

CHAPTER 218

[Substitute House Bill No. 711]

GAMBLING

AN ACT Relating to gambling; creating the Washington state gambling commission; defining crimes; adding a new chapter to Title 9 RCW; repealing section 1, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.300; repealing section 2, chapter 280, Laws of 1971 ex. sess., section 1, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.310; repealing section 3, chapter 280, Laws of 1971 ex. sess., section 2, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.320; repealing section 4, chapter 280, Laws of 1971 ex. sess., section 3, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.330; repealing section 5, chapter 280, Laws of 1971 ex. sess., section 4, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.340; repealing section 6, chapter 280, Laws of 1971 ex. sess., section 5, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.350; repealing section 7, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.360; repealing section 8, chapter 280, Laws of 1971 ex. sess., section 6, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.370; repealing section 9, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.380; repealing section 11, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.390; repealing section 16, chapter 280, Laws of 1971 ex. sess., section 7, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.400; repealing section 18, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.410; repealing section 19, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.420; repealing section 20, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.430; repealing section 25, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.440; repealing section 98, page 93, Laws of 1854, section 103, page 222, Laws of 1869, section 109, page 205, Laws of 1873, section 913, Code of 1881, section 212, chapter 249, Laws of 1909 and RCW 9.59.010; repealing section 98, page 93, Laws of 1854, section 103, page 222, Laws of 1869, section 109, page 205, Laws of 1873, section 913, Code of 1881, section 213, chapter 249, Laws of 1909 and RCW 9.59.020; repealing section 214, chapter 249, Laws of 1909 and RCW 9.59.030; repealing section 215, chapter 249, Laws of 1909 and RCW 9.59.040; repealing section 216, chapter 249, Laws of 1909 and RCW 9.59.050; repealing section 1, chapter 21, Laws of 1923, section 1, chapter 90, Laws of 1967 and RCW 9.47.150; repealing sections 2 and 3, chapter 21, Laws of 1923 and RCW 9.47.160 and 9.47.170; repealing sections 82.28.010, 82.28.020, 82.28.030, 82.28.040, 82.28.050 and 82.28.060,

chapter 15, Laws of 1961 and RCW 82.28.010, 82.28.020, 82.28.030, 82.28.040, 82.28.050 and 82.28.060; prescribing penalties.

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

NEW SECTION. Section 1. 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, both to preserve the freedom of the press and to avoid restricting participation by individuals in activities and social pastimes, which activities and social pastimes are more for amusement rather than for profit, do not maliciously affect the public, and do not breach the peace.

The legislature further declares that the raising of funds for the promotion of bona fide charitable or nonprofit organizations is in the public interest as is participation in such activities and social pastimes as are hereinafter in this chapter authorized.

The legislature further declares that the conducting of bingo, raffles, and amusement games and the operation of punch boards, pull tabs, card rooms, Mah Jongg, social card games, and other social pastimes, when conducted pursuant to the provisions of this chapter and any rules and regulations adopted pursuant thereto, are hereby authorized, as are only such lotteries for which no valuable consideration has been paid or agreed to be paid as hereinafter in this chapter provided.

All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end.

NEW SECTION. Sec. 2. (1) "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 or said game is conducted on any property of a city of the first class devoted to uses incident to a civic center, worlds fair or similar exposition.

(2) "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, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee 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.

(3) "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, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter. 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, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

Any person, association or organization which pays its employees, including members, compensation other than is reasonable

therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

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

(5) "Cardroom" means any room in a private or public place with not to exceed eight tables wherein persons may engage in card games of skill, each having a monetary limit to be established by the commission 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: PROVIDED, That such cardroom may only be located within premises for which a permit or license has been granted to serve alcoholic beverages by the individual glass or open bottle under authority of Title 66 RCW. Authorization to operate cardrooms under section 3 of this act includes operating or conducting, or permitting to be operated or conducted, or participation in the operation thereof. Operators of a cardroom may charge an hourly fee for the rental of any table or chair thereat or may derive a profit through the sale of chips or other ducats later redeemable in money for the exclusive use in such card games on the premises.

(6) "Commission" means the Washington state gambling commission created in section 4 of this act.

(7) "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.

(8) "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 or accident insurance.

(9) "Gambling device" other than for the purposes of subsection (18) of this section means: (a) Any device or mechanism

V [] 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, 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 a mechanism or a chute for dispensing coins or a facsimile thereof, and which prohibits multiple winnings depending upon the number of coins inserted and requires the playing of five balls individually upon the insertion of a nickel or dime, as the case may be, to complete any one operation thereof, shall not be deemed a gambling device: PROVIDED FURTHER, That owning, possessing, buying, selling, renting, leasing, financing, holding a security interest in, storing, repairing and transporting such pinball machines or similar mechanical amusement devices shall not be deemed engaging in professional gambling for the purposes of this chapter and shall not be a violation of this chapter: PROVIDED FURTHER, That any fee for the purchase or rental of any such pinball machines or similar amusement devices shall have no relation to the use to which such machines are put but be based only upon the market value of any such machine, regardless of the location of or type of premises where used, and any fee for the storing, repairing and transporting thereof shall have no relation to the use to which such machines are put, but be commensurate with the cost of labor and other expenses incurred in any such storing, repairing and transporting.

(10) "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.

(11) "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.

(12) "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.

(13) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

For the purpose of this chapter, the following activities do not constitute "valuable consideration" as an element of a lottery:

(a) Listening to or watching a television or radio program or subscribing to a cable television service;

(b) Filling out a coupon or entry blank or facsimile which is published in a bona fide newspaper, or magazine, or in a program sold in conjunction with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program.

(c) Sending a coupon or entry blank by United States mail to a designated address in connection with a promotion conducted in this state not more than once a year over a period of not more than 90 days;

(d) Visitation to any business establishment to obtain a coupon, entry blank, or proof of purchase;

(e) Mere registration without purchase of goods or services;

(f) Expenditure of time, thought, attention and energy in perusing promotional material; or

(g) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer: PROVIDED, That where any drawing is held by or on behalf of in-state retail outlets in connection with business promotions authorized under subsections (d) and (e) hereof, no such in-state retail outlet may conduct more than one such drawing during each calendar year and 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 initial opening of any such outlet.

For purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the rules applicable thereto by the federal communications commission. Broadcast programming, including advertising and promotion, that complies with said federal statutes and regulations is hereby authorized.

(14) "Player" 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".

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

(a) Acting other than as a player or in the manner set forth in section 3 of this 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 3 of this 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;

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (13) of this section.

Conduct under subparagraph (a), except as exempted under section 3 of this 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 gambling activities as set forth in section 3 of this 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: PROVIDED, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable

pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund" shall not be construed to be engaging in "professional gambling" within the meaning of this act: PROVIDED, FURTHER, That the books and records of the game shall be open to public inspection.

(16) "Punch boards" and "pull-tabs" shall be given their usual and ordinary meaning as of the effective date of this chapter, except that such definition may be revised by the commission pursuant to rules and regulations promulgated pursuant to this chapter.

(17) "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.

(18) "Social card game" shall mean any card game in which 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, and in which no percentage of the money is returned to any individual or organization other than the participants.

(19) "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.

(20) "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 chapter committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him.

(21) "Mah Jongg" means a game of Chinese origin played, usually by four persons, with one hundred thirty-six or one hundred forty-four pieces marked in suits and called "tiles" which by drawing, discarding and exchanging are built into combinations or sets.

NEW SECTION. Sec. 3. (1) The legislature hereby authorizes

V bona fide charitable or nonprofit organizations to conduct bingo
games, raffles, amusement games, and social card games, including Mah
V Jongg, to utilize punch boards and pull-tabs, and to operate
cardrooms when licensed and conducted or operated pursuant to the
provisions of this chapter and rules and regulations adopted pursuant
thereto.

(2) The legislature hereby authorizes any person, association
or organization to utilize punch boards and pull-tabs as a commercial
stimulant and to operate cardrooms, including those where Mah Jongg
V may be played, when licensed and utilized or operated pursuant to the
provisions of this chapter and rules and regulations adopted pursuant
thereto.

(3) The legislature hereby authorizes the management of any
agricultural fair as authorized under chapters 15.76 and 36.37 RCW to
conduct amusement games when licensed and operated pursuant to the
provisions of this chapter and rules and regulations adopted pursuant
thereto as well as authorizing said amusement games as so licensed
and operated to be conducted upon any property of a city of the first
class devoted to uses incident to a civic center, worlds fair or
similar exposition.

V The penalties provided for professional gambling in this
chapter, shall not apply to bingo games, raffles, punch boards,
pull-tabs, amusement games, or social card games when conducted in
compliance with the provisions of this chapter and in accordance with
the rules and regulations of the commission.

NEW SECTION. Sec. 4. There shall be a commission, known as
the "Washington state gambling commission", consisting of five
members appointed by the governor with the consent of the senate.
The members of the commission shall be appointed within thirty days
of the effective date of this chapter for terms beginning July 1,
1973, and expiring as follows: One member of the commission for a
term expiring July 1, 1975; one member of the commission for a term
expiring July 1, 1976; one member of the commission for a term
expiring July 1, 1977; one member of the commission for a term
expiring July 1, 1978; and one member of the commission for a term
expiring July 1, 1979; each as the governor so determines. Their
successors, all of whom shall be citizen members appointed by the
governor with the consent of the senate, upon being appointed and
qualified, shall serve six year terms: PROVIDED, That no member of
the commission who has served a full six year term shall be eligible
for reappointment. In case of a vacancy, it shall be filled by
appointment by the governor for the unexpired portion of the term in
which said vacancy occurs. No vacancy in the membership of the
commission shall impair the right of the remaining member or members
to act, except as in section 5 (2) of this act provided.

In addition to the members of the commission there shall initially be four ex officio members without vote from the legislature consisting of: (1) Two members of the senate, one from the majority political party and one from the minority political party, both to be appointed by the president of the senate; (2) two members of the house of representatives, one from the majority political party and one from the minority political party, both to be appointed by the speaker of the house of representatives; all of whose terms shall end December 31, 1974; appointments shall be made within thirty days of the effective date of this chapter. Such ex officio members who shall collect data deemed essential to future legislative proposals and exchange information with the board shall be deemed engaged in legislative business while in attendance upon the business of the board and shall be limited to such allowances therefor as otherwise provided in RCW 44.04.120, the same to be paid from the "gambling revolving fund" as being expenses relative to commission business.

NEW SECTION. Sec. 5. (1) Upon appointment of the initial membership the commission shall meet at a time and place designated by the governor and proceed to organize, electing one of such members as chairman of the commission who shall serve until July 1, 1974; thereafter a chairman shall be elected annually.

(2) A majority of the members shall constitute a quorum of the commission: PROVIDED, That all actions of the commission relating to the regulation of licensing under this act shall require an affirmative vote by three or more members of the commission.

(3) The principal office of the commission shall be at the state capitol and meetings shall be held at least quarterly and at such other times as may be called by the chairman or upon written request to the chairman of a majority of the commission.

(4) Members shall receive fifty dollars per diem for each day or major portion thereof spent in performance of their duties plus reimbursement for actual travel expenses incurred in the performance of their duties in the same manner as provided for state officials generally in chapter 43.03 RCW as now or hereafter amended.

(5) Before entering upon the duties of his office, each of said members of the commission shall enter into a surety bond executed by a surety company authorized to do business in this state, payable to the state of Washington, to be approved by the governor, in the penal sum of fifty thousand dollars, conditioned upon the faithful performance of his duties, and shall take and subscribe to the oath of office prescribed for elective state officers, which oath and bond shall be filed with the secretary of state. The premium for said bond shall be paid by the commission.

(6) Any member of the commission may be removed for

inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final. Removal of any member of the commission by the tribunal shall disqualify such member for reappointment.

NEW SECTION. Sec. 6. (1) The attorney general shall be general counsel for the state gambling commission and shall assign such assistants as may be necessary in carrying out the purposes and provisions of this chapter, which shall include instituting and prosecuting any actions and proceedings necessary thereto.

(2) The state auditor shall audit the books, records, and affairs of the commission annually. The commission shall pay to the state treasurer for the credit of the state auditor such funds as may be necessary to defray the costs of such audits. The commission may provide for additional audits by certified public accountants. All such audits shall be public records of the state.

The payment for legal services and audits as authorized in this section shall be paid upon authorization of the commission from moneys in the gambling revolving fund.

NEW SECTION. Sec. 7. The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, including Mah Jongg, to utilize punch board and pull-tabs, and to operate cardrooms in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That any license issued under authority of this section shall be legal authority to engage in the gambling activity for which issued throughout the incorporated and unincorporated areas of any county, unless a county, or any first class city located therein with respect to such city, shall prohibit such gambling activity: PROVIDED, FURTHER, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, suspend or revoke any

license because of considerations of race, creed, color or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association or organization approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association or organization to utilize punch boards and pull-tabs as a commercial stimulant and to operate cardrooms, including those where Mah Jongg may be played, in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED, FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises which shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and not less than fifty percent of any such license fee shall be retained by the commission upon the denial of any such license as its reasonable expense for investigation into the granting thereof.

Notwithstanding any other provision of this subsection, raffles may be conducted by any bona fide charitable or nonprofit organization not more than once each year without payment of a license fee if such organization shall not receive in gross receipts therefrom an amount over five thousand dollars.

(4) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons having an interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such

application: PROVIDED FURTHER, That the commission may require fingerprinting and background checks on any persons seeking licenses under this chapter or of any person holding an interest in any gambling activity, building or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity;

(5) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(6) To require that all income from bingo games, raffles, and amusement games be receipted for at the time the income is received from each individual player and that all prizes be receipted for at the time the prize is distributed to each individual player and to require that all raffle tickets be consecutively numbered and accounted for: PROVIDED, That in lieu of the requirements of this subsection, agricultural fairs as defined herein shall report such income not later than thirty days after the termination of said fair.

(7) To regulate and establish maximum limitations on income derived from bingo: PROVIDED, That in establishing limitations pursuant to this subsection the commission shall take into account (i) the nature, character and scope of the activities of the licensee; (ii) the source of all other income of the licensee; (iii) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes;

(8) To cooperate with and secure the cooperation of county, city and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(9) In accordance with section 8 of this act, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.04 RCW;

(10) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized in section 3 of this act; and

(11) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

NEW SECTION. Sec. 8. The department of motor vehicles, subject to the approval of the commission, shall employ a full time employee as director respecting gambling activities, who shall be the administrator for the commission in carrying out its powers and duties and who, with the advice and approval of the commission shall issue rules and regulations governing the activities authorized hereunder and shall supervise departmental employees in carrying out

the purposes and provisions of this chapter. In addition the department shall make available to the commission such of its administrative services and staff as are necessary to carry out the purposes and provisions of this chapter. Neither the director nor any departmental employee working therefor shall be an officer or manager of any charitable or nonprofit organization, or of any organization which conducts gambling activity in this state.

NEW SECTION. Sec. 9. The commission shall, from time to time, make reports to the governor covering such matters in connection with this chapter as he may require, and in addition shall prepare and forward to the governor, to be laid before the legislature, a report for the period ending on the thirty-first day of December of 1973, and a report annually thereafter on the thirtieth day of June of each year, which report shall be a public document, and contain a detailed statement and balance sheet showing in general the fiscal condition of the commission and commission expenditures and receipts for the preceding interval, together with such general information and remarks as the commission deems pertinent thereto and any information requested by either the governor or members of the legislature: PROVIDED, That the first commission appointed pursuant to section 4 of this act shall conduct a thorough study of the types of gambling activity permitted and the types of gambling activity prohibited by this act and shall submit to the session of the legislature convened in September, 1973, if there be one, or, if not, to the session of the legislature convened in January, 1974, a report making specific recommendations as to: (1) Gambling activity that ought to be permitted; (2) gambling activity that ought to be prohibited; (3) the types of licenses and permits that ought to be required; (4) the appropriate fee for each type of license and permit; and (5) the type and amount of tax that ought to be applied to each type of permitted gambling activity.

NEW SECTION. Sec. 10. There is hereby created a fund to be known as the "gambling revolving fund" which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation

shall be required to permit expenditures and payment of obligations from such fund. All expenses relative to commission business, including but not limited to salaries and expenses of the director and such employees of the department of motor vehicles as are working therefor, shall be paid from the gambling revolving fund.

NEW SECTION. Sec. 11. 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 section 3 of this act within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That the tax rate established by any county, except for any first class city located therein with respect to such city, shall constitute the tax rate throughout such county including both incorporated and unincorporated areas; FURTHER, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, 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 (2) no punch board or pull-tab may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; and (3) all prizes for punch boards and pull-tabs 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 for the purposes of this chapter; and (4) when any person shall win over five dollars in money or merchandise from any punch board or pull-tab, every licensee hereunder shall keep a public record thereof for at least ninety days thereafter containing such information as the commission shall deem necessary: AND PROVIDED FURTHER, That taxation of bingo, raffles and amusement games shall never be in an amount greater than ten percent of the gross revenue received therefrom.

NEW SECTION. Sec. 12. (1) Except in the case of an agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a member of a bona fide charitable or nonprofit organization (and their employees) or any other person, association or organization (and their employees) approved by the commission, shall take any part in the management or operation of any gambling activity authorized under section 3 of this act, and no person who takes any part in the management or operation of any such gambling activity shall take any part in the management or operation of any gambling activity conducted by any other organization or any other branch of the same organization, unless approved by the commission,

and no part of the proceeds thereof shall inure to the benefit of any person other than the organization conducting such gambling activities or if such gambling activities be for the charitable benefit of any specific persons designated in the application for a license, then only for such specific persons as so designated.

(2) No bona fide charitable or nonprofit organization or any other person, association or organization shall conduct any gambling activity authorized under section 3 of this act in any leased premises if rental for such premises is unreasonable or to be paid, wholly or partly, on the basis of a percentage of the receipts or profits derived from such gambling activity.

NEW SECTION. Sec. 13. The premises and paraphernalia, and all the books and records of any person, association or organization conducting gambling activities authorized under section 3 of this act and any person, association or organization receiving profits therefrom or having any interest therein shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the commission or its designee, the attorney general or his designee, the chief of the Washington state patrol or his designee or the prosecuting attorney, sheriff or director of public safety or their designees of the county wherein located, or the chief of police or his designee of any city or town in which said organization is located, for the purpose of determining compliance or noncompliance with the provisions of this chapter and any rules or regulations adopted pursuant 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 gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this chapter 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. 14. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this chapter, the commission, or any person appointed by it in writing for the purpose, may inspect the books, documents and records of any person lending money to or in any manner financing any license holder or applicant for a license or receiving any income or profits from the use of such license for the purpose of determining compliance or noncompliance with the provisions of this chapter or the rules and regulations adopted pursuant thereto. The commission, or its designee, may conduct hearings, administer oaths, take depositions, compel the attendance of witnesses and issue subpoenas pursuant to RCW 34.04.105.

NEW SECTION. Sec. 15. (1) Any activity conducted in violation of any provision of this chapter may be enjoined in an action commenced by the commission through the attorney general or by the prosecuting attorney or legal counsel of any city or town in which the prohibited activity may occur.

(2) When a violation of any provision of this chapter or any rule or regulation adopted pursuant hereto has occurred 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 may be voided and no license, permit, or certificate so voided shall be issued or reissued for such property or premises for a period of up to sixty days thereafter.

NEW SECTION. Sec. 16. Any person who conducts gambling activities without a license issued by the commission shall be guilty of a felony and upon conviction shall be punished by imprisonment for not more than five years or by a fine of not more than one hundred thousand dollars, or both. If any corporation conducts any gambling activity without a license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

NEW SECTION. Sec. 17. Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or wilfully fail to maintain or make any entry required to be maintained or made, or who wilfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five thousand dollars, or both.

NEW SECTION. Sec. 18. Any person who knowingly causes, aids, abets, or conspires with another to cause any association or organization to violate any provision of this chapter or of any rule or regulation adopted pursuant to this chapter shall be guilty of a felony and upon conviction shall be punished by imprisonment for not more than five years or a fine of not more than one hundred thousand dollars, or both.

NEW SECTION. Sec. 19. Any person or association or organization operating any gambling activity authorized under section 3 of this act, who or which, directly or indirectly, shall in the course of such operation:

- (1) Employ any device, scheme or artifice to defraud; 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 said statement is made; or

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one year or by a fine of not more than five thousand dollars, or both.

NEW SECTION. Sec. 20. In addition to any other penalty provided for in this chapter, every person, directly or indirectly controlling the operation of any gambling activity authorized in section 3 of this act including a director, officer, and/or manager of any association, organization or corporation conducting the same, whether charitable, nonprofit, or profit, shall be liable, jointly and severally, for money damages suffered by any person because of any violation of this chapter, together with interest on any such amount of money damages at six percent per annum from the date of the loss, and reasonable attorneys' fees: PROVIDED, That if any such director, officer, and/or manager did not know any such violation was taking place and had taken all reasonable care to prevent any such violation from taking place, the burden of proof thereof shall be on such director, officer, and/or manager, and if such director, officer and/or manager shall sustain the burden of proof he shall not be liable hereunder. Any civil action under this section may be considered a class action.

NEW SECTION. Sec. 21. It shall be the duty of and all peace officers or law enforcement officers or law enforcement agencies within this state are hereby empowered to investigate, and enforce and prosecute all violations of this chapter.

NEW SECTION. Sec. 22. 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 shall not apply to those activities enumerated in section 3 of this act or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

NEW SECTION. Sec. 23. (1) All gambling devices as defined in section 2 (9) of this 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 chapter.

(2) No property right in any gambling device as defined in section 2 (9) of this act shall exist or be recognized in any person, except the possessory right of officers enforcing this chapter.

(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 shall not apply to such items utilized in activities enumerated in section 3 of this act or any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

(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 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 shall not apply to devices used in those activities enumerated in section 3 of this act, or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto. 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 shall not apply to records relating to activities enumerated in section 3 of this act or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto. In the enforcement of this subsection direct possession of any such gambling record shall be presumed to be knowing possession thereof.

NEW SECTION. Sec. 24. 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 shall not apply to such information transmitted or received or equipment installed or maintained relating to activities as enumerated in section 3 of this act or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

NEW SECTION. Sec. 25. (1) All 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 gambling premises, 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 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 shall not apply to those premises in which activities set out in section 3 of this act, or any act or acts in furtherance thereof are carried on when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

(3) When any property or premises for which one or more licenses issued by the commission are in effect, is determined by a court having jurisdiction to be a gambling premise, all such licenses may be voided and no longer in effect, and no license so voided shall be issued or reissued for such property or premises for a period of up to 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 activities set out in section 3 of this act, or any act or acts in furtherance thereof, are carried on when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations adopted pursuant thereto.

NEW SECTION. Sec. 26. Proof of possession of any device used for professional gambling or any record relating to professional gambling specified in section 23 of this act is prima facie evidence of possession thereof with knowledge of its character or contents.

NEW SECTION. Sec. 27. This chapter shall constitute the exclusive legislative authority for the taxing by any city, town, city-county or county of any gambling activity and its application shall be strictly construed to those activities herein permitted and to those persons, associations or organizations herein permitted to engage therein.

NEW SECTION. Sec. 28. This chapter, constituting exclusive legislative authority for the authorization of any gambling activity by any city, town, city-county or county, any ordinance, resolution or other legislative act by any city, town, city-county or county relating to gambling in existence on the effective date of this chapter shall be null and void and of no effect; any such city, town, city-county or county may thereafter enact such local law as consistent with the provisions of this chapter.

NEW SECTION. Sec. 29. The following acts or parts of acts are each hereby repealed:

(1) Section 1, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.300;

(2) Section 2, chapter 280, Laws of 1971 ex. sess., section 1, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.310;

(3) Section 3, chapter 280, Laws of 1971 ex. sess., section 2, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.320;

(4) Section 4, chapter 280, Laws of 1971 ex. sess., section 3 chapter 141, Laws of 1972 ex. sess. and RCW 9.47.330;

(5) Section 5, chapter 280, Laws of 1971 ex. sess., section 4, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.340.

(6) Section 6, chapter 280, Laws of 1971 ex. sess., section 5, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.350.

(7) Section 7, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.360;

(8) Section 8, chapter 280, Laws of 1971 ex. sess., section 6, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.370;

(9) Section 9, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.380;

(10) Section 11, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.390;

(11) Section 16, chapter 280, Laws of 1971 ex. sess., section

7, chapter 141, Laws of 1972 ex. sess. and RCW 9.47.400;

(12) Section 18, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.410;

(13) Section 19, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.420;

(14) Section 20, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.430;

(15) Section 25, chapter 280, Laws of 1971 ex. sess. and RCW 9.47.440;

(16) Section 98, page 93, Laws of 1854, section 103, page 222, Laws of 1869, section 109, page 205, Laws of 1873, section 913, Code of 1881, section 212, chapter 249, Laws of 1909 and RCW 9.59.010;

(17) Section 98, page 93, Laws of 1854, section 103, page 222, Laws of 1869, section 109, page 205, Laws of 1873, section 913, Code of 1881, section 213, chapter 249, Laws of 1909 and RCW 9.59.020;

(18) Section 214, chapter 249, Laws of 1909 and RCW 9.59.030;

(19) Section 215, chapter 249, Laws of 1909 and RCW 9.59.040;

(20) Section 216, chapter 249, Laws of 1909 and RCW 9.59.050;

and

(21) Section 1, chapter 21, Laws of 1923, section 1, chapter 90, Laws of 1967 and RCW 9.47.150;

(22) Sections 2 and 3, chapter 21, Laws of 1923 and RCW 9.47.160 and 9.47.170; and

(23) Sections 82.28.010, 82.28.020, 82.28.030, 82.28.040, 82.28.050 and 82.28.060, chapter 15, Laws of 1961 and RCW 82.28.010, 82.28.020, 82.28.030, 82.28.040, 82.28.050 and 82.28.060.

NEW SECTION. Sec. 30. Sections 1 through 28 of this act shall constitute a new chapter in Title 9 RCW.

NEW SECTION. Sec. 31. If any provision of this 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.

Passed the House April 15, 1973.

Passed the Senate April 15, 1973.

Approved by the Governor April 26, 1973 with the exception of certain items in Sections 1, 2, 3 and 7 which are vetoed.

Filed in Office of Secretary of State April 26, 1973.

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

"I am returning herewith, without my approval as to certain items, Substitute House Bill No. 711 entitled:

Veto
Message

"AN ACT Relating to gambling."

This bill, the first enactment pursuant to the

authority of the Constitutional amendment approved at the last election, would provide for a gambling commission to approve and license, through the department of motor vehicles, activities permitted under this act. Counties, and cities of the first class, would have the authority to tax such activities and to prohibit them if they so choose. Activities allowed under this act include bingo and raffles conducted by charitable and non-profit organizations, punch boards and pull-tabs, pin-ball machines which do not provide for a pay off and card rooms and social card games.

Veto
Message

I have determined to veto the items of this bill relating to card rooms and social card games. It is clear from the last election that the people desire bingo and raffles. However, I believe that we should proceed to establish the gambling commission and allow it to gain experience in this area before moving further in the direction of allowing other activities.

Additionally, in the definition of gambling device there is included in several places the item "used in professional gambling." This could cause substantial enforcement problems in determining whether the devices prohibited are actually being used in professional gambling or not. Sufficient enforcement problems could result from allowing these items to remain such that I have determined they should be vetoed.

The definition of what constitutes a lottery includes certain exemptions from the definition of "valuable consideration." One of the exemptions is visitation to a place of business to obtain a coupon, entry blank or proof of purchase. The item referring to proof of purchase could insert into the exemption the additional condition of purchasing an item or several items with no limit on the amount. Clearly, this goes beyond the concept of defining a visit to a place of business as not being valuable consideration. Accordingly, I have determined to veto that item.

With the exceptions noted above, I have approved the remainder of Substitute House Bill No. 711."
