

# SENATE BILL REPORT

## HB 1667

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As Reported By Senate Committee On:  
Commerce & Trade, February 25, 2004

**Title:** An act relating to local government land use and zoning powers over gambling activities.

**Brief Description:** Clarifying local government land use and zoning powers over gambling activities.

**Sponsors:** Representatives Conway, Hankins, Kenney, Crouse, Kirby, Delvin, Hudgins, Lantz, Sullivan, McCoy and Campbell.

**Brief History:**

**Committee Activity:** Commerce & Trade: 4/3/03; 2/25/04 [DP].

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### SENATE COMMITTEE ON COMMERCE & TRADE

**Majority Report:** Do pass.

Signed by Senators Honeyford, Chair; Hewitt, Vice Chair; Franklin, Keiser and Mulliken.

**Staff:** John Dziedzic (786-7784)

**Background:** Article XI, Section 11 of the State Constitution empowers cities and counties to make and enforce local police, sanitary, and other regulations, including zoning and other land use ordinances, that are not in conflict with general laws.

Chapter 9.46 RCW is a general law granting exclusive authority regarding the licensing and regulation of gambling activities to the Washington State Gambling Commission (WSGC). A license issued by the WSGC authorizes the licensee to engage in the gambling activity for which the license is issued throughout a city or county across the state, except in a city or county that has prohibited any or all of the gambling activities for which the license is issued.

Except for powers granted under the statute, local licensing and regulatory authority relating to gambling is preempted by RCW 9.46.295. A city or county may enact local ordinances related to gambling only to the extent that they do not conflict with the statute or WSGC rules.

In a case decided last summer, Division I of the state Court of Appeals affirmed the City of Edmonds' power to prohibit a gambling activity within its geographic jurisdiction, but held that the part of the city's ordinance that would have "phased out" existing gambling facilities exceeded the city's authority. The court explained that the "phasing out" provision in the challenged ordinance amounted to a regulation of gambling activity and was thus pre-empted by state law.

**Summary of Bill:** A city, town, or county may exercise its land use and zoning powers with respect to any land uses involving licensed gambling activities.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Businesses engaging in gambling activities are the only entities that cities and counties cannot zone. This puts local jurisdictions in the difficult position of banning gambling completely or allowing it everywhere. In at least one instance, an existing recreation center, the largest employer in the city, is in jeopardy of being banned by a city in order to prevent gambling facilities from locating near city hall, the city park, churches, etc.

**Testimony Against:** Because of the connection between licensing activities of the Gambling Commission and the Liquor Control Board, local jurisdictions currently have the authority to prevent gambling facilities from locating near churches, parks, etc. This bill confuses an issue that was recently clarified by a state Court of Appeals decision.

**Testified:** PRO: Gary Murrey, Recreational Gaming Association; Helen McGovern, Bob Mack, City of Lakewood; Frank Evans, Kenmore Lanes. CON: Rick Day, WA State Gambling Commission.