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SECOND SUBSTITUTE SENATE BILL 5037

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State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Kohl-Welles, Kline, Deccio and Franklin; by request of Governor Locke)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to problem gambling; amending RCW 43.20A.890,  
2 67.70.340, 82.04.350, 82.04.290, and 9.46.071; adding a new section to  
3 chapter 43.20A RCW; adding new sections to chapter 82.04 RCW; creating  
4 a new section; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) The costs to society of problem and pathological gambling  
8 include family disintegration, criminal activity, and financial  
9 insolvencies;

10 (b) Problem and pathological gamblers suffer a higher incidence of  
11 addictive disorders such as alcohol and substance abuse;

12 (c) Residents of Washington have the opportunity to participate in  
13 a variety of legal gambling activities operated by the state, by  
14 federally recognized tribes, and by private businesses and nonprofit  
15 organizations; and

16 (d) A 1999 study found that five percent of adult Washington  
17 residents and eight percent of adolescents could be classified as  
18 problem gamblers during their lifetimes, and that more than one percent  
19 of adults have been afflicted with pathological gambling.

1 (2) The legislature intends to provide long-term, dedicated funding  
2 for public awareness and education regarding problem and pathological  
3 gambling, training in its identification and treatment, and treatment  
4 services for problem and pathological gamblers and, as clinically  
5 appropriate, members of their families.

6 **Sec. 2.** RCW 43.20A.890 and 2002 c 349 s 4 are each amended to read  
7 as follows:

8 (1) A program for (a) the prevention and treatment of  
9 ~~((pathological))~~ problem and pathological gambling; and (b) the  
10 training of professionals in the identification and treatment of  
11 problem and pathological gambling is established within the department  
12 of social and health services, to be administered by a qualified person  
13 who has training and experience in ~~((handling pathological))~~ problem  
14 gambling ~~((problems))~~ or the organization and administration of  
15 treatment services for persons suffering from ~~((pathological))~~ problem  
16 gambling ~~((problems))~~. The department may contract for any services  
17 provided under the program. The department shall track program  
18 participation and client outcomes.

19 (2) To receive treatment under subsection (1) of this section, a  
20 person must:

21 (a) Need treatment for ~~((pathological))~~ problem or pathological  
22 gambling, or because of the problem or pathological gambling of a  
23 family member, but be unable to afford treatment; and

24 (b) Be targeted by the department of social and health services as  
25 ~~((to be))~~ being most amenable to treatment.

26 (3) Treatment under this section is ~~((limited to))~~ available only  
27 to the extent of the funds appropriated or otherwise made available to  
28 the department of social and health services for this purpose. The  
29 department may solicit and accept for use any gift of money or property  
30 made by will or otherwise, and any grant of money, services, or  
31 property from the federal government, any tribal government, the state,  
32 or any political subdivision thereof or any private source, and do all  
33 things necessary to cooperate with the federal government or any of its  
34 agencies or any tribal government in making an application for any  
35 grant.

36 (4) The department of social and health services shall ~~((report to~~  
37 ~~the legislature by September 1, 2002, with a plan for implementing this~~

1 section)) establish an advisory committee to assist it in designing,  
2 managing, and evaluating the effectiveness of the program established  
3 in this section. The committee shall include, at a minimum, persons  
4 knowledgeable in the field of problem and pathological gambling and  
5 persons representing tribal gambling, privately owned nontribal  
6 gambling, and the state lottery.

7 ~~(5) ((The department of social and health services shall report to~~  
8 ~~the legislature by November 1, 2003, on program participation and~~  
9 ~~client outcomes.))~~ For purposes of this section, "pathological  
10 gambling" is a mental disorder characterized by loss of control over  
11 gambling, progression in preoccupation with gambling and in obtaining  
12 money to gamble, and continuation of gambling despite adverse  
13 consequences. "Problem gambling" is an earlier stage of pathological  
14 gambling which compromises, disrupts, or damages family or personal  
15 relationships or vocational pursuits.

16 NEW SECTION. Sec. 3. A new section is added to chapter 43.20A RCW  
17 to read as follows:

18 The problem gambling account is created in the state treasury.  
19 Money in the account may be spent only after appropriation.  
20 Expenditures from the account may be used only for the purposes of the  
21 program established under RCW 43.20A.890.

22 **Sec. 4.** RCW 67.70.340 and 2002 c 349 s 3 are each amended to read  
23 as follows:

24 (1) The legislature recognizes that creating a shared game lottery  
25 could result in less revenue being raised by the existing state lottery  
26 ticket sales. The legislature further recognizes that the two funds  
27 most impacted by this potential event are the student achievement fund  
28 and the education construction account. Therefore, it is the intent of  
29 the legislature to use some of the proceeds from the shared game  
30 lottery to make up the difference that the potential state lottery  
31 revenue loss would have on the student achievement fund and the  
32 education construction account. The legislature further intends to use  
33 some of the proceeds from the shared game lottery to fund programs and  
34 services related to problem and pathological gambling.

35 (2) The student achievement fund and the education construction  
36 account are expected to collectively receive one hundred two million

1 dollars annually from state lottery games other than the shared game  
2 lottery. For fiscal year 2003 and thereafter, if the amount of lottery  
3 revenues earmarked for the student achievement fund and the education  
4 construction account (~~are~~) is less than one hundred two million  
5 dollars, the commission, after making the transfer required under  
6 subsection (3) of this section, must transfer sufficient moneys from  
7 revenues derived from the shared game lottery into the student  
8 achievement fund and the education construction account to bring the  
9 total revenue up to one hundred two million dollars. The funds  
10 transferred from the shared game lottery account under this subsection  
11 must be divided between the student achievement fund and the education  
12 construction account in a manner consistent with RCW 67.70.240(3).

13 ~~(3) ((For fiscal year 2003, the commission shall transfer from~~  
14 ~~revenues derived from the shared game lottery to the violence reduction~~  
15 ~~and drug enforcement account under RCW 69.50.520 five hundred thousand~~  
16 ~~dollars exclusively for the treatment of pathological gambling as~~  
17 ~~prescribed by RCW 67.70.350.))~~ (a) The commission shall transfer, from  
18 revenue derived from the shared game lottery, to the problem gambling  
19 account created in section 3 of this act, an amount equal to the  
20 percentage specified in (b) of this subsection of net receipts. For  
21 purposes of this subsection, "net receipts" means the difference  
22 between (i) revenue received from the sale of lottery tickets or shares  
23 and revenue received from the sale of shared game lottery tickets or  
24 shares; and (ii) the sum of payments made to winners.

25 (b) In fiscal year 2006, the percentage to be transferred to the  
26 problem gambling account is one-tenth of one percent. In fiscal year  
27 2007 and subsequent fiscal years, the percentage to be transferred to  
28 the problem gambling account is thirteen one-hundredths of one percent.

29 (4) The remaining net revenues, if any, in the shared game lottery  
30 account after the transfers pursuant to this section shall be deposited  
31 into the general fund.

32 NEW SECTION. Sec. 5. A new section is added to chapter 82.04 RCW,  
33 to be codified between RCW 82.04.220 and 82.04.310, to read as follows:

34 (1) Upon every person engaging within this state in the business of  
35 operating contests of chance; as to such persons, the amount of tax  
36 with respect to the business of operating contests of chance is equal

1 to the gross income of the business derived from contests of chance  
2 multiplied by the rate of 1.5 percent.

3 (2) An additional tax is imposed on those persons subject to tax in  
4 subsection (1) of this section. The amount of the additional tax with  
5 respect to the business of operating contests of chance is equal to the  
6 gross income of the business derived from contests of chance multiplied  
7 by the rate of 0.1 percent through June 30, 2006, and 0.13 percent  
8 thereafter. The money collected under this subsection (2) shall be  
9 deposited in the problem gambling account created in section 3 of this  
10 act.

11 (3) For the purpose of this section, "contests of chance" means any  
12 contests, games, gaming schemes, or gaming devices, other than the  
13 state lottery as defined in RCW 67.70.010, in which the outcome depends  
14 in a material degree upon an element of chance, notwithstanding that  
15 skill of the contestants may also be a factor in the outcome. The term  
16 includes social card games, bingo, raffle, and punchboard games, and  
17 pull-tabs as defined in chapter 9.46 RCW. The term does not include  
18 race meets for the conduct of which a license must be secured from the  
19 Washington horse racing commission, or "amusement game" as defined in  
20 RCW 9.46.0201.

21 (4) "Gross income of the business" does not include the monetary  
22 value or actual cost of any prizes that are awarded, amounts paid to  
23 players for winning wagers, accrual of prizes for progressive jackpot  
24 contests, or repayment of amounts used to seed guaranteed progressive  
25 jackpot prizes.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW  
27 to read as follows:

28 (1) Upon every person engaging within this state in the business of  
29 conducting race meets for the conduct of which a license must be  
30 secured from the Washington horse racing commission; as to such  
31 persons, the amount of tax with respect to the business of parimutuel  
32 wagering is equal to the gross income of the business derived from  
33 parimutuel wagering multiplied by the rate of 0.1 percent through June  
34 30, 2006, and 0.13 percent thereafter. The money collected under this  
35 section shall be deposited in the problem gambling account created in  
36 section 3 of this act.

1 (2) If the persons described in subsection (1) of this section  
2 receive income from sources other than those described in subsection  
3 (1) of this section or provide services other than those named in  
4 subsection (1) of this section, that income and those services are  
5 subject to tax as otherwise provided in this chapter.

6 (3) For purposes of this section, "gross income of the business"  
7 does not include amounts paid to players for winning wagers, or taxes  
8 imposed or other distributions required under chapter 67.16 RCW.

9 (4) The tax imposed under this section is in addition to any tax  
10 imposed under chapter 67.16 RCW.

11 **Sec. 7.** RCW 82.04.350 and 1961 c 15 s 82.04.350 are each amended  
12 to read as follows:

13 Except as provided in section 6(1) of this act, this chapter shall  
14 not apply to any person in respect to the business of conducting race  
15 meets for the conduct of which a license must be secured from the horse  
16 racing commission.

17 **Sec. 8.** RCW 82.04.290 and 2004 c 174 s 2 are each amended to read  
18 as follows:

19 (1) Upon every person engaging within this state in the business of  
20 providing international investment management services, as to such  
21 persons, the amount of tax with respect to such business shall be equal  
22 to the gross income or gross proceeds of sales of the business  
23 multiplied by a rate of 0.275 percent.

24 (2) Upon every person engaging within this state in any business  
25 activity other than or in addition to (~~those enumerated in RCW~~  
26 ~~82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,~~  
27 ~~82.04.298, 82.04.2905, 82.04.280, 82.04.2907, 82.04.272, 82.04.2906,~~  
28 ~~and 82.04.2908, and~~) an activity taxed explicitly under another  
29 section in this chapter or subsection (1) of this section; as to such  
30 persons the amount of tax on account of such activities shall be equal  
31 to the gross income of the business multiplied by the rate of 1.5  
32 percent.

33 (3) Subsection (2) of this section includes, among others, and  
34 without limiting the scope hereof (whether or not title to materials  
35 used in the performance of such business passes to another by  
36 accession, confusion or other than by outright sale), persons engaged

1 in the business of rendering any type of service which does not  
2 constitute a "sale at retail" or a "sale at wholesale." The value of  
3 advertising, demonstration, and promotional supplies and materials  
4 furnished to an agent by his principal or supplier to be used for  
5 informational, educational and promotional purposes shall not be  
6 considered a part of the agent's remuneration or commission and shall  
7 not be subject to taxation under this section.

8 **Sec. 9.** RCW 9.46.071 and 2003 c 75 s 1 are each amended to read as  
9 follows:

10 (1) The legislature recognizes that some individuals in this state  
11 are problem or (~~(compulsive)~~) pathological gamblers. Because the state  
12 promotes and regulates gambling through the activities of the state  
13 lottery commission, the Washington horse racing commission, and the  
14 Washington state gambling commission, the state has the responsibility  
15 to continue to provide resources for the support of services for  
16 problem and (~~(compulsive)~~) pathological gamblers. Therefore, (~~(at a~~  
17 ~~minimum,~~) the Washington state gambling commission, the Washington  
18 horse racing commission, and the state lottery commission shall jointly  
19 develop informational signs concerning problem and (~~(compulsive)~~)  
20 pathological gambling which include a toll-free hot line number for  
21 problem and (~~(compulsive)~~) pathological gamblers. The signs shall be  
22 placed in the establishments of gambling licensees, horse racing  
23 licensees, and lottery retailers. In addition, the Washington state  
24 gambling commission, the Washington horse racing commission, and the  
25 state lottery commission may also contract with other qualified  
26 entities to provide public awareness, training, and other services to  
27 ensure the intent of this section is fulfilled.

28 (2)(a) During any period in which section 5(2) of this act is in  
29 effect, the commission may not increase fees payable by licensees under  
30 its jurisdiction for the purpose of funding services for problem and  
31 pathological gambling. Any fee imposed or increased by the commission,  
32 for the purpose of funding these services, before the effective date of  
33 this section shall have no force and effect after the effective date of  
34 this section.

35 (b) During any period in which section 5(2) of this act is not in  
36 effect:

1       (i) The commission, the Washington state horse racing commission,  
2 and the state lottery commission may contract for services, in addition  
3 to those authorized in subsection (1) of this section, to assist in  
4 providing for treatment of problem and pathological gambling; and  
5       (ii) The commission may increase fees payable by licenses under its  
6 jurisdiction for the purpose of funding the services authorized in this  
7 section for problem and pathological gamblers.

8       NEW SECTION. Sec. 10. If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.

12       NEW SECTION. Sec. 11. 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 July 1, 2005.

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