

- (ii) The gauge of the shotgun;
- (iii) The type of choke on the barrel;
- (iv) The size of shot that will be used; and
- (v) The prize or prizes that are to be awarded in the contest;
- (f) The targets, shotgun, and ammunition shall be available for inspection by any person purchasing a chance thereon, the commission, or by any law enforcement agency upon demand, at all times before the prizes are awarded;
- (g) The turkey shoot shall award the prizes based upon the greatest number of shots striking a section;
- (h) No turkey shoot may offer as a prize the right to advance or continue on to another turkey shoot or turkey shoot target; and
- (i) Only bona fide members of the organization who are not paid for such service may participate in the management or operation of the turkey shoot, and all income therefrom, after deducting the cost of prizes and other expenses, shall be devoted solely to the lawful purposes of the organization.

Passed the Senate March 12, 1985.

Passed the House April 12, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 171

[Substitute Senate Bill No. 4114]

SECURITIES SALES BY STATE OR SUBDIVISIONS OF STATE—LIABILITY FOR FRAUDULENT ACTIVITIES CONNECTED TO SALE OF CERTAIN SECURITIES

AN ACT Relating to securities of the state, its agencies, political subdivisions, municipal corporations, or instrumentalities; and amending RCW 21.20.430.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 43, chapter 282, Laws of 1959 as last amended by section 9, chapter 272, Laws of 1981 and RCW 21.20.430 are each amended to read as follows:

(1) Any person, who offers or sells a security in violation of any provisions of RCW 21.20.010 or 21.20.140 through 21.20.230, is liable to the person buying the security from him or her, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.

(2) Any person who buys a security in violation of the provisions of RCW 21.20.010 is liable to the person selling the security to him or her, who may sue either at law or in equity to recover the security, together with any income received on the security, upon tender of the consideration received, costs, and reasonable attorneys' fees, or if the security cannot be recovered, for damages. Damages are the value of the security when the buyer disposed of it, and any income received on the security, less the consideration received for the security, plus interest at eight percent per annum from the date of disposition, costs, and reasonable attorneys' fees.

(3) Every person who directly or indirectly controls a seller or buyer liable under subsection (1) or (2) above, every partner, officer, director or person who occupies a similar status or performs a similar function of such seller or buyer, every employee of such a seller or buyer who materially aids in the transaction, and every broker-dealer, salesperson, or person exempt under the provisions of RCW 21.20.040 who materially aids in the transaction is also liable jointly and severally with and to the same extent as the seller or buyer, unless such person sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(4) (a) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(b) No person may sue under this section more than three years after the contract of sale for any violation of the provisions of RCW 21.20.140 through 21.20.230, or more than three years after a violation of the provisions of RCW 21.20.010, either was discovered by such person or would have been discovered by him or her in the exercise of reasonable care. No person may sue under this section if the buyer or seller receives a written rescission offer, which has been passed upon by the director before suit and at a time when he or she owned the security, to refund the consideration paid together with interest at eight percent per annum from the date of payment, less the amount of any income received on the security in the case of a buyer, or plus the amount of income received on the security in the case of a seller.

(5) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(6) Any tender specified in this section may be made at any time before entry of judgment.

(7) Notwithstanding subsections (1) through (6) of this section, if an initial offer or sale of securities that are exempt from registration under RCW 21.20.310 is made by ((the)) this state or its agencies, political subdivisions, municipal or quasi-municipal corporations, or other instrumentality of one or more of the foregoing and is in violation of RCW 21.20.010(2), ((each)) and any such issuer, member of the governing body, committee member, public officer, director, employee, or agent of such issuer acting on its behalf, or person in control of ((the state or agency, each)) such issuer, member of the governing body, committee member, public officer, ((or)) director, employee, or agent of such person acting on its behalf, ((and each employee thereof who)) materially aids in the offer or sale, ((are)) such person is liable to the purchaser of the security only if the purchaser establishes scienter on the part of the defendant. The word "employee" or the word "agent," as such words are used in this subsection, do not include a bond counsel or an underwriter. Under no circumstances whatsoever shall this subsection be applied to require purchasers to establish scienter on the part of bond counsels or underwriters.

Passed the Senate April 17, 1985.

Passed the House April 16, 1985.

Approved by the Governor April 25, 1985.

Filed in Office of Secretary of State April 25, 1985.

CHAPTER 172

[Senate Bill No. 3486]

GAMBLING TAX BY COUNTIES MODIFIED

AN ACT Relating to taxation of gambling; and amending RCW 9.46.110.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 139, Laws of 1981 and RCW 9.46.110 are each amended to read as follows:

The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located therein but the tax rate established by a county, if any, shall constitute the tax rate throughout the unincorporated