

SENATE BILL REPORT

SB 5591

As of February 22, 2005

Title: An act relating to the zoning authority of local jurisdictions with respect to activities licensed by the gambling commission.

Brief Description: Modifying the zoning authority of local jurisdictions over gambling activities.

Sponsors: Senator Honeyford.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/24/05.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Staff: John Dzedzic (786-7784)

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.

Under RCW 9.46.0325, the WSGC may issue a license to conduct social card games (player banked or house-banked) or punch boards and pull tabs only to a business primarily engaged in the selling of food or drink for consumption on premise. Possession of such a license does not exempt the licensee from valid local restrictions, controls, and zoning ordinances that apply to food and drink establishments.

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.

Summary of Bill: The Gambling Act is amended to authorize cities and counties to adopt zoning ordinances prohibiting one or more types of licensed gambling activities, when the ordinance:

- 1) is consistent with the jurisdiction's comprehensive plan, and the plan includes a policy statement regarding the locating of gambling facilities;
- 2) allows or prohibits a licensed activity throughout all substantially similar zones; and
- 3) does not authorize commercial gambling in a zone that was created or reduced in size in the last three years.

Ordinances adopted under the authority created by this bill may not be repealed or amended for three years after adoption.

A licensed gambling facility affected by an ordinance adopted under this bill is allowed to continue operating, unless upon a 60 percent vote of the citizens of the jurisdiction, the gambling activity is prohibited.

Local jurisdictions may prohibit licensed gambling activities within 500 feet of certain public and private facilities.

If the area where commercial gambling is authorized by an ordinance adopted under this bill is less than one-third of the area in the jurisdiction where restaurants and taverns may be located, a person or business may challenge an ordinance. To prevail on such a challenge, the challenger must show that the ordinance has a disproportional and adverse effect on the jurisdiction's minority or low-income residents.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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