

chapter 34.04 RCW and the provisions of this 1973 amendatory act as shall be necessary or desirable to permit its effective administration.

NEW SECTION. Sec. 20. Sections 6 through 19 of this 1973 amendatory act are each added to chapter 84.36 RCW.

NEW SECTION. Sec. 21. There is hereby appropriated to the Department of Revenue \$450,000 from the general fund to administer the provisions of this 1973 amendatory act for the biennium ending June 30, 1975.

NEW SECTION. Sec. 22. If any provision of this 1973 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. 23. This 1973 amendatory 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, shall take effect immediately and shall be effective for assessment in 1973 for taxes due and payable in 1974.

Passed the Senate September 15, 1973.
Passed the House September 15, 1973.
Approved by the Governor September 27, 1973.
Filed in Office of Secretary of State September 27, 1973.

CHAPTER 41
[Second Substitute House Bill No. 487]
GAMBLING

AN ACT Relating to lotteries; amending section 1, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.010; amending section 2, chapter 218, Laws of 1973 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. and RCW 9.46.070; 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___; adding new sections to chapter 218, Laws of 1973 1st ex. sess. and to chapter 9.46 RCW; and repealing section 28, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.280; and declaring an emergency.

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

V 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, games of 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.

Sec. 2. Section 2, chapter 218, Laws of 1973 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)) in connection with a civic center of a city of the first class, world's fair or similar exposition approved by the Bureau of International Expositions at Paris, France, or a community festival sponsored or approved by a city or town.

(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, or any corporation which has been incorporated under any act of the Congress of the United States of America 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.

(6) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

(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. Engaging in "social card games" shall not be deemed gambling for the purposes of this chapter.

(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

V 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.

Any device or equipment used in the playing of Mah Jongg shall not be included in the definition contained in this subsection.

Any device, mechanism, furniture or premises used for "social card games" shall not be deemed gambling devices for the purposes of this chapter.

(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, except rooms or parlors where games of Mah Jongg are played. 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. Premises used for "social card

games" shall not be deemed gambling premises for the purposes of this chapter.

(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 received through the mail or 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 ninety days));

(d) Visitation to any business establishment to obtain a coupon, 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: 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.

(h) Furnishing proof of purchase if the proof required does not consist of more than the container of any product as packaged by the manufacturer, or a part thereof, provided that a facsimile of either is acceptable in lieu thereof.

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, 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, 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, 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, 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.

(18) "Social card game" shall mean any card game played upon the premises of, or under the authority of, a bona fide charitable or nonprofit organization 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

V- 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.

V- 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, and Mah Jongg games and social card games, to utilize punch boards and pull-tabs, 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 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) in connection with a civic center of a city of the first class, world's fair or similar exposition approved by the Bureau of International Expositions at Paris, France, or a community festival 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 Mah Jongg 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.

Sec. 4. Section 7, chapter 218, Laws of 1973 1st 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

V- organizations to conduct bingo games, raffles, amusement games, games

V- of Mah Jongg, and social card games, to utilize punch board 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, creed, color, sex or national origin:

PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend or revoke any license because of the policies of any applicant with regard to race, creed, color, sex or national origin:

ALSO 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 rooms 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) Any license to engage in any of the gambling activities authorized by RCW 9.46.030 as now exists or is later amended issued under the authority of this section shall be the legal authority to engage in the gambling activity for which issued throughout the incorporated and unincorporated area of any county, unless a county with respect to all areas within the county except any cities, or any city located therein with respect to such city, shall absolutely prohibit any or all gambling activities authorized by RCW 9.46.030.

(4) 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.

~~((3))~~ (5) 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.

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))~~ (6) 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:

PROVIDED FURTHER, That with respect to the duly elected officers and directors of a bona fide charitable or nonprofit organization the commission shall not require any information beyond such current information as is normally required for purposes of identification;

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~~((5))~~ (7) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

~~((6))~~ (8) 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.

~~((17))~~ (9) 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;

~~((18))~~ (10) 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;

~~((19))~~ (11) 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;

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

~~((11))~~ (13) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

NEW SECTION. Sec. 5. 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:

In addition to other powers and duties under this chapter, and notwithstanding any other provision of this chapter, the commission may authorize and issue licenses for a period not to exceed one year to any organization, whether incorporated or otherwise, which the commission determines to be established for charitable, benevolent, eleemosynary, educational, civic, political, social, fraternal, athletic or agricultural purposes and which is operated primarily for purposes other than the operation of gambling activities as authorized under this chapter, and upon such commission determination, such organization shall be deemed a "bona fide charitable or nonprofit organization" for the purposes of this chapter, and until the expiration of the aforesaid licensing period.

Sec. 6. 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

V— 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 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 only the ((gross income)) anticipated gross receipts ((of the business in which the punch boards and pull-tabs are displayed)) 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 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.

V— Sec. 7. Section 20, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.____ are each amended 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)) may 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. -V

NEW SECTION. Sec. 8. There is hereby added to chapter 218, Laws of 1973 1st ex. sess. and chapter 9.46 RCW a new section to read as follows:

This chapter constitutes the exclusive legislative authority for the licensing and regulation of any gambling activity and the state preempts such licensing and regulatory functions, except as to the powers and duties of any city, town, city-county, or county which are specifically set forth in this chapter. 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 amendatory act shall be as of that date null and void and of no effect. Any such city, town, city-county, or county may thereafter enact only such local law as is consistent with the powers and duties expressly granted to and imposed upon it by chapter 9.46 RCW and which is not in conflict with that chapter or with the rules of the commission.

NEW SECTION. Sec. 9. Section 28, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.280 are each hereby repealed. -V

NEW SECTION. Sec. 10. Nothing in this act shall be construed as prohibiting a nonprofit corporation from charging an admission charge per person for attending an event at which social card games or bingo are conducted. -V

NEW SECTION. Sec. 11. The provisions of this act are 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 immediately.

Passed the Senate September 15, 1973.

Passed the House September 15, 1973.

Approved by the Governor September 27, 1973 with the exception of certain items which are vetoed.

Filed in Office of Secretary of State September 27, 1973.

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

"I am returning herewith without my approval as to a number of items Second Substitute House Bill No. 487 entitled: ^{Veto} _{Message}

"AN ACT Relating to lotteries."

This bill contains a number of amendments to Substitute House Bill No. 711 passed by the Legislature during the First Extraordinary Session in 1973 and which consists of the first enactment in the area of gambling

pursuant to the authority of the constitutional amendment approved by the voters in November, 1972.

Veto
Message

It is unfortunate that the Legislature decided to deal with the subject of gambling during the short eight-day period of the September session. It is evident throughout this bill that the Legislature has not devoted enough time to study the many undesirable consequences arising out of gambling legislation that is not carefully drafted. While there is certainly considerable justification for truly social card games, what has been authorized in this bill is a wide-open and blatant form of professional gambling. Most important of all in Section 2 (8) of the bill so-called "social card games" are declared not to be gambling for the purposes of the bill and are therefore activities totally beyond the control or influence of the State Gambling Commission. Thereafter in Section 2 (18) a "social card game" is defined in such a fashion as to permit a professional gambler to set up operations in any club or any nonprofit organization in the State of Washington and to operate his game with a full "house" percentage to himself as long as he does not share that intake with the club or organization whose premises he uses. There is no limitation on the number or size of such operations or the type of person who would be allowed to conduct such operations in the bill. Our state would thereby be opened to all forms of card games associated with professional gambling, without any of the necessary controls by the state.

In approving SJR 5 in 1972, the people of this state gave clear indication that they favor gambling activities such as bingo, raffle and truly social card games. The Legislature was thereby mandated to enact a responsible bill by which the wishes of the people could be fulfilled. Again the Legislature has failed in that task by enacting so-called "social card game" provisions which go far beyond the responsible legislation that is required. I would urge the Legislature, if it truly wishes to fulfill the mandates given by the people, to commence at an early date, and in advance of the next legislative session, to draft and prepare the type of language that would allow our citizens to engage in truly social card games. I would not hesitate to approve such a bill, and I am certain that the law enforcement officials in this state would willingly accept

such a bill. I will not hesitate, however, and I have not hesitated in the past, to veto bills that are hastily drafted and lacking due consideration of all possible consequences.

Veto
Message

I have no objection to other forms of gambling such as Mah Jongg, but regrettably the provisions relating to Mah Jongg in this bill were so closely tied to the social card game provisions that they also suffer the adverse results of poor draftsmanship. I would again urge the Legislature to begin preparing language in consultation with law enforcement authorities and the State Gambling Commission to the end that Mah Jongg and other games may become permitted forms of gambling duly regulated by our Gambling Commission.

The bill contains two provisions, Section 4 (4) and (5), and Section 8, which are desirable and necessary and which were in fact requested and drafted by the Gambling Commission. With the exception of those provisions, I have determined to veto the rest of the bill in its entirety. The time has come for those individuals who have a sense of direction and responsibility to cooperate in producing responsible legislation aimed at answering the desires of our citizens, and further to see such legislation through the next session and prevent it from being burdened by either poorly drafted or irresponsible amendments."