

HOUSE BILL REPORT

SHB 1364

As Passed Legislature

Title: An act relating to the seizure and forfeiture of gambling-related property.

Brief Description: Updating provisions about the seizure and forfeiture of gambling-related property.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives K. Schmidt, Delvin, Mitchell and Wensman; by request of Gambling Commission).

Brief History:

Committee Activity:

Commerce & Labor: 2/5/97, 2/6/97 [DPS].

Floor Activity:

Passed House: 2/21/97, 95-0.

Passed Legislature.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Cole; Hatfield and Lisk.

Staff: Pam Madson (786-7166).

Background: Real and personal property that is involved in a violation of state gambling laws is subject to seizure by law enforcement officers. Once property is seized, law enforcement notifies the owner and the owner may seek recovery of the property. Property subject to seizure includes:

- gambling devices, such as slot machines or video lottery terminals;
- furniture, fixtures, and equipment;
- vehicles including aircraft;
- books and records;
- money, negotiable instruments;
- other personal property acquired with proceeds of professional gambling; and
- real property.

If certain seized property is not claimed by the owner within a specified time period, it is forfeited. This property includes vehicles, money and negotiable instruments, personal property acquired with proceeds of professional gambling activity, and real property. Any security interest that is held by innocent parties in property subject to seizure, is protected.

A person claiming property that has been seized, other than gambling devices, may assert their ownership interest at an administrative hearing before the agency seizing the property or before a court. The law enforcement agency must return property that is shown to belong to the owner claiming it.

The Gambling Commission must file an annual report with the state treasurer on property that is forfeited.

Only gambling devices or equipment authorized for use by the commission can be lawfully owned or possessed in Washington. There is no authority for a person to own or possess a slot machine unless it is an antique slot machine not used for any gambling purpose.

The commission and members of the commission are protected from personal liability for their actions and actions of commission employees while acting within the scope of their authority.

Summary of Bill: Any property subject to seizure in connection with a violation of gambling laws may be forfeited without further hearing if, after notice is given to the owner, the owner fails to claim the property in the time required.

If the owner of a gambling device claims ownership of the machine that has been seized, he or she must be afforded a hearing on the claim of ownership. At the hearing, the only issues to be decided are whether the device is a gambling device and whether it is an antique device.

The Gambling Commission is no longer required to submit an annual report on forfeited property to the state treasurer.

State and local law enforcement officers and any special agents of the commission are protected from liability when lawfully performing their duties relating to the seizure and forfeiture of property under the gambling law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The Gambling Commission currently provides a hearing to anyone under its own rules who claims ownership of a gambling device that has been seized in connection with illegal gambling activity. Including a requirement for a hearing in the statutes dealing with seizure and forfeiture of property will help eliminate challenges to these statutes based on failure to provide due process to the property owner. Including a statement that the seizure statutes do not impose liability on law enforcement officers and commission employees while engaging in official duties under the act mirrors a similar provision in the Uniform Controlled Substances Act. Commission agents are exempt from liability under general doctrines while acting in the course of their duties. This bill would provide protection from liability while engaged in the seizure and forfeiture process.

Testimony Against: None.

Testified: Carrie Tellefson, Washington State Gambling Commission.