

agreements.

2. School districts could enter into interdistrict agreements with other school districts to provide special dropout rehabilitation programs.
3. Leaving this language in ESHB 740 would tend to encourage the fragmentation of the high school program as it now operates.
4. High schools should be challenged to provide programs for their students rather than "contracting" them to a community college.
5. Probably the most important monetary angle of this language would allow such students to be counted as FTE's for community colleges as well as their attendance being claimed by school districts."

While the concept may be meritorious, the potential impact, apparently unrecognized by the legislature, is too great to allow this provision to become law without adequate study.

I am forwarding a copy of this veto message to the Superintendent of Public Instruction and to the State Board for Community College Education requesting them to review this matter and make recommendations where appropriate to me and to the next legislative session to insure that adequate educational opportunities exist for students desiring to acquire their high school diploma."

CHAPTER 280

[Engrossed House Bill No. 291]

GAMBLING

AN ACT Relating to gambling; adding new sections to chapter 9.47 RCW; creating new sections; amending section 1246, Code of 1881 as last amended by section 248, chapter 249, Laws of 1909 and RCW 9.66.010; repealing section 5, page 98, Laws of 1879, section 1257, Code of 1881, section 3, chapter 7, Laws of 1957 and RCW 4.24.080; repealing section 99, page 93, Laws of 1854, sections 104, 105, page 222, Laws of 1869, sections 110, 111,

page 206, Laws of 1873, section 1253, Code of 1881, section 217, chapter 249, Laws of 1909 and RCW 9.47.010; repealing section 218, chapter 249, Laws of 1909 and RCW 9.47.020; repealing section 220, chapter 249, Laws of 1909 and RCW 9.47.030; repealing section 1, chapter 119, Laws of 1937 and RCW 9.47.040; repealing section 2, chapter 119, Laws of 1937 and RCW 9.47.050; repealing section 221, chapter 249, Laws of 1909 and RCW 9.47.060; repealing section 100, page 93, Laws of 1854, section 105, page 222, Laws of 1869, section 111, page 206, Laws of 1873, sections 5, 6, page 98, Laws of 1879, sections 1257, 1258, Code of 1881, section 222, chapter 249, Laws of 1909 and RCW 9.47.070; repealing section 226, chapter 249, Laws of 1909 and RCW 9.47.110; repealing section 228, chapter 249, Laws of 1909 and RCW 9.47.130; repealing section 1, chapter 6, Laws of 1909 and RCW 9.47.140; providing for the suspension of certain parts of this act upon judicial declaration of invalidity until the state Constitution be amended; defining crimes; and prescribing penalties.

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

NEW SECTION. Section 1. There is added to chapter 9.47 RCW a new section to read as follows:

It is hereby declared to be the policy of the legislature, recognizing the close relationship between professional gambling and organized crime, to restrain all persons from seeking profit from professional gambling activities in this state; to restrain all persons from patronizing such professional gambling activities; to safeguard the public against the evils induced by common gamblers and common gambling houses engaged in professional gambling; and at the same time, to preserve the freedom of the press and to avoid restricting participation by individuals in sports and social pastimes, which social pastimes are more for amusement rather than for profit, do not maliciously affect the public, and do not breach the peace.

The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, civic and patriotic causes and undertakings is in the public interest and that it must differentiate clearly between gambling for profit and professional fund-raising by bona fide charitable and nonprofit organizations.

The legislature further finds that, as conducted prior to the enactment of this 1971 amendatory act, bingo was the subject of exploitation by professional gamblers, promoters, and commercial interests.

It is hereby declared to be the policy of the legislature that all phases of the supervision and regulation of bingo and of the

V conduct of bingo games, raffles, pinball machines and other similar
mechanical amusement devices, amusement games, social card rooms,
V punch boards and pull tabs should be closely controlled.

All of the provisions of this 1971 amendatory act shall be liberally construed to achieve these ends, and administered and enforced with a view to carrying out the above declaration of policy.

NEW SECTION. Sec. 2. There is added to chapter 9.47 RCW a new section to read as follows:

As used in this 1971 amendatory act:

(1) "Contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(2) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include parimutuel betting as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health

V or accident insurance nor does it include drawings conducted by business enterprises in connection with business promotions, where there is no charge to enter the drawing or any other charges directly or indirectly related thereto, and it is not necessary to make any purchase to enter the contest and it is not necessary to be present at the drawing to win any of the prizes: PROVIDED, That no sponsoring business firm may conduct more than one such drawing during each calendar year and that the period of the drawing and its promotion shall not extend for more than seven consecutive days: PROVIDED FURTHER, That if the sponsoring organization has more than one outlet in the state such drawings must be held in all such outlets at the same time except that a sponsoring organization with more than one outlet may conduct a separate drawing in connection with the first grand opening of any such outlet.

(3) "Player", except as otherwise in section 16 of this 1971 amendatory act provided, means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular

gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player".

(4) A person is engaged in "professional gambling" when:

(a) Acting other than as a player or in the manner set forth in section 16 of this 1971 amendatory act, he knowingly engages in conduct which materially aids any other form of gambling activity; or

(b) Acting other than as a player, or in the manner set forth in section 16 of this 1971 amendatory act, he knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity; or

(c) He engages in bookmaking.

Conduct under subparagraph (a), except as exempted under section 16 of this 1971 amendatory act, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit said premises to be used with the person's knowledge for the purpose of conducting gambling activity other than social card games or nonprofessional gambling activities as set forth in section 16 of this 1971 amendatory act and only as authorized in this 1971 amendatory act, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he shall be considered as being engaged in professional gambling.

(5) "Gambling device" means: (a) Any device or mechanism used for professional gambling by the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance; (b) any device or mechanism used for professional gambling which, when operated for a consideration, does not return the same value or thing of value for the same consideration upon each operation thereof; (c) any device, mechanism, furniture, fixture,

construction or installation designed primarily for use in connection with professional gambling; and (d) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation used in professional gambling. But in the application of this definition, a pinball machine or similar mechanical amusement device which confers only an immediate and unrecorded right of replay on players thereof or payment in lieu thereof, which does not contain any mechanism which varies the chance of winning free games or the number of free games which may be won, or have a mechanism or a chute for dispensing coins or a facsimile thereof, which prohibits multiple winnings depending upon the number of coins inserted and requires the playing of five balls individually upon the insertion of a nickle or dime, as the case may be, to complete any one operation thereof, shall not be

deemed a gambling device. In addition, any punch boards or pull tabs as authorized and defined in section 11 subsection (2) of this 1971 amendatory act or any device or mechanism utilized in amusement games as defined in subsection (13) of this section shall not be deemed a gambling device hereunder.

(6) "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found shall be presumed to be intended to be used for professional gambling.

(7) "Gambling information" means any wager made in the course of and any information intended to be used for professional gambling. In the application of this definition information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling: PROVIDED, HOWEVER, That this subsection shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the Federal Communications Commission.

(8) "Thing of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(9) "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

(10) "Bookmaking" means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(11) "Bingo" means a game in which prizes are awarded on the

basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(12) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(13) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;
- (e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and
- (f) Said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, including the furnishing of equipment, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting such game or said game is conducted as part of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW.

(14) "Bona fide charitable or nonprofit organization" means

any organization duly existing under the provisions of chapters 24.12, 24.20 or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, which has been organized and is operated primarily for purposes other than the operation of bingo games, raffles, amusement games or social card games, and which receives not more than five thousand dollars or twenty-five percent of its gross receipts, whichever is the greater, in any calendar year from the operation of bingo, raffles, amusement games and social card games, but these limitations on receipts shall not apply to any organization which conducts only one raffle per calendar year, the total gross income from which does not exceed twenty thousand dollars, and which does not conduct bingo games, amusement games or social card games. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, except for any such organization incorporated under the laws of this state for at least twenty-five years, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

(15) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this 1971 amendatory act committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

NEW SECTION. Sec. 3. Whoever engages in professional gambling, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling, shall be guilty of a felony and fined not more than one hundred thousand dollars or imprisoned not more than five years or both: PROVIDED, HOWEVER, That this section and the provisions of chapter 9.59 RCW shall not apply to those nonprofessional gambling activities enumerated in section 16 of this 1971 amendatory act or to any act or acts in furtherance thereof.

NEW SECTION. Sec. 4. (1) All gambling devices as defined in section 2 of this 1971 amendatory act are common nuisances and shall be subject to seizure, immediately upon detection by any peace officer, and to confiscation and destruction by order of a superior or district justice court, except when in the possession of officers enforcing this 1971 amendatory act.

(2) No property right in any gambling device as defined in section 2 of this 1971 amendatory act shall exist or be recognized in any person, except the possessory right of officers enforcing this 1971 amendatory act.

(3) All furnishings, fixtures, equipment and stock, including without limitation furnishings and fixtures adaptable to nongambling uses and equipment and stock for printing, recording, computing, transporting or safekeeping, used in connection with professional gambling or maintaining a gambling premises, and all money or other things of value at stake or displayed in or in connection with professional gambling or any gambling device used therein, shall be subject to seizure, immediately upon detection, by any peace officer, and unless good cause is shown to the contrary by the owner, shall be forfeited to the state or political subdivision by which seized by order of a court having jurisdiction, for disposition by public auction or as otherwise provided by law. Bona fide liens against property so forfeited, on good cause shown by the lienor, shall be transferred from the property to the proceeds of the sale of the property. Forfeit moneys and other proceeds realized from the enforcement of this subsection shall be paid into the general fund of the state if the property was seized by officers thereof or to the political subdivision or other public agency, if any, whose officers made the seizure, except as otherwise provided by law. This subsection and the provisions of chapter 9.59 RCW shall not apply to such items utilized in nonprofessional gambling activities enumerated in section 16 of this 1971 amendatory act or any act or acts in furtherance thereof.

(4) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds, a security interest in, stores, repairs or transports any gambling device as defined in section 2 of this 1971 amendatory act or offers or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a felony and fined not more than one hundred thousand dollars or imprisoned not more than five years or both: PROVIDED, HOWEVER, That this subsection and the provisions of chapter 9.59 RCW shall not apply to devices used in those nonprofessional gambling activities enumerated in section 16 of this 1971 amendatory act, or to any act or acts in furtherance thereof. Subsection (2) of this section shall have no application in the enforcement of this subsection. In the enforcement of this subsection direct possession of any such gambling device shall be presumed to be knowing possession thereof.

(5) Whoever knowingly prints, makes, possesses, stores or transports any gambling record, or buys, sells, offers or solicits any interest therein, whether through an agent or employee or otherwise, shall be guilty of a gross misdemeanor: PROVIDED,

HOWEVER, That this subsection and the provisions of chapter 9.59 RCW shall not apply to records relating to nonprofessional gambling activities, enumerated in section 16 of this 1971 amendatory act or to any act or acts in furtherance thereof. In the enforcement of this subsection direct possession of any such gambling record shall be presumed to be knowing possession thereof.

NEW SECTION. Sec. 5. (1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information, shall be guilty of a gross misdemeanor: PROVIDED, HOWEVER, That this section and the provisions of chapter 9.59 RCW shall not apply to such information transmitted or received or equipment installed or maintained relating to nonprofessional gambling activities as enumerated in section 16 of this 1971 amendatory act or to any act or acts in furtherance thereof.

NEW SECTION. Sec. 6. (1) All professional gambling premises are common nuisances and shall be subject to abatement by injunction or as otherwise provided by law. The plaintiff in any action brought under this subsection against any professional gambling premises, which shall not include premises where the sole gambling activity is those nonprofessional gambling activities set out in section 16 of this 1971 amendatory act, need not show special injury and may, in the discretion of the court, be relieved of all requirements as to giving security.

(2) When any property or premise held under a mortgage, contract or leasehold is determined by a court having jurisdiction to be a professional gambling premises, all rights and interests of the holder therein shall terminate and the owner shall be entitled to immediate possession at his election: PROVIDED, HOWEVER, That this subsection and the provisions of chapter 9.59 RCW shall not apply to those premises in which nonprofessional gambling activities set out in section 16 of this 1971 amendatory act, or any act or acts in furtherance thereof are carried on.

(3) When any property or premises for which one or more licenses, permits or certificates issued by this state, or any political subdivision or other public agency thereof, are in effect, is determined by a court having jurisdiction to be a professional gambling premises, all such licenses, permits and certificates shall be deemed voided and no longer in effect, and no license, permit or certificate so voided shall be issued or reissued for such property or premises for a period of sixty days thereafter. Enforcement of this subsection shall be the duty of all peace officers and all taxing and licensing officials of this state and its political subdivisions and other public agencies. This subsection shall not

apply to property or premises in which nonprofessional gambling activities set out in section 16 of this 1971 amendatory act, or any act or acts in furtherance thereof are carried on.

NEW SECTION. Sec. 7. Professional gambling activities prohibited in sections 3, 4 and 5 of this 1971 amendatory act may be enjoined in an action commenced by the attorney general or by the prosecuting attorney or legal counsel of any city or town in which the prohibited activities may occur.

NEW SECTION. Sec. 8. The premises and paraphernalia and all the books and records of any bona fide charitable or nonprofit organization conducting nonprofessional gambling activities such as bingo, raffles, pinball machines or similar mechanical amusement devices, amusement games and social card games or or any person conducting social card games as defined and authorized in this 1971 amendatory act or operating pinball machines or similar mechanical devices, punch boards or pull tabs shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the attorney general, the state patrol or the prosecuting attorney, sheriff of the county, or legal counsel, or chief of police of any city or town in which said organization or person is located for the purpose of determining compliance or noncompliance with the provisions of this 1971 amendatory act or any local ordinances relating thereto. The department of revenue shall be provided at such reasonable intervals as the department shall determine with a report, under oath, detailing all receipts and disbursements in connection with such nonprofessional gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this 1971 amendatory act or any local ordinances relating thereto. Upon request, copies of such reports shall be provided by the department of revenue to any law enforcement agency.

NEW SECTION. Sec. 9. (1) Proof of possession of any device used for professional gambling or any record relating to professional gambling specified in section 4 of this 1971 amendatory act is prima facie evidence of possession thereof with knowledge of its character or contents.

(2) In any prosecution under the 1971 amendatory act in which it is necessary to prove the occurrence of any event which takes place outside the county where the prosecution is pending, a published report of its occurrence in any daily newspaper, magazine or any other periodically printed publication of general circulation shall constitute prima facie evidence of the occurrence of the event.

NEW SECTION. Sec. 10. In any proceeding arising out of a violation of this 1971 amendatory act, if a natural person refuses to answer a question or produce evidence of any other kind on the ground

V- that he may be incriminated under this 1971 amendatory act thereby, the court, when requested in writing by the prosecuting attorney, or legal counsel of any city or town wherein a violation of this 1971 amendatory act occurs, shall, unless it finds that to do so would be clearly contrary to the public interest, order such person to answer or produce the evidence. After complying with the order, and if, but for this section, he would have been privileged to withhold the answer given or the evidence produced by him, no such answer or evidence shall be received against him in any other investigation or proceeding. But he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury or contempt committed in answering, or failing to answer or in producing, or failing to produce, evidence in accordance with the order.

NEW SECTION. Sec. 11. (1) No county, city or other political subdivision or public agency of this state shall license, tax, permit or authorize any act, transaction or thing in violation of the criminal provisions of this 1971 amendatory act.

V- (2) Every county or city, by local law and ordinance and in accordance with the provisions of this 1971 amendatory act, may provide for the taxing of punch boards, pull tabs and pinball machines, none of which shall be deemed a gambling device for the purposes of section 2, subsection (5) hereof, and prescribe the tax therefor, the tax receipts to go to the county or city so taxing the same: PROVIDED, That (a) punch boards, pull tabs and pinball machines may be placed only in premises for which a permit or license has been granted to serve alcoholic beverages by the individual glass or opened bottle under authority of Title 66 RCW by the Washington state liquor control board; and (b) tax registration for pinball machines shall only be issued on the basis of individual tax registration for each machine located within the premises served and removal of such machine from such premises for use elsewhere shall result in immediate revocation of such tax registration; and (c) punch boards and pull tabs, which shall have a twenty-five cent limit on a single chance thereon, shall be taxed on a basis which shall reflect the gross income of the business in which the punch boards and pull tabs are displayed; and (d) all prizes for punch boards and pull tabs, which shall be merchandise items only, must be on display within the immediate area of the premises wherein any such punch board or pull tab is located and upon a winning number or symbol being drawn, such prize must be immediately removed therefrom, or such omission shall be deemed a fraud under section 18 of this 1971 amendatory act.

The terms "punch boards" and "pull tabs" as used in this section shall be the usual and ordinary meaning of such terms as of the effective date of this 1971 amendatory act. The term "pinball

machines" shall mean those machines as described in section 2, subsection (5).

(3) Every county or city may authorize the playing of bingo, the holding of raffles, the operation of pinball machines or similar amusement devices, amusement games and social card games, all by bona fide charitable or nonprofit organizations, by taxing the same, except social card games shall be licensed hereunder, the receipts therefor to go to the county or city so taxing or licensing. Social card games as described in section 16(2) of this 1971 amendatory act shall only be allowed in card rooms of a bona fide charitable or nonprofit organization when no fee of any kind is charged for participation therein, no employee of the organization participates in any said game, and no benefits inure to the organization therefrom.

The conduct of bingo games shall be subject to the following restrictions irrespective of whether the restrictions are contained in local laws or ordinances, but nothing herein shall be construed to prevent the inclusion within such local law or ordinance of other provisions imposing additional restrictions upon the conduct of such games:

(a) No person, firm, association, corporation or organization other than as authorized under the provisions of this 1971 amendatory act shall conduct such game, or shall obtain a lease for or otherwise make available for conducting bingo therein, a hall or other premises, for any consideration whatsoever, direct or indirect.

(b) No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game, nor shall the rental under such lease exceed the usual rental for such premises in the same locality.

(c) No bingo game shall be held, operated or conducted if the compensation to any person taking part in the management or operation of such game is based upon a percentage of the receipts or net profits derived from the operation of such game.

(d) The entire net proceeds of any game of bingo and of any rental therefor shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same. Net proceeds for the purposes of this subsection shall mean that amount remaining after expenses for supplies, rental, and prizes awarded to participants are deducted from the gross proceeds of such game.

The wilful violation of subsections (a), (b), (c) or (d) above shall be a felony and punishable by a fine of not more than one hundred thousand dollars or imprisonment for five years, or both, and any wilful violation of any provision of any local law or ordinance

shall constitute and be punishable as a gross misdemeanor.

NEW SECTION. Sec. 12. Except as otherwise provided in sections 14 or 16 of this 1971 amendatory act, it shall be lawful to own, operate or conduct, or permit to be operated or conducted, or to participate in the operation of any public card room, not to exceed eight tables, wherein persons may engage in card games of skill, each game having a monetary limit of one dollar on each wager by a participant therein, in which the success depends upon the knowledge, attention, experience and skill of the player whereby the elements of chance in any such card game are overcome, improved or turned to the advantage of said player, if said public card room is located in any incorporated city or town, or all that portion of any county not included within the limits of incorporated cities and towns, where the said card room may be licensed.

NEW SECTION. Sec. 13. It shall be lawful to conduct or to participate in any amusement game at any agricultural fair as the same are defined in section 2 of this act and the conduct of or participation in any such amusement game shall not: (1) Be deemed gambling for the purposes of any of the provisions of chapter 9.47 RCW; (2) be deemed a lottery for the purposes of any of the provisions of chapter 9.59 RCW or under Article 2, section 24 of the state Constitution; and (3) be deemed committing or maintaining a public nuisance under any law of this state, nor shall a place where any amusement game as defined in this act be conducted be deemed a public nuisance for the purposes of RCW 9.66.010.

NEW SECTION. Sec. 14. Before it shall be lawful for any person, firm or corporation to own, operate or conduct, or permit to be operated or conducted, or participate in the operation of any card room as described herein, it shall first be necessary that such card room be licensed by the city, town or county in which it is located.

Before any such license shall be issued, a verified application shall be filed in duplicate with such city, town or county, with a copy to be filed with the division of professional licensing within the department of motor vehicles, containing the full name and address of each person, firm or corporation having any interest, either directly or indirectly, in said license, and other material facts, including full financial disclosure, which may be deemed appropriate by such local authority, together with a written affidavit by three bona fide residents of the state of Washington who shall recommend such applicant and the officers thereof if a corporation, as being of good moral character: PROVIDED, HOWEVER, That the city, town or county may establish any other requirements it deems necessary or appropriate for the protection of the public welfare in determining whether to issue a license under this 1971 amendatory act: AND PROVIDED FURTHER, That this 1971 amendatory act

is not intended to require any city, town or county to issue a license under the provisions thereof.

NEW SECTION. Sec. 15. It shall be unlawful for any person under the age of twenty-one years to play cards in any public card room as described herein. Any person or licensee who shall permit any person under the age of twenty-one years to play cards in a card room as described herein shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 16. A person or an organization is not engaged in "professional gambling" as defined in section 2, subsection (5) of this 1971 amendatory act when: (1) such person or organization is engaged in such nonprofessional gambling activities as bingo, raffles, the operation of pinball machines or similar amusement devices, punch boards and pull tabs, amusement games, or social card games, all as defined and only as in this 1971 amendatory act authorized, or (2) the person or organization having substantial proprietary or other authoritative control over a residence or premises permits persons to engage in social card games on equal terms with other participants, such social card games being those of skill, in which the success of the player depends substantially upon the knowledge, attention, memory, experience and skill of the player or players and whereby the elements of chance are either overcome, improved or turned to the advantage of the players when said games are played on tables licensed as provided in this 1971 amendatory act and when only an hourly table fee is charged, no other direct benefit shall inure to the person or organization permitting said games, nor shall any representative or agent of said person or organization be a player in said game.

NEW SECTION. Sec. 17. Any person, firm or corporation doing any act required to be licensed under sections 12 through 16 of this 1971 amendatory act with reference to public card rooms, without having in force a license issued to said person, firm or corporation, shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 18. Any person, association or corporation, whether charitable or nonprofit or otherwise, operating a bingo game, raffle, pinball machines or similar mechanical amusement devices, punch boards or pull tabs, any amusement game or social card game, or permitting a social card game, all as authorized by the provisions of this 1971 amendatory act, who or which, directly or indirectly, shall in the course of such operation or permission;

- (1) Employ any device, scheme or artifice to defraud; and/or
- (2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which such statement is made; and/or
- (3) Engage in any act, practice, or course of operation as

would operate as a fraud or deceit upon any person; and/or

(4) Fail to make any report as required in section 8 of this 1971 amendatory act;

As to subsections (1), (2) or (3), shall be guilty of a felony and fined not more than one hundred thousand dollars or imprisoned not more than five years, or both, and as to subsection (4), shall be guilty of a gross misdemeanor.

NEW SECTION. Sec. 19. In addition to any other penalty provided in this 1971 amendatory act, every person, directly or indirectly controlling the operation of a bingo game, raffle, pinball machines or similar mechanical amusement devices, punch boards or pull tabs, any amusement game, or social card game, all as authorized by the provisions of this 1971 amendatory act, including every director, officer, and/or manager of any association or corporation conducting the same, whether charitable or nonprofit or otherwise, shall be liable, jointly and severally, for money damages suffered by any person because of any violation of this 1971 amendatory act, together with interest on any such amount of money damages at six percent per annum from the date of loss, and reasonable attorney's fees: PROVIDED, That if any such director, officer and/or manager did not know any such violation was taking place and/or had taken all reasonable care to prevent any such violation from taking place, the burden of proof thereof to be upon such director, officer and/or manager, such director, officer and/or manager shall not be liable hereunder. Any civil action under this section may be considered a class action for the purposes of RCW 4.08.070.

NEW SECTION. Sec. 20. When there has occurred a violation of any provision of this 1971 amendatory act on any property or premises for which one or more licenses, permits, or certificates issued by this state, or any political subdivision or public agency thereof are in effect, all such licenses, permits and certificates shall be deemed voided and no longer in effect, and no license, permit, or certificate so voided shall be issued or reissued for such property or premises for a period of sixty days thereafter. Enforcement of this provision shall be the duty of all peace officers and all taxing and licensing officials of this state and its political subdivisions and other public agencies.

NEW SECTION. Sec. 21. If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected: PROVIDED, That should provisions of this 1971 amendatory act pertaining to the playing of bingo, or holding raffles, or permitting the operation of pinball machines or similar amusement devices or permitting the operation of amusement games or authorizing punch

boards or pull tabs be held invalid or unconstitutional by the supreme court of the state of Washington as being violative of Article II, section 24, of the Constitution of the state of Washington, then the provisions hereof relating to each such item as aforesaid specifically declared invalid or unconstitutional by such court shall remain inoperative unless and until the qualified electors of this state shall approve an amendment to Article II, section 24, of the Constitution which may remove any constitutional restrictions against the legislature enacting such laws.

Sec. 22. Section 1246, Code of 1881 as last amended by section 248, chapter 249, Laws of 1909 and RCW 9.66.010 are each amended to read as follows:

A public nuisance is a crime against the order and economy of the state. Every place

(1) ~~((Wherein any gambling, swindling game or device, bookmaking, pool selling, or bucket shop or any agency therefor shall be conducted, or any article, apparatus or device useful therefor shall be kept; or;~~

~~(2))~~ Wherein any fighting between men or animals or birds shall be conducted; or,

~~((3))~~ (2) Wherein any intoxicating liquors are kept for unlawful use, sale or distribution; or,

~~((4))~~ (3) Where vagrants resort; and

Every act unlawfully done and every omission to perform a duty, which act or omission

(1) Shall annoy, injure or endanger the safety, health, comfort, or repose of any considerable number of persons; or,

(2) Shall offend public decency; or,

(3) Shall unlawfully interfere with, befoul, obstruct, or tend to obstruct, or render dangerous for passage, a lake, navigable river, bay, stream, canal or basin, or a public park, square, street, alley or highway; or,

(4) Shall in any way render a considerable number of persons insecure in life or the use of property;

Shall be a public nuisance.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

(1) Section 99, page 93, Laws of 1854, sections 104 and 105, page 222, Laws of 1869, sections 110 and 111, page 206, Laws of 1873, section 1253, Code of 1881, section 217, chapter 249, Laws of 1909 and RCW 9.47.010;

(2) Section 218, chapter 249, Laws of 1909 and RCW 9.47.020;

(3) Section 220, chapter 249, Laws of 1909 and RCW 9.47.030;

(4) Section 1, chapter 119, Laws of 1937 and RCW 9.47.040;

(5) Section 2, chapter 119, Laws of 1937 and RCW 9.47.050;

(6) Section 221, chapter 249, Laws of 1909 and RCW 9.47.060;

(7) Section 100, page 93, Laws of 1854, section 105, page 222, Laws of 1869, section 111, page 206, Laws of 1873, sections 5 and 6, page 98, Laws of 1879, sections 1257 and 1258, Code of 1881, section 222, chapter 249, Laws of 1909 and RCW 9.47.070;

(8) Section 226, chapter 249, Laws of 1909 and RCW 9.47.110;

(9) Section 228, chapter 249, Laws of 1909 and RCW 9.47.130;

and

(10) Section 1, chapter 6, Laws of 1909 and RCW 9.47.140.

V NEW SECTION. Sec. 24. Notwithstanding any other provision of this 1972 amendatory act, no county, city, or town, shall prohibit any activity provided for in this 1971 amendatory act, unless such county, city or town has in effect an ordinance(s) which shall have been approved by a majority of the members of the legislative authority of such county, city or town, relative to such named activity and prohibiting the same.

NEW SECTION. Sec. 25. This 1971 amendatory act shall constitute the exclusive legislative authority for the licensing or taxing by any city, town or county of any nonprofessional gambling activity and its application shall be strictly construed to those activities herein permitted and to those persons or associations herein permitted to engage therein.

V NEW SECTION. Sec. 26. This 1971 amendatory act shall automatically expire, and thereafter be of no force and effect, including the repealer section herein, section 23 of this 1971 amendatory act, if Senate Joint Resolution No. 5 of the 1971 regular session of the legislature is not approved by the people of the state of Washington. Upon the expiration of this act as aforesaid RCW 9.47.010, 9.47.020, 9.47.030, 9.47.040, 9.47.050, 9.47.060, 9.47.070, 9.47.110, 9.47.130, and 9.47.140 shall be of full force and effect.

Passed the House May 10, 1971.

Passed the Senate May 10, 1971.

Approved by the Governor May 21, 1971 with the exception of certain sections and items which are vetoed.

Filed in Office of Secretary of State May 21, 1971.

Note: Governor's explanation of partial veto is as follows:

"...House Bill 291 as originally introduced represented a comprehensive regulatory scheme for all types of gambling activity which distinguished between professional and non-professional gambling in terms of the type of sanction imposed. Professional gambling was penalized through the criminal process while non-professional gambling

Veto
Message

would incur civil penalties only.

Veto
Message

Establishing this distinction recognizes that certain types of gambling are widespread yet relatively harmless from a law enforcement standpoint and receive little or no condemnation from society. Unfortunately, the bill as presented to me by the legislature muddies this distinction, and in the opinion of numerous law enforcement officials dangerously opens the door to professional gambling in Washington.

The genesis of House Bill 291 was the recognition that bingo games and raffles and amusement games when conducted by non-profit organizations on an occasional basis were properly classified as relatively harmless and non-professional, not deserving criminal sanction but only civil prohibitions coupled with stringent regulation. The constitutionality of this act under Article II, Section 24 of the State Constitution is dependent on maintenance of this classification scheme with its hierarchy of sanctions free from tampering or inclusion of other forms of gambling not properly categorized as non-professional either because they are profit making or because they are easily subjected to abuse.

My action on this bill restores the distinction between professional and profit seeking activities and those which are social, casual and non-professional.

Therefore, I have vetoed those sections and items conceptually inconsistent with these aims -- punchboards, gambling pinballs and cardrooms. I have also vetoed section 26 as I do not believe that the cause of harmless bingo, raffles and amusement games should be tied to the passage of SJR 5.

I have vetoed several other sections of the bill to cure various technical difficulties. Thus, for example, I have vetoed the section dealing with immunity for witnesses in gambling prosecutions at the suggestion of key law enforcement officials, in light of the new grand jury law."