 28 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 29 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 30 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
31 9A.56.080;
- 32 (f) Child selling or child buying, as defined in RCW 9A.64.030;
- 33 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
34 9A.68.050;
- 35 (h) Gambling, as defined in RCW 9.46.220 and (~~9.46.230~~) sections
36 7 and 8 of this act;
- 37 (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 38 (j) Extortionate extension of credit, as defined in RCW 9A.82.020;

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

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

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

6 (n) Delivery or manufacture of controlled substances or possession
7 with intent to deliver or manufacture controlled substances under
8 chapter 69.50 RCW;

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

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

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

12 (r) Obstructing criminal investigations or prosecutions in
13 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
14 9A.76.070, or 9A.76.180;

15 (s) Fraud in the purchase or sale of securities, as defined in RCW
16 21.20.010;

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

18 (u) Sexual exploitation of children, as defined in RCW 9.68A.040,
19 9.68A.050, and 9.68A.060;

20 (v) Promoting prostitution, as defined in RCW 9A.88.070 and
21 9A.88.080;

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

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

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

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

26 (aa) Commercial telephone solicitation in violation of RCW
27 19.158.040(1).

28 (15) "Pattern of criminal profiteering activity" means engaging in
29 at least three acts of criminal profiteering, one of which occurred
30 after July 1, 1985, and the last of which occurred within five years,
31 excluding any period of imprisonment, after the commission of the
32 earliest act of criminal profiteering. In order to constitute a
33 pattern, the three acts must have the same or similar intent, results,
34 accomplices, principals, victims, or methods of commission, or be
35 otherwise interrelated by distinguishing characteristics including a
36 nexus to the same enterprise, and must not be isolated events.
37 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
38 any person other than the attorney general or county prosecuting
39 attorney in which one or more acts of fraud in the purchase or sale of

1 securities are asserted as acts of criminal profiteering activity, it
2 is a condition to civil liability under RCW 9A.82.100 that the
3 defendant has been convicted in a criminal proceeding of fraud in the
4 purchase or sale of securities under RCW 21.20.400 or under the laws of
5 another state or of the United States requiring the same elements of
6 proof, but such conviction need not relate to any act or acts asserted
7 as acts of criminal profiteering activity in such civil action under
8 RCW 9A.82.100.

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

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

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

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

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

22 (ii) Chapter 9.46 RCW relating to gambling;

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

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

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

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

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

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

37 (b) "Beneficial interest" does not include the interest of a
38 stockholder in a corporation or the interest of a partner in a general
39 partnership or limited partnership.

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

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

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

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

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

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

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

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

16 (ii) A trustee of any testamentary trust;

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

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

20 **Sec. 16.** RCW 10.105.900 and 1993 c 288 s 1 are each amended to
21 read as follows:

22 This chapter does not apply to property subject to forfeiture under
23 chapter 66.32 RCW, RCW 69.50.505, 9.41.098, (~~9.46.230~~) section 5 of
24 this act, 9A.82.100, 9A.83.030, 7.48.090, or 77.12.101.

25 NEW SECTION. **Sec. 17.** RCW 9.46.230 and 1987 c 202 s 139, 1987 c
26 4 s 43, 1981 c 139 s 12, 1977 ex.s. c 326 s 16, 1974 ex.s. c 155 s 5,
27 1974 ex.s. c 135 s 5, & 1973 1st ex.s. c 218 s 23 are each repealed.

28 NEW SECTION. **Sec. 18.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and shall take
31 effect immediately.

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