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SENATE BILL 6561

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State of Washington 57th Legislature

2002 Regular Session

By Senator Prentice; by request of Governor Locke

Read first time 01/21/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to the imposition of a state excise tax on pull-  
2 tabs, punch boards, and social card games; amending RCW 9.46.070 and  
3 9.46.110; adding new sections to chapter 9.46 RCW; providing an  
4 effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.46.070 and 1999 c 143 s 6 are each amended to read  
7 as follows:

8 The commission shall have the following powers and duties:

9 (1) To authorize and issue licenses for a period not to exceed one  
10 year to bona fide charitable or nonprofit organizations approved by the  
11 commission meeting the requirements of this chapter and any rules ((and  
12 regulations)) adopted pursuant thereto permitting said organizations to  
13 conduct bingo games, raffles, amusement games, and social card games,  
14 to utilize punch boards and pull-tabs in accordance with the provisions  
15 of this chapter and any rules ((and regulations)) adopted pursuant  
16 thereto and to revoke or suspend said licenses for violation of any  
17 provisions of this chapter or any rules ((and regulations)) adopted  
18 pursuant thereto: PROVIDED, That the commission shall not deny a  
19 license to an otherwise qualified applicant in an effort to limit the

1 number of licenses to be issued: PROVIDED FURTHER, That the commission  
2 or director shall not issue, deny, suspend, or revoke any license  
3 because of considerations of race, sex, creed, color, or national  
4 origin: AND PROVIDED FURTHER, That the commission may authorize the  
5 director to temporarily issue or suspend licenses subject to final  
6 action by the commission;

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

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

31 (4) To authorize, require, and issue, for a period not to exceed  
32 one year, such licenses as the commission may by rule provide, to any  
33 person, association, or organization to engage in the selling,  
34 distributing, or otherwise supplying or in the manufacturing of devices  
35 for use within this state for those activities authorized by this  
36 chapter;

37 (5) To establish a schedule of annual license fees for carrying on  
38 specific gambling activities upon the premises, and for such other  
39 activities as may be licensed by the commission, which fees shall

1 provide to the commission not less than an amount of money adequate to  
2 cover all costs incurred by the commission relative to licensing under  
3 this chapter and the enforcement by the commission of the provisions of  
4 this chapter and rules ((and regulations)) adopted pursuant thereto:  
5 PROVIDED, That all licensing fees shall be submitted with an  
6 application therefor and such portion of said fee as the commission may  
7 determine, based upon its cost of processing and investigation, shall  
8 be retained by the commission upon the withdrawal or denial of any such  
9 license application as its reasonable expense for processing the  
10 application and investigation into the granting thereof: PROVIDED  
11 FURTHER, That if in a particular case the basic license fee established  
12 by the commission for a particular class of license is less than the  
13 commission's actual expenses to investigate that particular  
14 application, the commission may at any time charge to that applicant  
15 such additional fees as are necessary to pay the commission for those  
16 costs. The commission may decline to proceed with its investigation  
17 and no license shall be issued until the commission has been fully paid  
18 therefor by the applicant: AND PROVIDED FURTHER, That the commission  
19 may establish fees for the furnishing by it to licensees of  
20 identification stamps to be affixed to such devices and equipment as  
21 required by the commission and for such other special services or  
22 programs required or offered by the commission, the amount of each of  
23 these fees to be not less than is adequate to offset the cost to the  
24 commission of the stamps and of administering their dispersal to  
25 licensees or the cost of administering such other special services,  
26 requirements or programs;

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

29 (7) To require that applications for all licenses contain such  
30 information as may be required by the commission: PROVIDED, That all  
31 persons (a) having a managerial or ownership interest in any gambling  
32 activity, or the building in which any gambling activity occurs, or the  
33 equipment to be used for any gambling activity, or (b) participating as  
34 an employee in the operation of any gambling activity, shall be listed  
35 on the application for the license and the applicant shall certify on  
36 the application, under oath, that the persons named on the application  
37 are all of the persons known to have an interest in any gambling  
38 activity, building, or equipment by the person making such application:  
39 PROVIDED FURTHER, That the commission may require fingerprinting and

1 background checks on any persons seeking licenses under this chapter or  
2 of any person holding an interest in any gambling activity, building,  
3 or equipment to be used therefor, or of any person participating as an  
4 employee in the operation of any gambling activity;

5 (8) To require that any license holder maintain records as directed  
6 by the commission and submit such reports as the commission may deem  
7 necessary;

8 (9) To require that all income from bingo games, raffles, and  
9 amusement games be recorded and reported as established by rule (~~or~~  
10 ~~regulation~~) of the commission to the extent deemed necessary by  
11 considering the scope and character of the gambling activity in such a  
12 manner that will disclose gross income from any gambling activity,  
13 amounts received from each player, the nature and value of prizes, and  
14 the fact of distributions of such prizes to the winners thereof;

15 (10) To regulate and establish maximum limitations on income  
16 derived from bingo. In establishing limitations pursuant to this  
17 subsection the commission shall take into account (i) the nature,  
18 character, and scope of the activities of the licensee; (ii) the source  
19 of all other income of the licensee; and (iii) the percentage or extent  
20 to which income derived from bingo is used for charitable, as  
21 distinguished from nonprofit, purposes. However, the commission's  
22 powers and duties granted by this subsection are discretionary and not  
23 mandatory;

24 (11) To regulate and establish the type and scope of and manner of  
25 conducting the gambling activities authorized by this chapter,  
26 including but not limited to, the extent of wager, money, or other  
27 thing of value which may be wagered or contributed or won by a player  
28 in any such activities, except that the maximum single wager for Phase  
29 II house-banked card games shall be three hundred dollars;

30 (12) To regulate the collection of and the accounting for the fee  
31 which may be imposed by an organization, corporation, or person  
32 licensed to conduct a social card game on a person desiring to become  
33 a player in a social card game in accordance with RCW 9.46.0282;

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

37 (14) In accordance with RCW 9.46.080, to adopt such rules (~~and~~  
38 ~~regulations~~) as are deemed necessary to carry out the purposes and  
39 provisions of this chapter. All rules (~~and regulations~~) shall be

1 adopted pursuant to the administrative procedure act, chapter 34.05  
2 RCW;

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

7 (16) To establish and regulate a maximum limit on salaries or wages  
8 which may be paid to persons employed in connection with activities  
9 conducted by bona fide charitable or nonprofit organizations and  
10 authorized by this chapter, where payment of such persons is allowed,  
11 and to regulate and establish maximum limits for other expenses in  
12 connection with such authorized activities, including but not limited  
13 to rent or lease payments. However, the commissioner's powers and  
14 duties granted by this subsection are discretionary and not mandatory.

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

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

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

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

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

10 **Sec. 2.** RCW 9.46.110 and 1999 c 221 s 1 are each amended to read  
11 as follows:

12 (1) The legislative authority of any county, city-county, city, or  
13 town, by local law and ordinance, and in accordance with the provisions  
14 of this chapter and rules adopted under this chapter, may provide for  
15 the taxing of any gambling activity authorized by this chapter within  
16 its jurisdiction, the tax receipts to go to the county, city-county,  
17 city, or town so taxing the activity. Any such tax imposed by a county  
18 alone shall not apply to any gambling activity within a city or town  
19 located in the county but the tax rate established by a county, if any,  
20 shall constitute the tax rate throughout the unincorporated areas of  
21 such county.

22 (2) The operation of punch boards and pull-tabs are subject to the  
23 following conditions:

24 (a) Chances may only be sold to adults;

25 (b) The price of a single chance may not exceed one dollar;

26 (c) No punch board or pull-tab license may award as a prize upon a  
27 winning number or symbol being drawn the opportunity of taking a chance  
28 upon any other punch board or pull-tab;

29 (d) All prizes available to be won must be described on an  
30 information flare. All merchandise prizes must be on display within  
31 the immediate area of the premises in which any such punch board or  
32 pull-tab is located. Upon a winning number or symbol being drawn, a  
33 merchandise prize must be immediately removed from the display and  
34 awarded to the winner. All references to cash or merchandise prizes,  
35 with a value over twenty dollars, must be removed immediately from the  
36 information flare when won, or such omission shall be deemed a fraud  
37 for the purposes of this chapter; and

1 (e) When any person wins money or merchandise from any punch board  
2 or pull-tab over an amount determined by the commission, every licensee  
3 shall keep a public record of the award for at least ninety days  
4 containing such information as the commission shall deem necessary.

5 (3)(a) Taxation of bingo and raffles shall never be in an amount  
6 greater than five percent of the gross receipts from a bingo game or  
7 raffle less the amount awarded as cash or merchandise prizes.

8 (b) Taxation of amusement games shall only be in an amount  
9 sufficient to pay the actual costs of enforcement of the provisions of  
10 this chapter by the county, city or town law enforcement agency and in  
11 no event shall such taxation exceed two percent of the gross receipts  
12 from the amusement game less the amount awarded as prizes.

13 (c) No tax shall be imposed under the authority of this chapter on  
14 bingo or amusement games when such activities or any combination  
15 thereof are conducted by any bona fide charitable or nonprofit  
16 organization as defined in this chapter, which organization has no paid  
17 operating or management personnel and has gross receipts from bingo or  
18 amusement games, or a combination thereof, not exceeding five thousand  
19 dollars per year, less the amount awarded as cash or merchandise  
20 prizes.

21 (d) No tax shall be imposed on the first ten thousand dollars of  
22 gross receipts less the amount awarded as cash or merchandise prizes  
23 from raffles conducted by any bona fide charitable or nonprofit  
24 organization as defined in this chapter.

25 (e) Taxation of punch boards and pull-tabs for bona fide charitable  
26 or nonprofit organizations is based on gross receipts from the  
27 operation of the games less the amount awarded as cash or merchandise  
28 prizes, and shall not exceed a rate of ten percent. At the option of  
29 the county, city-county, city, or town, the taxation of punch boards  
30 and pull-tabs for commercial stimulant operators may be based on gross  
31 receipts from the operation of the games, and may not exceed a rate of  
32 five percent, or may be based on gross receipts from the operation of  
33 the games less the amount awarded as cash or merchandise prizes, and  
34 may not exceed a rate of ten percent.

35 (f) Subject to section 3 of this act, taxation of social card games  
36 may not exceed ((twenty)) fifteen percent of the gross ((revenue))  
37 receipts from such games.

38 (4) Taxes imposed under this chapter become a lien upon personal  
39 and real property used in the gambling activity in the same manner as

1 provided for under RCW 84.60.010. The lien shall attach on the date  
2 the tax becomes due and shall relate back and have priority against  
3 real and personal property to the same extent as ad valorem taxes.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.46 RCW  
5 to read as follows:

6 Beginning January 1, 2002:

7 (1) Any ordinance adopted under RCW 9.46.110 that imposes a tax on  
8 social card games at a rate less than fifteen percent may not increase  
9 the rate of tax above fifteen percent.

10 (2) Any ordinance adopted under RCW 9.46.110 that imposes a tax on  
11 social card games at a rate of tax above fifteen percent may remain in  
12 effect until such time as the rate of tax is changed through the repeal  
13 or amendment of such ordinance, in which case any new rate shall not  
14 exceed fifteen percent.

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

17 (1) In addition to any tax imposed by a county, city-county, city,  
18 or town under the authority of this chapter, there is imposed by the  
19 state of Washington an excise tax upon every person engaging within  
20 this state in the business of operating punch boards, pull-tabs, or  
21 social card games.

22 (2)(a) The amount of tax on punch boards and pull-tabs shall be  
23 equal to the gross receipts from the operation of punch boards and  
24 pull-tabs without any deduction on account of amounts awarded as cash  
25 or merchandise prizes, multiplied by the rate of ten percent.

26 (b) The amount of tax on social card games shall be equal to the  
27 gross receipts from the social card games, multiplied by the rate of  
28 ten percent, or a lesser rate under subsection (3) of this section.

29 (c) As used in this subsection (2), "gross receipts" means the same  
30 as gross gambling receipts in WAC 230-02-110.

31 (3) The combined rate of tax imposed by the state of Washington  
32 under this section and any county, city-county, city, or town under RCW  
33 9.46.110 on social card games shall not exceed a rate of twenty-five  
34 percent. If the county, city-county, city, or town is authorized to  
35 exceed fifteen percent, the state rate shall be set so that the  
36 combined rate does not exceed twenty-five percent.

1 (4) The tax imposed by the state of Washington under this chapter  
2 shall be in addition to any tax imposed under Title 82 RCW on the  
3 business of operating punch boards, pull-tabs, or social card games.

4 (5) Chapter 82.32 RCW, with the exception of RCW 82.32.030(2),  
5 applies to the administration of this section.

6 NEW SECTION. **Sec. 5.** Sections 1, 2, and 4 of this act are  
7 necessary for the immediate preservation of the public peace, health,  
8 or safety, or support of the state government and its existing public  
9 institutions, and take effect June 1, 2002.

10 NEW SECTION. **Sec. 6.** (1) Section 3 of this act applies  
11 retroactively to January 1, 2002.

12 (2) Section 3 of this act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 immediately.

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