

SENATE BILL REPORT

ESSB 5287

As Passed Senate, April 22, 2005

Title: An act relating to house-banked social card games.

Brief Description: Modifying house-banked social card game provisions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Brief History:

Committee Activity: Ways & Means: 2/16/05, 4/18/05 [DPS, DNP].

Passed Senate: 4/22/05, 33-16.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5287 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair; Fraser, Vice Chair; Fairley, Kohl-Welles, Pridemore, Rasmussen, Regala, Rockefeller and Thibaudeau.

Minority Report: Do not pass.

Signed by Senators Zarelli, Ranking Minority Member; Brandland, Hewitt, Parlette, Pflug, Roach and Schoesler.

Staff: Paula Faas (786-7449)

Background: The Gambling Act grants exclusive authority to the Washington State Gambling Commission (WSGC) with respect to the licensing and regulation of gambling activities, which include house-banked card games or mini-casinos; player-banked card games; and punch boards, pull tabs, and bingo. A license issued by the WSGC authorizes the licensee to engage in the licensed gambling activity throughout a city or county across the state, except in a city or county that has prohibited the gambling activity for which the license is issued.

House-banked card games are currently licensed in 95 locations in Washington. As of March 10, 2005, applications for nine additional house-banked card game licenses have been submitted to the Gambling Commission.

An ordinance adopted in 2000 by the City of Edmonds banned certain new gambling facilities, but allowed existing ones to continue to operate for five years. The ordinance was partially invalidated by the State Court of Appeals in June 2003. The court ruled that the "phasing-out" provision amounted to a regulation of gambling activity and was pre-empted by the Gambling Act. In December 2004, the same division of the State Court of Appeals upheld a Pierce County ordinance adopted in 1999 that prohibits all house-banked card games after a specified date. The court also ruled that the ban was not an unconstitutional taking, and thus did not require compensation to the licensee.

The WSGC currently identifies nearly 20 jurisdictions having zoning ordinances, partial bans, or moratoria that may be affected by these court decisions.

The state does not impose a specific gambling tax. Most gambling activities are subject to the business and occupation tax, under the service classification rate of 1.5 percent. When the operator of the card room participates in the card game as a house or central bank, the measure of the tax is the amount of winnings less the amount of losses. For non-house-banked social card rooms, the tax is levied on the participation fees charged to card game players.

Taverns, restaurants, and other businesses primarily engaged in selling food or drink may be licensed to conduct social card games approved by the Gambling Commission.

Cities, counties, and towns may impose a tax on any gambling activity authorized by the state occurring within their jurisdiction. Local jurisdictions may impose taxes up to the following rates, but not all do:

Activity Maximum Rate

- Social Card Games 20%
- Punch Boards & Pull Tabs 10% (or at 5% of gross receipts)
- Bingo 5%
- Amusement Games 2%
- Raffles 5%

Local taxes are imposed on gross receipts less the amount paid out as prizes. For social card rooms, the Gambling Commission defines gross receipts as fees for participation in card games and the gross wagers received from house-banked social card games, less the amount paid to players for winning wagers, accrual of prizes for progressive jackpot contests, and repayment of amounts used to seed guaranteed progressive jackpot prizes.

Summary of Substitute Bill: The WSGC is prohibited from issuing or renewing a license for house-banked card games except in a location specified in (a) an existing license or pending license application as of March 10, 2005; or (b) an application submitted before July 1, 2010 to relocate an existing licensed facility within a jurisdiction that has, by a 60 percent majority vote, adopted an ordinance in support of the licensed entity's application to relocate. A holder of an existing, relocated, or pending license is authorized to continue operating in the location identified in the license, unless the city or county in which the licensee operates adopts an ordinance prohibiting such gambling activity throughout the jurisdiction, and the prohibition is in effect on the renewal date of the license.

Substitute Bill Compared to Second Substitute Bill: The section imposing five percent state tax on the gross revenue of house-banked social card games was removed, along with the section lowering the maximum tax rate a local jurisdiction could impose on house-banked social card games. The sections establishing the public benefit account and appropriating funds from that account were removed.

Appropriation: None

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2005.

Testimony For: The cardroom industry has grown in Washington State. The state is short on funding, and this industry could provide a very accessible source of revenue for the state. The money should be earmarked for specific purposes. Jurisdictions currently taxing at rates above 10 percent appreciate being grandfathered in under this bill.

Testimony Against: Taxing cardrooms at 20 percent will prevent businesses from generating a profit. 53 cardrooms will close and 6,000 jobs will be lost. It's unfair to invest money in a business only to experience a doubling of the tax rate. Cardrooms provide important revenue for local jurisdictions whose revenue streams would be adversely affected if these businesses closed. Other cities are concerned that this bill reduces their taxing capacity.

Who Testified: PRO: Steve Colwell, David Baker. OTHER: Jim Justin, Association of Washington Counties.

CON: Doloris Chiechi, Recreational Gaming Association; Chris Kealy, Iron Horse Casino; H.T. Higgins, Big Daddy's Casino; Mike Davis, Casino Carribean; Robert Ransom, Shoreline City Councilman.