

of the division proposed to be included within such order." Veto
Message

Under present legislation some developers who have subdivided without receiving an approved plat have gone to court, asked for and received a dissolution and have thus been able to subdivide without any action by the county in which the land is located. The language in the original version of HB 383 would have prevented this practice. The language in section 2, subsection 4 of the bill now before me would put the county in an advisory capacity only and would afford no real protection against the kind of land development practices which are so destructive of county land use planning. Accordingly, I have vetoed that item.

Section 9 of the bill provides that when a parcel of land is divided into five or more lots without having a final plat of such subdivision filed for record, an action may be initiated on behalf of any city, town or county to recover damages occasioned by the failure to comply with all provisions of RCW 58.17.200. In addition, however, section 9 provides that in such a lawsuit damages to any innocent purchaser for value without actual notice may also be recovered, and if any damages are recovered and collected for such innocent purchaser they shall be paid to the innocent purchaser by the city, town or county.

Local governments have expressed concern that this provision would unnecessarily put them in the collection business for private purchasers since such purchasers can always hire their own attorneys to bring a lawsuit for damages. Furthermore, the concern has been expressed that if a successful action is pursued by the prosecuting attorney a question would arise as to how the recovery would be shared by the local government that installed the sewers, drainage, roads or other necessary improvements and the innocent purchaser for damages incurred. Because of the uncertainty raised by this language and because I do not believe local government should be in a position of taking legal action for damages on behalf of private persons, I have determined to veto section 9.

With the foregoing exceptions, the remainder of House Bill No. 383 is approved."

CHAPTER 135

[Substitute House Bill No. 473]

GAMBLING

[Veto override: See chapter 155, infra.]

AN ACT Relating to gambling; amending section 1, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.010; amending section 2, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.020; amending section 3, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.030; amending section 7, chapter 218, Laws of 1973 1st ex. sess. as amended by section 4, chapter 41, Laws of 1973 2nd ex. sess. and RCW 9.46.070; amending section 8, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.080; amending section 11, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.110; amending section 20, chapter 218, Laws of

1973 1st ex. sess. and RCW 9.46.200; amending section 21, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.210; amending section 23, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.230; adding new sections to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW; repealing section 28, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.280; prescribing penalties; declaring an emergency and prescribing an effective date.

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

Section 1. Section 1, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.010 are each amended 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, 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 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.

Sec. 2. Section 2, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.020 are each amended to read as follows:

(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)) as part of and upon the site of:

(i) a civic center of a city with a population of twenty thousand or more persons as of the most recent decennial census of the federal government; or

(ii) a worlds fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(iii) a community-wide civic festival held not more than once annually and sponsored or approved by a city or town: PROVIDED, That participants in amusement games as defined and regulated shall not be designated as gamblers, nor such amusement game be defined as gambling.

(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: (a) 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, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid 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; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

((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.

~~((16))~~ (5) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

~~((17))~~ (6) "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.

(7) "Fishing derby" means a fishing contest, with the payment or giving of an entry fee or other consideration by some or all of the contestants; wherein the contestants compete with each other for a prize or prizes, whether money, merchandise or other thing of value; the prize or prizes is or are awarded based upon the lawful catching of fish by any one or more of the contestants; and when such contest is conducted by a bona fide charitable or nonprofit organization.

(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. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (13) of this section shall not constitute gambling.

(9) "Gambling device" ((other than for the purposes of subsection (18) of this section)) means: (a) Any device or mechanism 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 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. 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 and returning a coupon or entry blank or facsimile which is received through the mail or published in a bona fide newspaper((7)) 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 ninety days));

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

(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((:)); or

(h) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof: 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 RCW 9.46.030 as now or hereafter amended, 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 RCW 9.46.030 as now or hereafter amended, 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 RCW 9.46.030 as now or hereafter amended, 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 RCW 9.46.030 as now or hereafter amended, 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 chapter: 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 July 16, 1973, 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, or to the winner or winners of said prize or prizes.

(18) "Social card game" means a card game, including but not limited to the game commonly known as 'Mah Jongg', which constitutes gambling and contains each of the following characteristics:

(a) There are two or more participants and each of them are players; and

(b) A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

(c) No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players; PROVIDED, That this item (c) shall not preclude a player from collecting or obtaining his winnings; and

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing; PROVIDED, That this item (d) shall not apply to the membership fee in any bona fide charitable or nonprofit organization or to an admission fee allowed by the commission pursuant to section 4 of this 1974 amendatory act; and

(e) The type of card game is one specifically approved by the commission pursuant to section 4 of this 1974 amendatory act; and

(f) The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the commission pursuant to section 4 of this 1974 amendatory act.

(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.

Sec. 3. Section 3, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.030 are each amended to read as follows:

(1) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, fishing derby, ((and)) to utilize punch boards and pull-tabs and to allow their premises and facilities to be used by members and quests only to play social card games authorized by the commission, when licensed ((and)), conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(2) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed \$5000; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: PROVIDED, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles.

((2)) (3) The legislature hereby authorizes any person, association or organization to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant when licensed and utilized or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

((3)) (4) 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)) as a part of and upon the site of:

(a) A civic center of a city with a population of twenty thousand or more persons as of the most recent decennial census of the federal government; or

(b) A worlds fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(c) A community-wide civic festival held not more than once annually and sponsored or approved by a city or town.

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

Sec. 4. Section 7, chapter 218, Laws of 1973 1st ex. sess. as amended by section 4, chapter 41, Laws of 1973 2nd ex. sess. and RCW 9.46.070 are each amended to read as follows:

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, fishing derby, raffles, amusement games, and social card games to utilize punch boards and pull-tabs 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, deny, suspend or revoke any license because of considerations of race, sex, 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-
V tabs and to conduct social card games as a commercial stimulant 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;

((4)) [3] To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by RCW 9.46.030 as now or hereafter amended.

((5)) [4] To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, 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: PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs.

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.

((6)) [5] To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons having ((an)) a managerial or ownership 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

V or of any person holding ((an) a managerial or ownership 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: PROVIDED FURTHER, That fingerprinting shall be required only in those cases where the commission or the director has cause to believe that information gained thereby may disclose criminal or other relevant activity;

V ((7)) (6) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

((8)) (7) To require that all income from bingo games, raffles, and amusement games be ((received for at the time the income is received from each individual player and that all prizes be received 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;)) recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

((9)) (8) 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;

(9) To regulate and establish the type and scope of and manner of conducting social card games permitted to be played, and the extent of wager, money or other thing of value which may be wagered or contributed or won by a player in a social card game;

(10) To regulate and establish a reasonable admission fee which may be imposed by an organization, corporation or person licensed to conduct a social card game on a person desiring to become a player in a social card game. A "reasonable admission fee" under this item shall be limited to a fee which would defray or help to defray the expenses of the game and which would not be contrary to the purposes of this chapter;

((11) To regulate and establish for bona fide charitable nonprofit corporations and organizations reasonable admission fees which may be imposed by such organizations for the purpose of defraying the expenses incident to a social card or other game or fund raising endeavor and the balance over and above such expenses it to be used solely for the charitable purposes of the corporation or organization;

~~((10))~~ (12) 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;

~~((11))~~ (13) In accordance with RCW 9.46.080, 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;

~~((12))~~ (14) 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 RCW 9.46.030 as now or hereafter amended; ~~((and))~~

~~((14))~~ (15) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee; and

~~((13))~~ (16) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

Sec. 5. Section 23, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.230 are each amended to read as follows:

(1) All gambling devices as defined in ~~((REW 9-46-020 (9)))~~ section 2 (9) of this 1974 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 chapter.

(2) No property right in any gambling device as defined in ~~((REW 9-46-020 (9)))~~ section 2 (9) of this 1974 amendatory 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 RCW 9.46.030 as now or hereafter amended 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 RCW 9.46.020 as now or hereafter amended 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 RCW 9.46.030 as now or hereafter amended, 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 RCW 9.46.030 as now or hereafter amended 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. 6. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

Any license to engage in any of the gambling activities authorized by this chapter as now exists or as hereafter amended, and issued under the authority thereof shall be legal authority to engage in the gambling activities for which issued throughout the incorporated and unincorporated area of any county, except that a city located therein with respect to that city, or a county with respect to all areas within that county except for such cities, may absolutely prohibit, but may not change the scope of license, any or all of the gambling activities for which the license was issued:

PROVIDED, That a county or city may not prohibit a bona fide charitable or nonprofit organization from conducting social card games when licensed to do so and when the terms of the license permit only members of such organization to play at such games and when the terms of the license specifically prohibit the organization from imposing or collecting any admission fee.

Sec. 7. Section 8, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.080 are each amended to read as follows:

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.)) In addition, the department shall furnish two assistant directors, together with such investigators and enforcement officers and with such of its administrative services and staff as are necessary to carry out the purposes and provisions of this chapter. The director, both assistant directors, and personnel occupying positions requiring the performing of undercover investigative work shall be exempt from the provisions of chapter

41.06 RCW, as now law or hereafter amended. 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.

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

The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located therein but the tax rate established by ((any)) a county, ((except for any first class city located therein with respect to such city;)) if any, shall constitute the tax rate throughout such county including both incorporated and unincorporated areas((;)), except for any city located therein with a population of twenty thousand or more persons as of the most recent decennial census taken by the federal government: PROVIDED 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 only the ((gross income of the business in which the punch boards and pull-tabs are displayed)) gross receipts from such punch boards and pull-tabs; 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)) fifty 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 less the amount paid for or as prizes. Taxation of punch boards and pull-tabs shall not exceed five percent of gross receipts.

Sec. 9. Section 21, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.210 are each amended to read as follows:

(1) 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.

(2) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. The director, both assistant directors and each of the investigators and inspectors assigned by the department of motor vehicles to the commission shall have the power, under the supervision of the commission, to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other law enforcement agencies.

NEW SECTION. Sec. 10. Section 20, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.200 are each amended to read as follows:

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)) establish by a preponderance of the evidence that he did not have such knowledge and that he had exercised all reasonable care to prevent the violations he shall not be liable hereunder. ((Any civil action under this

V- section may be considered a class action-))

NEW SECTION. Sec. 11. There is added to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW a new section to read as follows:

No person shall intentionally obstruct or attempt to obstruct a public servant in the administration or enforcement of this chapter by using or threatening to use physical force or by means of any unlawful act. Any person who violates this section shall be guilty of a misdemeanor.

NEW SECTION. Sec. 12. Section 4, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.040 are each amended to read as follows:

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 July 16, 1973 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 RCW 9.46.050 (2) 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 July 16, 1973))~~ such appointments shall be for the term of two years or for the period in which the appointee serves as a legislator, whichever expires first; members may be reappointed; vacancies shall be filled in the same manner as original appointments are made. 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. 13. If any provision of this 1974 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.

NEW SECTION. Sec. 14. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect on May 20, 1974: PROVIDED, That this act shall be subject to referendum petition pursuant to Article II, Section 1 of the constitution of the State of Washington.

NEW SECTION. Sec. 15. Section 28, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.280 are each hereby repealed.

Passed the House February 13, 1974.
Passed the Senate February 12, 1974.
Approved by the Governor February 19, 1974, with the exception of certain items which are vetoed.
Filed in Office of Secretary of State February 26, 1974.
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. 473 entitled:

"AN ACT Relating to gambling."

Veto
Message

The items which I have vetoed are as follows:

1. Definition of "amusement games."

Section 2 (1) (f) (iii) contains a proviso that provides that participants in amusement games are not gamblers and that such amusement games are not to be defined as gambling. Veto
Message

The effect of the proviso is to take all amusement games as defined in the statute and participants in such games out of the gambling laws and thus preclude enforcement of criminal penalties where there have been criminal violations. I have accordingly vetoed the referenced item.

2. Definition of "bona fide charitable or nonprofit organization."

Section 2 (3) contains an item striking existing language which creates a presumption that an organization is not a bona fide charitable or nonprofit organization if contributions to the organization do not qualify as charitable contributions for tax purposes. The present language is a necessary element in the operation of the Gambling Commission as it places a strict burden of proving the qualifying status on an applicant. This is a necessary safeguard in the law to prevent the doors from being opened to professional gambling activities. I have therefore vetoed the referenced item.

3. Definition of "raffle."

Section 2 (17) contains amendatory language attempting to clarify that proceeds of a raffle may indeed inure to the benefit of the winner or winners or prizes. I have vetoed the item consisting of such language because I believe it is redundant, and that it further raises a problem in other sections of the bill by creating a presumption that proceeds may not go to winners of amusement games (Section 2 (1)) and bingo games (Section 2 (4)) since the same amendatory language was not placed in those subsections.

4. Definition of "social card game."

Section 2 (18) (d) contains a proviso that would allow a bona fide charitable or nonprofit organization to charge a membership fee or admission fee for the playing of social card games. This would open the way for such an organization to increase its membership fee or admission fee to such an extent as to collect, in effect, a charge for allowing members to engage in social card games. Such a charge is prohibited in the first part of subsection (d) in Section 2 (18). Accordingly, I have vetoed the referenced proviso.

5. Authorization of social card games.

Sections 3 and 4 of the bill contain three items that would unduly and unwisely broaden the authorization of social card games which is the heart of the amendatory language in Section 3. The item "and guests" in Section 3, subsection 1 on page 12, would open the way for any outsiders to participate in social card games on the premises of a licensed organization so long as they are characterized as guests.

Section 3 (3) and Section 4 (2) contain items which would allow any person, association, or organization to conduct social card games as a commercial stimulant.

These items all have the effect of paving the way for public card rooms which pose serious problems of enforcement to local police officials and foster a climate of open tolerance and/or clandestine payoffs for non-enforcement of gambling laws and regulations. Accordingly, I have vetoed these items.

6. Gambling Commission powers and duties.

Section 4 (5) of the bill contains two items restricting the investigative powers of the Commission in requiring fingerprints for background checks. One item restricts such a check to persons holding "a managerial or ownership" interest in the gambling activity. This provision would encourage those persons who do not wish to reveal their backgrounds to set up sham corporations or organizations to evade this requirement.

Another item restricts the power of fingerprinting to only those cases where there is reason to believe a

background check would disclose criminal activity. This restriction creates a situation where an unwarranted presumption of past criminal activity exists each time the Commission sees fit to require fingerprinting. Veto
Message

I do not believe that the Commission has exercised or is about to exercise its fingerprinting power in an arbitrary and capricious manner or in any manner for the sole purpose of harassing an applicant. The items creating the restrictions are not warranted and I have therefore vetoed the same.

7. Admission fees for social card games.

Subsections 10 and 11 in Section 4 authorize the Gambling Commission to regulate and establish admission fees for playing in social card games. I have stated earlier that the admission fee can serve as a subterfuge against the prohibition of charging an amount for playing in social card games and have therefore vetoed the referenced subsections.

8. Local option on gambling.

Section 6 contains an item consisting of a proviso which precludes a county or city from prohibiting social card games in an organization licensed to conduct such games without imposing or collecting any admission fee.

I see no good reason why a county or city, if it chooses to prohibit bingo and raffle games, should not be allowed to prohibit social card games even if an organization has previously been licensed to conduct such games, and have therefore vetoed that item.

9. Punch board and pull-tab regulation.

RCW 9.46.110 presently requires the reporting of all winners of over five dollars in money or merchandise from punch boards and pulltabs. An item in Section 8 of the bill would raise the amount to fifty dollars.

This higher amount would cover most, if not all winning punches or pulls, and would therefore effectively remove this reporting requirement. This would thereby remove the safeguard in the law against an owner or licensee of punch boards and pull-tabs from punching or pulling the larger winning numbers before a player has taken his chance, since there would be no way of determining the person or persons who made winning plays.

10. Class actions for damages.

RCW 9.46.200 presently allows any civil action under that section to be considered a class action. Section 10 of the bill contains an item striking that provision of the law. Removal of that provision would have the effect of discouraging persons who have wrongfully suffered losses and damages from bringing suit against a wrongdoer unless the amount of his loss or damage were substantial enough to justify the costs and expenses attendant to a lawsuit. I believe the original intent of the law should be restored, and have therefore vetoed the referenced item.

11. Effective date.

Section 14 of the bill declares an emergency, sets an effective date, and provides that the bill is subject to referendum. Our State Constitution clearly states in Article II, Section 1 (b) that the right of referendum does not exist as to laws "necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions." Section 14 is therefore wholly inconsistent in its component parts. I believe the people must have a right of referendum on a bill of this nature, and the Legislature has not, in my opinion, preserved that right effectively in Section 14. I have therefore vetoed the entire section.

With the exception of the foregoing items, the remainder of Substitute House Bill No. 473 is approved."