

Historical Overview of Commercial Stimulant Language and Rule on Wagering Limits for House-Banked Card Games (WAC 230-03-175) (WSGC Staff Research)

Between 1977 and 1994, RCW 9.46.020 defined “commercial stimulant” as follows:

“(5) ‘Commercial stimulant’. An activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.” **See Attachment A.**

During this time period, there were also many WAC rules related “commercial stimulant” as noted in **Attachment B** and below:

- **WAC 230-02-350 Commercial stimulant defined.**
“Commercial stimulant” means all licensed gambling activities when operated by an established food and/or drink business with the primary purpose of increasing the volume of food and/or drink sales for “on premise” consumption. **For the purposes of chapter 9.46 RCW and these rules, gambling activities shall qualify as a commercial stimulant only when the combined “adjusted net gambling receipts” from punchboards, pull-tabs, and public card rooms are less than the total “gross” sales from the food and/or drink business.**

Note: The highlighted section required gross sales for food and beverage to be more than adjusted net gambling receipts.
- **WAC 230-02-370 Food and/or drink business defined.**
"Food and/or drink business" means any business which is primarily engaged in the sale of food and/or drink items, to persons other than owners, employees, or substantial interest holders, for consumption on the licensed premises. **Provided, That for the purposes of chapter 9.46 RCW and these rules, a business is determined to be primarily a “food and/or drink business” when the total gross sales of food and/or drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises...**
- **WAC 230-02-125 Adjusted net gambling receipts.**
WAC 230-12-075 Commercial stimulant compliance.
Note: Both of these WAC rules required net gambling receipts to be less than gross food and drink sales.

In 1993, the legislature set up a Task Force on Gambling Policy (see **Attachment C** for the House Bill report on EHCR 4403 for a discussion of the rationale for establishing the Task Force and

Attachment D for actual bill language in EHCR4403.E). The most comprehensive summary of the findings of the Task Force can be found in **Attachment E** (House Bill Report on 2SHB 2228), which is the legislation that clarified the state’s public policy on gambling, adding the specific statement “the public policy of the state of Washington on gambling is...”

- One of the recommendations of the report was to streamline **“the reporting requirements for commercial stimulant operators, to the extent that this can be accomplished consistently with the public policy of the state toward gambling.”**

In 1994, the Legislature the definition of “commercial stimulant” was codified in RCW 9.46.0217 (**Attachment F**). However, the definition was materially amended in a couple sections as follows:

- “‘Commercial stimulant,’ as used in this chapter, means an activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an ~~incidental~~ activity operated in connection with ~~and incidental to~~, an established business, with the ~~primary~~ purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.”
- **Note:** The intent of this change was that an activity (e.g., social card games) no longer had to be incidental to the established business and no longer had to have a “primary” purpose of increasing food and beverage.
- The House Bill Report on the bill that changed RCW 9.46.0217 noted that **testimony in favor of the bill mentioned that each commercial stimulant operator has “to document food and liquor sales versus gambling revenue. This is burdensome on both the operators and the commission.” No one testified against the bill (Attachment G).**

After the amendment to RCW 9.46.0217, the Commission amended the rules noted above to align with the new definition of “commercial stimulant” in the RCW.

According to the Meeting Minutes for the February 1995 Meeting (**Attachment H, pages 10-11**):

“These changes are to comply with the 1994 legislative change to RCW 9.46.0217. **The primary concern here is to determine whether a business is engaged in the sale of food and drink for on-premises consumption as opposed to measuring the gambling activities against the sale of food and drink.**”

According to the Meeting Minutes for the March 1995 Meeting (**Attachment I, pages 20-21**):

“...This is a group of rules that amend the commercial stimulant rules to comply with a 1994 Legislative change to RCW 9.46.0217. These have been discussed with licensees and **essentially take the Commission's staff time away from measuring the food and drink sales against the gambling activity and allow staff to focus on other priorities. The primary concern of the Commission is simply whether a business is engaged in the**

sale of food and drink for on-premise consumption. This is up for possible final action today. Director Miller said the term now is "established business." This will be the test in the future, ensuring it's a legitimate, established business..."

The amendments were as follows (**Attachment J**):

- **WAC 230-02-350 Commercial stimulant defined.**
"Commercial stimulant" means all licensed gambling activities when operated by an established food and/or drink business with the primary purpose of increasing the volume of food and/or drink sales for "on premise" consumption. ~~For the purposes of chapter 9.46 RCW and these rules, gambling activities shall qualify as a commercial stimulant only when the combined "adjusted net gambling receipts" from punchboards, pull tabs, and public card rooms are less than the total "gross" sales from the food and/or drink business.~~
- **WAC 230-02-370 Food and/or drink business defined.**
"Food and/or drink business" means any business which is primarily engaged in the sale of food and/or drink items, to persons other than owners, employees, or substantial interest holders, for consumption on the licensed premises. ~~Provided, That for the purposes of chapter 9.46 RCW and these rules, a business is determined to be primarily a "food and/or drink business" when the total gross sales of food and/or drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises...~~
- ~~**WAC 230-02-125 Adjusted net gambling receipts.**~~
~~**WAC 230-12-075 Commercial stimulant compliance.**~~
Note: Both of these WAC rules were repealed. Net gambling receipts were no longer required to be less than gross food and drink sales. **Attachment K.**
- **WAC 230-04-080 Certain activities to be operated as a commercial stimulant only-Licensing of food and/or drink businesses.**
"The commission may issue a license to operate punchboards and pull tabs or public card rooms, licensed for use as a commercial stimulant as commercial stimulants to any established business primarily engaged in the sale of food and/or drink items for consumption on the licensed premises. Such activities shall not be operated other than as a commercial stimulant. The following requirements apply to applicants for a license to use gambling activities to stimulate food and/or drink sales:..."

The total gross sales of food and/or drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises when measured on an annual basis. Applicants seeking qualification for a license under this subsection shall submit data necessary to evaluate compliance with these requirements as a part of their application..."

In 1999, WAC 230-04-080 was amended in as follows:

The commission may issue a license to operate punchboards and pull tabs or public card rooms as commercial stimulants to any established business primarily engaged in the sale of food and/or drink items for consumption on the licensed premises. Such activities shall not be operated other than as a commercial stimulant and the food and/or drink business shall be open and providing service to the general public at all times gambling activities are operated.

In 2006, we conducted rules simplification. WAC 230-04-080 was repealed and WAC 230-03-175 was formed (**Attachment L**). Part of the new language in WAC 230-03-175 read as follows:

“Businesses must provide evidence for us to determine the business' qualifications as a commercial stimulant as set forth in RCW 9.46.0217. That evidence includes, but is not limited to:

(2) Proof that it is ‘primarily engaged in the selling of food or drink for consumption on premises’ as used in RCW 9.46.070 (2). ‘Primarily engaged in the selling of food or drink for consumption on premises’ means that before receiving a gambling license the business has total gross sales of food or drink for on-premises consumption equal to or greater than all other combined gross sales, rentals, or other income-producing activities which occur on the business premises when measured on an annual basis.”

In 2007, WAC 230-03-175 was amended with nonmaterial changes. The language adopted here is the current language of the rule to date.

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Ch. 325

WASHINGTON LAWS, 1977 1st Ex. Sess.

state government and its existing public institutions, and shall take effect July 1, 1977.

Passed the House June 19, 1977.

Passed the Senate June 19, 1977.

Approved by the Governor June 30, 1977.

Filed in Office of Secretary of State June 30, 1977.

CHAPTER 326

[House Bill No. 1133]

GAMBLING

AN ACT Relating to gambling; amending section 2, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 87, Laws of 1975-'76 2nd ex. sess. and RCW 9.46.020; amending section 3, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 3, chapter 87, Laws of 1975-'76 2nd ex. sess. and RCW 9.46.030; amending section 7, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 87, Laws of 1975-'76 2nd ex. sess. and RCW 9.46.070; amending section 8, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 155, Laws of 1974 ex. sess. and RCW 9.46.080; amending section 10, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.100; amending section 1, chapter 87, Laws of 1975-'76 2nd ex. sess. and RCW 9.46.115; amending section 14, chapter 218, Laws of 1973 1st ex. sess. as amended by section 8, chapter 166, Laws of 1975 1st ex. sess. and RCW 9.46.140; amending section 18, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.180; amending section 19, chapter 218, Laws of 1973 1st ex. sess. and RCW 9.46.190; amending section 21, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 10, chapter 166, Laws of 1975 1st ex. sess. and RCW 9.46.210; amending section 23, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 155, Laws of 1974 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; prescribing penalties; and declaring an emergency.

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

Section 1. Section 2, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 87, Laws of 1975-'76 2nd 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 or operated by any agricultural fair, person, association, or organization in such manner and at such locations as may be authorized by rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended.

Cake walks as commonly known and fish ponds as commonly known shall be treated as amusement games for all purposes under this chapter.

- (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

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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, unless approved by the commission, 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.

(5) "Commercial stimulant". An activity is operated as a commercial stimulant, for the purposes of this chapter, only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on that business premises. The commission may by rule establish guidelines and criteria for applying this definition to its applicants and licensees for gambling activities authorized by this chapter as commercial stimulants.

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to be used by only members and guests ((~~only~~)) to play social card games authorized by the commission, when licensed, 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 five thousand dollars; 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.

(3) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of such activities are hereby authorized to conduct bingo, raffles, and amusement games, without obtaining a license to do so from the commission but only when:

(a) Such activities are held in accordance with all other requirements of chapter 9.46 RCW as now or hereafter amended, other applicable laws, and rules of the commission; and

(b) Said activities are, alone or in any combination, conducted no more than twice each calendar year and over a period of no more than twelve consecutive days each time, notwithstanding the limitations of RCW 9.46.020(2) as now or hereafter amended: **PROVIDED**, That a raffle conducted under this subsection may be conducted for a period longer than twelve days; and

(c) Only bona fide members of that organization, who are not paid for such services, participate in the management or operation of the activities; and

(d) Gross revenues to the organization from all the activities together does not exceed five thousand dollars during any calendar year; and

(e) All revenue therefrom, after deducting the cost of prizes and other expenses of the activity, is devoted solely to the purposes for which the organization qualifies as a bona fide charitable or nonprofit organization; and

(f) The organization gives notice at least five days in advance of the conduct of any of the activities to the local police agency of the jurisdiction within which the activities are to be conducted of the organization's intent to conduct the activities, the location of the activities, and the date or dates they will be conducted; and

(g) The organization conducting the activities maintains records for a period of one year from the date of the event which accurately show at a minimum the gross revenue from each activity, details of the expenses of conducting the activities, and details of the uses to which the gross revenue therefrom is put.

(4) The legislature hereby authorizes any person, association, or organization operating an established business primarily engaged in the selling of food or drink for consumption on the premises to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant to such business when licensed and

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enables him or her to play or results in or from his or her playing: PROVIDED, That this subparagraph (ii) shall not preclude collection of a membership fee which is unrelated to participation in gambling activities authorized under this subsection.

The penalties provided for professional gambling in this chapter shall not apply to sports pools as described in ((this)) subsection (6) of this section, the wagering described in subsection (7) of this section, social card games, bingo games, raffles, fund raising events, punch boards, pull-tabs, ((or)) amusement games, or to the use of facilities of a bona fide charitable or nonprofit organization for social card games or dice games, when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission.

Sec. 3. Section 7, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 87, Laws of 1975-'76 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, raffles, amusement games, and social card games~~((or))~~, 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 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 operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, 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 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;

(3) 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 meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate

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(8) To require that all income from bingo games, raffles, and amusement games be 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) 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; and (iii) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes;

(10) To regulate and establish the type and scope of and manner of conducting ~~((social card games permitted to be played, and))~~ the gambling activities authorized by RCW 9.46.030, including but not limited to, 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)) any such activities;

(11) 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;

(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;

(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;

(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;

(15) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments.

In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

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WSR 95-07-093

Washington State Register, Issue 95-07

March 17, 1995
Patricia Norman-Cole
Rules Coordinator

following the drawing: *Provided*, That this subsection shall not restrict commission staff or local law enforcement authorities from review of any required records prior to the allowed completion date; and

(6) Records shall be maintained at the main administrative or business office of the organization that is located within Washington state and available for commission review or audit upon request. Organizations that do not have an administrative or business office located within Washington state structured to include more than one chapter or other subdivided unit that conducts raffles under the parent organization's license, shall designate records custodians that reside in Washington state. Such custodians shall be responsible for retaining all original records and making such available for review or audit at any reasonable location within seven days of a request by commission staff. *Provided*, That the director may authorize an organization to maintain records at alternative locations if the organization has demonstrated the ability and desire to comply with all commission requirements. Records maintained under such an agreement shall be made available for commission review and audit at any designated location within seven days. The director may revoke this authority at any time by providing written notice. A request to maintain records at alternative locations shall include at least the following:

(a) The conditions that preclude or restrict compliance with normal records maintenance requirements of this subsection, including costs;

(b) The address of the location where all records will be maintained;

(c) If such records are retained outside the state of Washington, the name, address, and telephone number of a resident of the state of Washington who is authorized by the organization to accept a request for records;

(d) The name, address, and telephone number of a primary and alternate records custodian; and

(e) A notarized statement by the chief executive officer of the organization acknowledging responsibility for providing records and that failure to comply with a request for records within the allotted time may result in suspension or revocation of all licenses held by the organization.

WSR 95-07-094 PERMANENT RULES GAMBLING COMMISSION

[Filed March 17, 1995, 3:36 p.m., effective July 1, 1995]

Date of Adoption: March 10, 1995.

Purpose: Packet of rules clarify commercial stimulant in accordance with amendments to RCW 9.46.0217. Net gambling receipts are no longer required to be less than gross food and drink sales.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-350, 230-02-360, 230-02-370, 230-02-380, 230-04-080, 230-08-130, and 230-08-160.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0217.

Pursuant to notice filed as WSR 95-04-038 on January 25, 1995.

Effective Date of Rule: July 1, 1995.

AMENDATORY SECTION (Amending Order 165, filed 3/16/87)

WAC 230-02-350 Commercial stimulant defined. "Commercial stimulant" means ~~((a))~~ a licensed gambling ~~((activities, when))~~ activity operated by an established food and/or drink business with the ~~((primary))~~ purpose of increasing the volume of food and/or drink sales for "on-premises" consumption. ~~((For purposes of chapter 9.46 RCW and these rules, gambling activities shall qualify as a commercial stimulant only when the combined "adjusted net gambling receipts" from punchboards, pull tabs, and public card rooms are less than the total "gross" sales from the food and/or drink business.))~~

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-02-360 Licensed premises defined. "Licensed premises" means the physical building and property, upon which the licensed gambling activity occurs, as set out ~~((and approved))~~ on the license application and approved by the commission: *Provided*, That ~~((where))~~ when only a portion of a building is ~~((leased))~~ utilized for purposes of operating a food and/or drink business or for conducting gambling or related activities, only that portion set out in the ~~((lease document))~~ application on file with the commission, shall be considered the licensed premises ~~((: *Provided further*, That when owners or holders of a substantial interest, of a food and/or drink business, licensed to conduct gambling activities, also operate additional and separate businesses in the same building or on the same property, only the gross sales from the licensed food and/or drink business, as set out and approved on the license application, shall be included for commercial stimulant purposes))~~.

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-02-370 Food and/or drink business defined. "Food and/or drink business" means any business which is primarily engaged in the sale of food and/or drink items, to persons other than owners, employees, or substantial interest holders, for consumption on the licensed premises ~~((: *Provided*, That for purposes of chapter 9.46 RCW and these rules, a business is determined to be primarily a "food and/or drink business" when the total gross sales of food and/or drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises. *Provided further*, That food and drink items furnished to employees, without their actually paying for it, shall be treated as sales only if:~~

- ~~(1) Detailed records are maintained;~~
- ~~(2) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and~~
- ~~(3) No more than one meal per employee is recorded during any four hour work shift).~~

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AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-02-380 Established business defined.

"Established business" means any business (~~(who)~~) that has applied for and received all licenses or permits required by any state or local jurisdictions and has been open to the public for a period of not less than ninety days: *Provided*, That the commission may grant "established" status to a business that:

- (1) Has completed all construction and is ready to conduct business;
- (2) Has obtained all required licenses and permits;
- (3) Provides the commission a planned operating schedule which includes estimated gross sales from each separate activity to be conducted on the proposed premises, including but not limited to the following:
 - (a) Food and/or drinks for on-premises consumption;
 - (b) Food and/or drinks "to go"; and
 - (c) All other business activities.
- (4) Passes an inspection by the commission.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

WAC 230-04-080 Certain activities to be operated as a commercial stimulant only—Licensing of food and/or drink businesses.

The commission may issue a license to operate punchboards and pull tabs (~~(-)~~) or public card rooms (~~(- licensed for use as a commercial stimulant)~~) as commercial stimulants to any established business primarily engaged in the sale of food and/or drink items for consumption on the licensed premises. Such activities shall not be operated other than as a commercial stimulant. The following requirements apply to applicants for a license to use gambling activities to stimulate food and/or drink sales:

(1) For purposes of chapter 9.46 RCW and these rules, a business shall be presumed to be a "food and/or drink business" as defined by WAC 230-02-370 if:

(a) It is licensed by the liquor control board to sell alcohol beverages at retail to the public for on-premises consumption and:

(i) It is a tavern that holds a valid Class "B" liquor license; or

(ii) It is a restaurant with a cocktail lounge that holds a valid Class "H" liquor license.

(b) It sells food and/or drink items at retail to the public and:

(i) All food is prepared and served for consumption on the licensed premises: *Provided*, That food may be prepared at other locations and served on the premises if the food is:

(A) Prepared by the licensed business; or

(B) Purchased from caterers by the licensed business as a wholesale transaction and resold to customers at retail.

(ii) The total gross sales of food and/or drink, for on-premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises when measured on an annual basis. Applicants seeking qualification for a license under this subsection shall submit data necessary to evaluate compliance with these requirements as a part of their application. For purposes of determining total gross sales of food and drink for on-

premises consumption, meals furnished to employees, free of charge, shall be treated as sales only if:

(A) Detailed records are maintained;

(B) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and

(C) No more than one meal per employee is recorded during any four-hour work shift.

(2) When an individual, partnership, or corporation operates two or more businesses within the same building or building complex and such businesses meet the requirements of subsection (1)(a) or (b) of this section, one of the businesses may be designated as a "food and/or drink business" if all of the following conditions are met:

(a) The business being stimulated is physically isolated from all other businesses by walls and doors that clearly demonstrate the business is separate from other business being transacted at that location;

(b) All business transactions conducted by the applicant business are separated from the transactions conducted by all other businesses:

(i) Legally in the form of a separate corporation or partnership; or

(ii) By physical separation of all sales and accounting functions, and the methods of separation are approved by the commission;

(c) All gambling activities are located and occur upon the licensed premises, as defined in the license application and approved by the commission; and

(d) All gambling activities occur only when the food and/or drink business is open for customer service.

AMENDATORY SECTION (Amending Order 251, filed 5/17/94, effective 7/1/94)

WAC 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs. Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below:

(1) Reports shall be submitted detailing activities occurring during each of the following periods of the year:

(a) January 1st through March 31st;

(b) April 1st through June 30th;

(c) July 1st through September 30th; and

(d) October 1st through December 31st.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If ~~((the licensee does not renew his license, then he shall file))~~ a license is not renewed, a report for the period between the previous report filed and the expiration date ~~((of his license))~~ shall be submitted;

(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than ~~((30))~~ thirty days following the end of the period for which it is made ~~((-))~~;

(4) The report shall be signed by the highest ranking executive officer or ~~((his))~~ their designee. If the report is prepared by someone other than the licensee or ~~((his))~~ an employee, ~~((the))~~ the preparer shall print his/her name and phone number on the report ~~((-))~~;

ATTACHMENT C

HOUSE BILL REPORT

EHCR 4403

As Passed Legislature

Brief Description: Advocating the creation of a task force to study issues on gambling.

Sponsors: Representatives Heavey, Veloria, Long, Shin, Forner, Schmidt, R. Meyers, Johanson, Leonard, Chandler, Lisk, Pruitt, Ballasiotes and Morris.

Brief History:

Reported by House Committee on:
Commerce & Labor, January 26, 1993, DPA;
Passed House, February 8, 1993, 95-0;
Amended by Senate;
Passed Legislature, April 20, 1993.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Franklin; Horn; King; Springer; and Veloria.

Staff: Jim Kelley (786-7166).

Background: In recent years, the level of legalized wagering in Washington and across the nation has increased significantly. Gross receipts from legal gaming have nearly doubled since 1985. In addition, with the passage of the Indian Gaming Regulatory Act, tribal gaming has expanded into casino style games. Under the Indian Gaming Regulatory Act, the state is required to negotiate in good faith with any tribe wishing to conduct gambling activities that are not prohibited by the public policy of the state as reflected in its criminal laws and constitution. These and other factors have focused attention on the state's public policy regarding gambling.

Summary of Bill: The State Gambling Policy Task Force is established to examine: (1) The current nature and scope of authorized gambling in the state; (2) the future of gambling in the state; (3) the need for defining a clear public policy on gambling; and (4) the feasibility of merging the Gambling Commission, Lottery Commission, and Horse Racing Commission into one state agency.

ATTACHMENT C

The task force will be made up of 14 members, 11 of whom will be voting members. The voting members will include the governor or the governor's designee, three members from the majority caucus and two members from the minority caucus of the Senate, appointed by the President of the Senate and three members from the majority caucus and two members from the minority caucus of the House of Representatives, appointed by the Speaker of the House of Representatives. The three nonvoting members will be representatives of the Washington State Gambling Commission, the Washington State Horse Racing Commission, and the Washington State Lottery Commission. The task force will appoint a chair and vice chair from among its membership.

The task force may consult with individuals from the public or private sector or ask them to establish an advisory committee. The task force shall use legislative staff and facilities and expenses shall be paid jointly by the Senate and the House of Representatives.

The task force shall submit a report summarizing its findings and recommendations to the Legislature by January 1, 1994.

Fiscal Note: Not requested.

Effective Date: Upon filing with the Secretary of State.

Testimony For: The Gambling Commission has been involved in this issue and is very supportive. It is imperative that we not "back into" a whole new public policy on gambling. There are many major gambling issues that must be dealt with today. The tribes generally support the task force concept. It will provide more clarity in negotiations and in the regulatory arena. The resolution is fine as long as there is no moratorium on new gambling proposals.

Testimony Against: A task force would be fine, but there is a fear that it would be accompanied by a moratorium on new gambling proposals. A moratorium would be unacceptable. The tavern owners need help now. We cannot afford to wait for the results of a study. Eight cardrooms have already gone out of business in the Tulalip area.

Witnesses: Frank Miller, Director, Washington State Gambling Commission (in favor); Jim Metcalf, Tulalip Tribes (in favor); Bill Fritz, Washington Charitable and Civic Gaming Association (in favor); Frank Warnke, Thoroughbred Racing Industry (in favor); Vito Chiechi, Washington State Licensed Beverage Association (opposed); Randy Scott, Lummi Tribe (in favor); Sharon Foster, Community Charities (opposed); and Becky Bogard, RDC Consultants (opposed).

ATTACHMENT D

ENGROSSED HOUSE CONCURRENT RESOLUTION 4403

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Heavey, Veloria, Long, Shin, Forner, Schmidt, R. Meyers, Johanson, Leonard, Chandler, Lisk, Pruitt, I. Ballasiotes and Morris

Read first time 01/13/93. Referred to Committee on Commerce & Labor.

1 WHEREAS, Legalized wagering in Washington State has increased
2 significantly during the past two decades; and

3 WHEREAS, Legalized wagering in neighboring states is expanding into
4 such games as keno and video poker and is expected to continue
5 increasing during the coming years; and

6 WHEREAS, Under Federal law, tribal gambling has expanded into
7 casino gambling; and

8 WHEREAS, The United States Congress recently authorized coastal
9 gambling on cruise ships; and

10 WHEREAS, The State's public policy has been to prevent organized
11 crime from infiltrating legalized gambling; and

12 WHEREAS, Increased competition for the gambling dollar will result
13 in pressure to legislate increases in the nature and scope of gambling
14 currently authorized in the State; and

15 WHEREAS, The State's public policy on gambling, in many respects,
16 has not been clearly defined;

17 NOW, THEREFORE, BE IT RESOLVED, By the House of Representatives of
18 the State of Washington, the Senate concurring, That a legislative task
19 force on Washington state gambling policy be established to examine:
20 (1) The current nature and scope of legal gambling within the State;
21 (2) the future of gambling in the State, in light of recent expansion,

ATTACHMENT D

1 the authorization of tribal and coastal gambling, and increased
2 competition for the gambling dollar; and (3) the need for more clearly
3 defining the State's public policy on gambling; and

4 BE IT FURTHER RESOLVED, That the task force consist of ten voting
5 members, three members from the majority caucus and two members from
6 the minority caucus of the Senate, appointed by the President of the
7 Senate; at least one member from each caucus shall be a member of the
8 Senate labor and commerce committee; and three members from the
9 majority caucus and two members from the minority caucus of the House
10 of Representatives, appointed by the Speaker of the House of
11 Representatives; at least one member from each caucus shall be a member
12 of the House commerce and labor committee. In addition, the Washington
13 state gambling commission, the Washington state horse racing
14 commission, and the Washington state lottery commission shall cooperate
15 with the task force and maintain a liaison representative, who shall be
16 a nonvoting member. The task force shall choose its chair and vice-
17 chair from among its membership; and

18 BE IT FURTHER RESOLVED, That the task force, where feasible, may
19 consult with individuals from the public and private sector or ask such
20 persons to establish an advisory committee; and

21 BE IT FURTHER RESOLVED, That the task force shall use legislative
22 staff and facilities. All expenses of the task force, including
23 travel, shall be paid jointly by the Senate and the House of
24 Representatives; and

25 BE IT FURTHER RESOLVED, That the task force report its findings and
26 recommendations to the legislature by January 1, 1994; and

27 BE IT FURTHER RESOLVED, That the task force shall expire July 1,
28 1994.

--- END ---

ATTACHMENT E

SHB 2226

Part-time dealership employees are permitted to drive vehicles bearing dealer license plates.

The fixed load capacity fee and the circus vehicle fee are eliminated.

The combined licensing fee is reduced by \$90 for trucks registered at 42,000 pounds or more that do not haul trailers or are used exclusively for hauling logs.

Votes on Final Passage:

House	95	0
Senate	44	1

Effective: June 9, 1994
July 1, 1994 (Sections 8 and 28)

SHB 2226

C 161 L 94

Requiring cities and towns to provide notice for rate increases for solid waste handling services.

By House Committee on Environmental Affairs (originally sponsored by Representatives Horn, Rust and Cooke).

House Committee on Environmental Affairs
Senate Committee on Ecology & Parks

Background: Solid waste collection companies operating in the unincorporated areas of a county are regulated by the Utilities and Transportation Commission (UTC). A city has the options of allowing the UTC to regulate collection, operating a city collection service, or regulating a private collection company.

A solid waste collection company regulated by the UTC is required to provide 45 days notice to the UTC and the public before changing rates or service levels.

Summary: Cities that do not opt for UTC-regulated collection are required to notify the public of a change in solid waste rates 45 days prior to the proposed date of the rate change. Notification may occur through the mail or through the newspaper.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	42	2	(Senate receded)

Effective: June 9, 1994

2SHB 2228

C 218 L 94

Clarifying the state's public policy on gambling.

By House Committee on Revenue (originally sponsored by Representatives Heavey, Lisk, Springer, Schmidt, Van Luven and Roland).

House Committee on Commerce & Labor

House Committee on Revenue
Senate Committee on Labor & Commerce

Background:

Public policy statement. The Washington State Gambling Code contains a series of legislative policy declarations. For the purpose of negotiating tribal gaming compacts, the Gambling Commission has summarized these declarations into the following statement of public policy on gambling: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling by limiting the nature and scope of gambling activities and by strict regulation and control."

Frequency of Lottery games. The frequency with which the Lottery offers any of its games is strictly within the agency's discretion.

Problem and compulsive gambling. In 1992, the Lottery Commission contracted with Rachel Volberg, Ph.D., to conduct both an adult and an adolescent prevalence study of problem and compulsive gambling in this state. These studies were conducted in the spring and summer of 1992. Dr. Volberg estimated that between 14,400 and 49,800 Washington residents can be classified as current probable compulsive gamblers. In addition, an estimated 43,300 to 93,700 Washington residents can be classified as current problem gamblers. Among adolescents, an estimated 23,000 to 33,700 can be classified as at-risk gamblers and an additional 950 to 4,700 adolescents in Washington can be classified as problem gamblers. There are a limited number of treatment options for problem and compulsive gamblers in Washington.

The Gambling Commission and the Lottery Commission have each adopted policies on compulsive gambling. These policies recognize that compulsive gambling exists in this state and pledge the resources of the agencies to assist in public awareness and education and research activities related to compulsive gambling. The Gambling Commission has developed a compulsive gambling education and awareness training program; entered into a contract with the State Council on Problem Gambling to provide public education and awareness programs, information and referral services, and training seminars for mental health professionals; and included in all of the tribal gaming compacts a provision that requires any civil fines collected by the Gambling Commission or Tribal Gaming Agency as a result of infractions of gambling laws be paid to the State Council on Problem Gambling.

The Lottery Commission provides funding for the 1-800 information and referral hotline operated by the State Council on Problem Gambling. The Lottery Commission, Gambling Commission and Horse Racing Commission, in cooperation with the State Council on Problem Gambling, jointly developed an informational brochure on compulsive gambling. This brochure is distributed state-wide to gambling licensees, lottery retailers, state and local government offices and other appropriate locations.

Enforcement of gambling laws. The Washington State Gambling Code includes procedures for the seizure and forfeiture of illegal gambling-related assets. This section of the gambling code has not been substantively amended since 1981, despite subsequent court decisions interpreting the drug forfeiture statute upon which the gambling forfeiture statute was modeled. The Gambling Commission and the Attorney General have expressed concerns about whether the commission can effectively administer this statute. Proceeds realized from the enforcement of this statute are paid into the state general fund if the property was seized by a state agency or to the local government if the property was seized by a local government law enforcement agency.

"Gambling devices" are prohibited in Washington. The gambling code definition of "gambling device" describes the characteristics of the machines, but does not specifically list the types of gambling devices. The Gambling Commission has uniformly applied the prohibition to slot machines and electronic gambling devices.

The provisions defining the criminal offenses of first and second degree professional gambling include as an element of the offenses that a certain volume of illegal activity must have occurred in any "calendar month." Courts have interpreted this to mean, for example, that if certain activities began on the 25th day of a certain month, then only those activities occurring before the first of the next month are counted toward the volume of illegal activity.

The director of the Gambling Commission may only appoint two assistant directors.

Recommendations of the Gambling Policy Task Force. In 1993, the Legislature adopted EHCR 4403, creating the State Gambling Policy Task Force. The task force was made up of 11 voting members: 10 legislators and the Governor's designee, and three nonvoting members: one representative each from the Horse Racing Commission, the Lottery Commission and the Gambling Commission. The purpose of the task force was to examine: (1) The current nature and scope of authorized gambling in the state; (2) the future of gambling in the state; (3) the need for defining a clear public policy on gambling; and (4) the feasibility of merging the Gambling Commission, Lottery Commission, and Horse Racing Commission into one state agency. The task force submitted its final report to the Legislature on January 1, 1994. The final report made several major recommendations, including:

- (1) "The Legislature should codify the following statement of Washington's public policy toward gambling in statute: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

- (2) The Legislature should amend the state lottery statute to require prior legislative approval of any on-line game operated more frequently than once every 24 hours.
- (3) Services for problem and compulsive gamblers should continue to be offered. The Gambling Commission, the Lottery Commission, and the Horse Racing Commission should continue to provide resources for the support of these services. The Gambling Commission, Horse Racing Commission and Lottery Commission should jointly develop informational signs concerning problem gambling which include the toll free hot line number to be placed in the establishments of gambling licensees and lottery retailers.
- (4) The Legislature should amend the gambling code to aid the Gambling Commission in enforcing the public policy of the state and in fighting illegal gambling. These changes should include: (1) clarifying the unconditional ban on slot machines and video gaming devices in Washington; (2) strengthening the Gambling Commission's authority to seize illegal gambling-related assets; and (3) streamlining the reporting requirements for commercial stimulant operators, to the extent that this can be accomplished consistently with the public policy of the state toward gambling.

Summary:

Public policy statement. The following statement of Washington's public policy toward gambling is codified: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

Frequency of Lottery games. Prior legislative approval is required before the Lottery may conduct any on-line game more frequently than once every twenty-four hours. "On-line game" is defined as a game in which the player pays a fee to a lottery retailer and selects a combination of numbers or symbols, and the Lottery separately selects the winning combination or combinations.

Problem and compulsive gambling. The Legislature recognizes that some people in Washington are problem or compulsive gamblers and that the state has the responsibility to continue to provide resources for the support of services for problem and compulsive gamblers. The Gambling Commission, Horse Racing Commission, and Lottery Commission are required to jointly develop informational signs about problem and compulsive gambling to be placed in gambling establishments.

Enforcement of gambling laws. Procedures for the seizure and forfeiture of gambling-related assets are updated. The changes are patterned after recent changes in the drug forfeiture statute. The changes provide greater protection for property owners who are unaware of the illegal activities being conducted on their property. The net proceeds of gambling-related property seizures are retained exclusively by the Gambling Commission to defray enforcement costs.

ATTACHMENT E

SHB 2235

Gambling devices on cruise ships are exempt from the penalty and seizure provisions if the devices are not operated for gambling purposes within the state of Washington.

Slot machines, video pull-tabs, video poker, and electronic games of chance are specifically added to the definition of "gambling device."

References to "calendar month" in the provisions defining the crimes of first and second degree professional gambling are amended to read "thirty-day period."

The director of the Gambling Commission may appoint three assistant directors.

Votes on Final Passage:

House	91	5	
Senate	39	0	(Senate amended)
House	90	5	(House concurred)

Effective: April 1, 1994

SHB 2235 PARTIAL VETO C 112 L 94

Clarifying the business and occupation tax on periodicals and magazines.

By House Committee on Revenue (originally sponsored by Representatives Cothorn, Foreman, Thibaudeau, J. Kohl, L. Johnson, Ogden, Rust, Chappell, Van Luven, Brough, Brown and Cooke).

House Committee on Revenue
Senate Committee on Ways & Means

Background: Washington's major business tax is the Business and Occupation (B&O) tax. This tax is imposed on the gross receipts received by a business. Although there are several different B&O tax rates, the rates for most businesses range from 0.471 percent to 2.5 percent.

Before July 1993, publishers of newspapers, magazines and periodicals paid B&O tax at a rate of 0.484 percent of gross income. Legislation enacted in 1993 restricted this special rate to newspaper publishers. As a result, the rate for other types of publishers was increased to 2.13 percent. The rate for newspaper publishers was raised to 0.515 percent.

Cities and towns have general licensing powers that include the power to impose a fee or tax for the privilege of doing business within the city or town. These fees and taxes are often called "business and occupation taxes" and are often based on gross receipts.

Summary: The Business and Occupation tax rate for publishers of periodicals or magazines is reduced from 2.13 percent to 0.515 percent. "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months,

including any supplement or special edition of the publication.

Juvenile newspaper carriers are exempt from state business and occupation taxes. They are also exempt from city and town licensing requirements. Persons employing juvenile newscarrriers must notify each carrier that the exemptions will expire when the carrier reaches 18 years of age.

Votes on Final Passage:

House	87	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 9, 1994

Partial Veto Summary: The veto removes the sections that exempt juvenile newspaper carriers from state business and occupation taxes. The veto also removes the section that requires employers to notify carriers that the exemption will expire when the carrier reaches 18 years of age.

VETO MESSAGE ON HB 2235-S

March 28, 1994

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2 and 4, Substitute House Bill No. 2235 entitled:

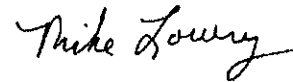
"AN ACT Relating to business and occupation taxes for periodicals and magazines;"

This bill relates to reducing the business and occupation tax rate for publishers of newspapers, magazines, and periodicals and provides an exemption from state, city, and town business and occupation taxes for juvenile newspaper carriers.

Sections 2 and 4 of the bill provide a state business and occupation exemption for newspaper carriers under the age of eighteen. Another bill which passed this session, Substitute House Bill No. 2671, provides B&O tax relief for small businesses, and will effectively relieve juvenile newspaper carriers of all B&O tax liability. In addition, under Substitute House Bill No. 2671, these carriers will not have to pay a \$15 fee to register with the Department of Revenue. As a result of this general tax relief for small businesses, sections 2 and 4 of Substitute House Bill No. 2235 are redundant and unnecessary.

With the exception of sections 2 and 4, Substitute House Bill No. 2235 is approved.

Respectfully submitted,



Mike Lowry
Governor

ATTACHMENT E

Attachment F

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2382

Chapter 120, Laws of 1994

53rd Legislature
1994 Regular Session

GAMBLING--COMMERCIAL STIMULANTS

EFFECTIVE DATE: 6/9/94

Passed by the House February 14, 1994
Yeas 95 Nays 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1994
Yeas 35 Nays 14

JOEL PRITCHARD

President of the Senate

Approved March 28, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2382** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

Chief Clerk

FILED

March 28, 1994 - 11:26 a.m.

**Secretary of State
State of Washington**

Attachment F

HOUSE BILL 2382

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Veloria, Lisk, Heavey, Horn, Anderson, Schmidt, King, Chandler, Conway and Springer

Read first time 01/14/94. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to gambling; and amending RCW 9.46.0217 and
2 9.46.0281.

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

4 **Sec. 1.** RCW 9.46.0217 and 1987 c 4 s 6 are each amended to read as
5 follows:

6 "Commercial stimulant," as used in this chapter, means an activity
7 is operated as a commercial stimulant, for the purposes of this
8 chapter, only when it is an ~~((incidental))~~ activity operated in
9 connection with~~((, and incidental to,))~~ an established business, with
10 the ~~((primary))~~ purpose of increasing the volume of sales of food or
11 drink for consumption on that business premises. The commission may by
12 rule establish guidelines and criteria for applying this definition to
13 its applicants and licensees for gambling activities authorized by this
14 chapter as commercial stimulants.

15 **Sec. 2.** RCW 9.46.0281 and 1987 c 4 s 21 are each amended to read
16 as follows:

17 "Social card game," as used in this chapter, means a card game,
18 including but not limited to the game commonly known as "Mah-Jongg,"

ATTACHMENT G

HOUSE BILL REPORT

HB 2382

As Passed Legislature

Title: An act relating to gambling.

Brief Description: Changing gambling provisions.

Sponsors: Representatives Veloria, Lisk, Heavey, Horn, Anderson, Schmidt, King, Chandler, Conway and Springer.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 4, 1994, DP;
Passed House, February 14, 1994, 95-0;
Passed Legislature.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 9 members:
Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer and Veloria.

Staff: Jim Kelley (786-7166).

Background: In its final report to the Legislature, the Task Force on Washington State Gambling Policy included a recommendation that the reporting requirements for commercial stimulant operators should be streamlined, to the extent that this can be accomplished consistently with the public policy of the state toward gambling. The task force agreed to the following description of the state's public policy on gambling: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control."

The gambling code provides that an activity is operated as a commercial stimulant only when it is an incidental activity operated in connection with, and incidental to, an established business, with the primary purpose of increasing the volume of sales of food or drink for consumption on the premises. The commission has the authority to establish guidelines and criteria for applying this definition.

ATTACHMENT G

Card rooms may be operated by either commercial stimulant or bona fide charitable or nonprofit operators. The operators' gross receipts are generated through collection for time, not through the level of wagering at the tables. Card rooms may charge up to two dollars per half hour of playing time.

Summary of Bill: The sections of the gambling code defining "commercial stimulant" and providing the maximum fee for play at a card room are amended.

An activity is operated as a commercial stimulant only when it is an activity operated in connection with an established business, with the purpose of increasing the volume of sales of food or drink for consumption on the premises.

Card rooms may charge up to three dollars per half hour of playing time.

Fiscal Note: Requested January 25, 1994.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The increase in the card room fee is merely to keep up with inflation. The commercial stimulant definition is very important. Washington has 2,300 commercial stimulant operators. Each one has to document food and liquor sales versus gambling revenue. This is burdensome on both the operators and the commission.

Testimony Against: None.

Witnesses: (In favor) Representative Velma Veloria, prime sponsor; Frank Miller, Gambling Commission; Fred Steiner, Diamond Lils Restaurant; Dave Pardey, Skyway Park Bowl; and George Teeny, New Phoenix Restaurant.

ATTACHMENT H

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, FEBRUARY 9, 1995

Acting Chair Mosbarger called the meeting to order at 1:45 p.m. at the Ramada Governor House Hotel, Olympia, Washington.

MEMBERS PRESENT: WANDA MOSBARGER, Vice Chair, PATRICK GRAHAM and EDWARD HEAVEY.

OTHERS PRESENT: FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; CARRIE SUTHERLAND, Special Assistant, Public Affairs; SHERRI WINSLOW, Assistant Director, Field Operations; JONATHAN McCOY, Assistant Attorney General; PATTI COUMERILH, Financial Investigations; SHARON TOLTON, Assistant Director, Special Operations; and SUSAN GREEN, Executive Assistant.

Acting Chair Mosbarger asked if there were any staff reports. **Director Miller** stated the staff reports would be given tomorrow. **Acting Chair Mosbarger** called for License approvals.

LICENSE APPROVALS NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

Commissioner Graham moved for approval of the list as printed; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

REVIEW OF FRIDAY'S AGENDA

Ms. Sutherland said there is a petition package of rules for final action that relates to the local taxing issues; there are three rules as part of that petition. There will be a discussion on a package relating to the licensing of gambling managers, on a package relating to commercial stimulant rules, and on raffle rules. In addition, there is one housekeeping rule for discussion. For discussion and possible filing are two housekeeping changes. There is an addendum to the agenda, which is a petition by the Recreational Gaming Association to change the card room closure hours from 2:00 a.m. to 6:00 a.m. to 4:00 a.m. to 8:00 a.m. One other note for today's agenda, the formal review of Big Brothers and Big Sisters of Tacoma will be moved to the March meeting. Also tomorrow, the WCCGA would like to make a 10 minute presentation. There will be an Executive Session today and tomorrow. **Acting Chair**

ATTACHMENT H

Mosbarger asked for any questions or comments on Friday's agenda.

HEARING

The Shed, Inc., d/b/a The Pine Shed Restaurant, Spokane
CR 93-0691 -- Request for Reconsideration

Ms. Sutherland said that Bob Racicot came before the Commission in Spokane at the November (1994) meeting and requested reconsideration of his fine. He asked for a reduction or restructuring of the fine. Currently, the fine has been paid to date. Half of the last payment was made and he would like to restructure the second half or ask that it be reduced. Staff recommends lowering the payments from \$2,000 a month to \$1,000 a month, which would allow Mr. Racicot to extend the fine over a longer period of time with the total fine remaining unchanged. Final payment would be due January of 1998. The fine was based on agency cost so staff feels strongly that the fine should remain the same. **Director Miller** said looking at the present amount of business Mr. Racicot is generating in his card room, it would be easier to reduce the monthly payment amount and extend the term. **Mr. McCoy** said when the issue was raised in November, the Commission asked him to look at the possibility of doing this; however, there is no formal procedure under the rules of the Commission for reopening an order. The appeal period was past so he suggested to Mr. Racicot that he request to reopen based on a change in circumstances. **Mr. McCoy** said this is not something the Commission has done in the past. It would be a unique decision and the Commission may want to consider making a rule change to handle cases like this in the future.

Ms. Sutherland stated that Mr. Racicot is present and would like to approach the Commission. **Mr. Racicot** of The Shed Restaurant in Spokane, said he came before the Commission in November in Spokane and stated at that time that, with the fine assessed upon him, he could not operate the card room properly. He was fined \$58,000 over the two-year period with the \$10,000 down. He has currently paid \$21,000. This last quarter he was unable to pay the \$6,000 so he called the Gambling Commission and it was suggested to him that he pay \$3,000 until he could come before the Commission. He thanked Mr. Miller for suggesting that the fine be extended over a longer period of time. He said he has a hard time because he is being held solely responsible. He said his pit bosses were the ones arranging games and now he is responsible for paying the Gambling Commission's expenses as a result of the investigation. He said the court in Spokane is near throwing out the cases.

Director Miller said Mr. Racicot is referring to the criminal cases pending in Spokane. There were quite a few arrests. There have been comments in the media lately about a judge questioning the player definition as being too vague and may be dismissing some of the charges. He said the case against The Shed was an administrative action and should be treated separately from the criminal case. There were still problems regarding hidden ownership. **Director Miller** said staff does not support a reduction of the fine. **Mr. Racicot** said he would appreciate the Commission looking at this issue with an open mind.

Commissioner Graham asked if the judge recommended that the license be taken away. **Director Miller** said the original order summarily suspended both the pull tab and the card room licenses. It

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went to a hearing and the Commission overturned the judge's ruling of revocation and Mr. Racicot was fined. This was a very lengthy undercover investigation. He said it was the largest fine against a licensee.

Acting Chair Mosbarger noted the Commission isn't prepared to make a decision of reducing the fine but the Commission could consider lowering the payment. **Commissioner Graham** moved to accept the recommendation of staff and extend the payments at the lower amount. **Mr. McCoy** asked for clarification on the deferred period of time, and if extending the payments also extends the suspension deferral period as well. **Director Miller** stated the suspension deferral period would have to be extended. **Commissioner Heavey** seconded the motion; **Commissioner Heavey** offered an amendment stating that if the licensee is in default for more than two months, then the fine payment amount would go back up to \$2,000. **Commissioner Graham** seconded the amendment. **Mr. Racicot** asked if he had to close the card room, would he be able to keep his pull tabs and fishbowls. **Director Miller** said the action was taken on all licenses and he would not be able to keep his licenses because he would have to fulfill the penalty. Vote taken on the motion as amended; motion carried as amended with three aye votes. **Director Miller** requested that Mr. McCoy draft an amended order.

DEFAULT HEARING

James G. Warner, d/b/a The Place, Battleground
CR 94-1154 -- Punchboard/Pull Tab License

Ms. Sutherland said this licensee is no longer in business and did not respond to notification that they were delinquent in submitting activity reports. Staff recommends a one year revocation. **Commissioner Heavey** asked why the Commission doesn't just revoke their license indefinitely since there was a death. **Ms. Sutherland** said if someone else in the business might apply for a gambling license, perhaps they shouldn't be penalized since the underlying charge was just failure to submit reports on time. **Commissioner Heavey** asked if these individuals could reapply for a license. **Mr. Bishop** explained that if they were to apply within the year period of time, the staff would probably deny the application for that first year. **Ms. Sutherland** further explained that usually the basis for recommendation is based on the underlying charge in a default and the seriousness of the charge. **Commissioner Heavey** moved for one year revocation; **Commissioner Graham** seconded the motion; motion carried with three aye votes.

QUALIFICATION REVIEWS

Ms. Coumerilh said that Big Brother/Big Sisters of Tacoma will be presenting its formal review in March instead of at this meeting.

SEATTLE JAYCEES, Seattle

Ms. Coumerilh said this is a civic organization with a Class "M" bingo license, a Class "L" punchboard/pull tab license, and a Class "E" raffle license. The organization was formed in 1936 and currently has 404 voting members. The organization maintains a full-time administrative office in

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Seattle; they also operate two other nonprofit subsidiary organizations. The organization also has three youth programs: Clients served were 36 individuals including 5 members of the organization and approximately 1,500 members of the general public. Contributions totaled \$71,903; scholarships were \$39,282. Net gambling revenues totaled \$426,362; bingo net income was \$381,583. The organization spent \$495,861 in support of its stated purpose. The organization continued its support of the Woodland Park Zoo. Staff recommends approval as a civic organization.

Commissioner Graham said that he noted that John Tilsborrow, who is the business manager, also has a second job as the financial officer and asked for whom. **Ms. Coumerilh** said his job is with a fishing company and he only works 40 hours there, and between the two positions works 7 days a week.

SEATTLE JUNIOR HOCKEY ASSOCIATION

Ms. Coumerilh said this is an athletic organization with a Class "M" bingo license, a Class "O" punchboard/pull tab license, and licenses for Class "E" amusement games and Class "A" raffles. The organization was first formed in 1974 and currently has 44 voting members. The organization maintains a full-time administrative office in Mountlake Terrace. Office expenses are shared with Northwest Amateur Hockey Association. Clients served during the year totaled 1,025. Contributions totaled \$96,917; Scholarships totaled \$49,374, for 11 students, and Sponsorships totaled \$3,616. Net gambling revenues totaled \$1,211,941. Bingo net income totaled \$1,650,000. The organization spent \$1,377,520 in support of its purposes. The group completed its Olympic-size ice arena project. Staff recommends approval as an athletic organization.

B.P.O.E. #823, Vancouver

Ms. Coumerilh said this is a fraternal organization with a Class "H" bingo license, and a Class "G" license in punchboards/pull tabs. First formed in 1902, there are currently 1,427 voting members. The organization maintains a facility that serves as an activity center for members and is open 7 days per week. Clients served were 5,000 members of the general public and 1,427 members of the organization. Contributions totaled \$36,753. Scholarships totaled \$15,500. Net gambling was \$158,398. Net bingo income was \$108,376. The organization continues to provide charitable contributions to youth activities in its community. Staff recommends approval as a fraternal organization.

SILVER BUCKLE RODEO CLUB, Vancouver

Ms. Coumerilh said this is an athletic organization with a Class "H" bingo license, and a Class "H" license in punchboards/pull tabs. The organization was first formed in 1978 and there are 52 voting members. The organization maintains two arenas, livestock barns on a fenced 60 acre parcel in Vancouver. Clients served were 4,553 members of the general public. Contributions totaled \$12,127. Scholarship totaled \$2,500. Sponsorships totaled \$22,210. Net gambling revenues totaled \$263,097. Bingo net income was \$221,171. This organization spent \$250,198 in support of its stated purposes. The organization

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renovated the riding arena and livestock barns in 1993, added a watering system and a state-of-the-art lighting system for safety. With these improvements, Silver Buckle was able to able to conduct many more programs and fund raising activities. Staff recommends qualification as an athletic organization for the purposes of conducting gambling in the state of Washington. **Commissioner Graham** asked about the number of clients served and how much the number has increased; **Michelle Bernhardt**, Silver Buckle Rodeo Club, said the number of general public has increase by approximately 1,500 clients in the last three years. **Commissioner Graham** also asked if any of the present board members are related. **Ms. Bernhardt** said no they are not. **Director Miller** commented that Silver Buckle has had some problems in the past and staff is very pleased with their improvements.

Acting Chair Mosbarger called for a motion for certification of the above organizations; **Commissioner Graham** moved for qualification of these groups as presented; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

GENERAL DISCUSSION

Director Miller said a group of distributors met this morning with Commission staff. At the meeting last month, some concerns were raised about the pricing policies. One option discussed was to change the whole regulatory scheme or create new rules to make it even tighter. The distributors agree that the pricing rules should be changed. The Commission will try in the short term to put more emphasis on regulation again with regard to pricing to see if it can be brought under control. There were a lot of complaints. The Commission will be kept informed.

Commissioner Heavey asked if Commission staff is taking any positions on legislation; **Director Miller** said that will be a discussion item during other business tomorrow, because some of the licensees requested that the Commission support some of the bills. He will give a report tomorrow.

Acting Chair Mosbarger called for Executive Session and adjourned the public meeting.

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compacts before forwarding them to the Governor. There had been a hearing but members of the Commission were not asked to testify. Senate Bill 5301 sets limits for tribal casinos back to the limits set in 1991. This bill does nothing to those compacts currently in effect. This bill has had a hearing. Senate Bill 5468 allows for golfing sweepstakes, or "Calcutta" events, which is a player auction. Senate Bill 5602 would authorize gambling devices if they are authorized on Indian or federal lands.

Director Miller explained that basically, if the federal courts by judgment or decree authorize gambling devices for tribes, all other licensees in the state would get them also. This bill directs the Gambling Commission to implement the rules for doing this and would have a significant impact on the agency. Senate Bill 5603 removes pull tabs out of the sight of children in bowling alleys. This bill did have a hearing but hasn't gone anywhere else. The Washington Charitable and Civic Gaming Association also has proposed a bill to reduce the pull tab taxes to 10 percent of the net as opposed to 5 percent of the gross. A presentation will be given later in the meeting. Senate Joint Memorial 8004 by Senator Heavey requests that Congress and the National Indian Gaming Commission not approve the Puyallup Tribes grandfather clause request. The Commission has opposed this and sent letters to the NIGC. There are two gubernatorial appointments, Commissioners Mosbarger and Heavey, that will come up for hearing but have not yet been scheduled. Another bill regarding Problem Gambling would take \$150,000 per year from the Lottery to go to DSHS to help educate in the problem gambling area. So far, there doesn't seem to be any support. **Vice Chair Mosbarger** noted that several names are on every one of the bills discussed; she asked if these people are opposed to Indian gaming or just gambling in general. **Director Miller** said that the legislators have traditionally been opposed to gambling and the expansion of gambling.

TRIBAL GAMING

Director Miller said that on January 26, 1995, Governor Lowry signed the Suquamish compact and the Port Gamble compact, along with seven tribal gaming compact amendments. The Jamestown S'Klallam Tribe opened its Seven Cedars Casino on February 3rd. He gave special notice to Mike Tindall and Fred Wilson, who worked very closely with the Tribe. **Director Miller** also shared that the Commission is close to completing three more compacts; the Nisqually, the Hoh and the Skokomish Tribes are close to tentative agreements.

((Chairman Tull arrived at this time))

ADOPT OR AMEND RULES

PETITION

Amendatory Section WAC 230-04-280 ~~((Notification to law enforcement.))~~ Licensees must notify law enforcement and local taxing authorities.

Amendatory Section WAC 230-04-400 Denial, suspension or revocation of licenses

Amendatory Section WAC 230-50-010 Adjudicated proceedings--Hearings

Ms. Sutherland said the three rules that are up for final action include one that requires the licensees to notify the local taxing authorities, one provides for revocation of gambling licenses for failure to pay gambling taxes and the third is simply to allow the Commission to use the brief adjudicative proceedings process for the revocation of those licenses. One of the concerns raised by the Commission is the cost

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that the agency would incur in pursuing these cases. She said that the concern of staff is the importance of getting reimbursed for expenses incurred. **Ms. Sutherland** noted a draft rule had been prepared that includes reimbursement of the agency costs and that copies are available at the back of the room.

Commissioner Heavey said he is not ready to support this rule change even though they initially requested that this item be given consideration. He said it is important that people who don't pay their taxes should not be allowed to conduct gambling activities. He doesn't think it's fair to pass on the cost of that to the rest of the licensees. He said if the costs to the Commission could be recouped somehow, then he may support the change. He said he spoke with Ms. Johnston (Gaming Inspector, City of Bremerton), who has some objections to the rule. He said the Commission shouldn't be giving a blank check in helping out the counties. Both issues should be addressed at the same time and the two groups should cooperate without passing the cost on to the licensees.

Commissioner Graham said he was the one who proposed holding this petition off until this meeting. He said the portion he opposes is the requirement of licensees to notify the taxing authority when they receive a gambling license. He said licensees shouldn't have to waste their time notifying the local authorities when the Gambling Commission is already notifying local law enforcement and taxing authorities by policy. He said he doesn't see why this rule is needed.

Ms. Sutherland said that, in the past, the policy on interpreting this was that if the taxing authority had received a judgment or some sort of settlement that showed the people were in fact delinquent, then the case would be pursued. **Commissioner Graham** also addressed the cost. He said he gets the feeling that the Commission will be flooded with a bunch of back tax cases. The immediate expense in just receiving their request in the mail would be \$500. **Ms. Sutherland** said one of the Commission's concerns was to set a threshold level for the amount that was owed before the Commission would pursue a case. **Commissioner Graham** said the Commission has already probably spent more on a case in Seattle than the man owed in taxes. **Director Miller** said that, in the past, the Commission has had the policy that if the taxing authority had a judgment against the licensee, then it's a simple case and the Commission will take the case.

Chairman Tull stated that at an early point in this process, the Commission had discussed changing the application or reapplication form to include an affirmative representation by the licensee that they were in fact current with all local requirements. The Commission would have a fraudulent representation and the Commission could pursue that type of case. **Director Miller** responded that there are two problems in this issue. The first is the licensee could be delinquent on the taxes but before staff get the word, the license renewal has been mailed out. The Commission can change the application form to say "Are you current with your taxes?" If the licensee answers "yes" and then the Commission finds out they are delinquent, the Commission could then pursue fraudulent charges and that would be a basis for denial. **Chairman Tull** asked if the Commission would support that type of screening and also work with the petitioners in the event the Commission would go into an enforcement-type of mode. He suggested this be deferred until the Commission has had an opportunity to review this issue. **Commissioner Heavey** asked if this could be deferred again until next month. **Mr. McCoy** said this has 180 days from the day it was filed, which would be May since it was filed in November. **Commissioner Heavey** asked if the cost issue could be added to this rule.

Chairman Tull said the application could just be amended to say the licensee has a dispute with such-

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and-such and enclosed is a copy of the letter, or that the licensee is paying under protest. **Director Miller** said that could be done immediately. This would weed out some of the problems like King County had mentioned. It would be helpful to have input from the Commission on this. If the commissioners agree, the Commission could start a policy change and then work this month on how to get the expenses reimbursed. **Chairman Tull** said there is a concern that the law-abiding licensees should not be penalized for these particular costs. **Director Miller** said that an area to explore is requiring the licensee to pay the Gambling Commission's expenses for taking action in order to get their license back. The Commission has done this in the past as in when cases are brought before the commissioners, the fine is increased to cover expenses.

Acting Chair Mosbarger asked if holding this over another month would be enough time to explore the cost reimbursement issue. **Ms. Sutherland** said she thought it would be reasonable. **Commissioner Heavey** said he thought staff ought to look at the reimbursement issue and the rule changes at the same time. **Director Miller** said the Commission's usual timeframe is to have rules become effective July 1 and January 1. These rules will still be complete in time for the July 1 timeframe.

Chairman Tull moved that this be held over until next month's meeting to give staff time to investigate an application change and continue to work with the petitioners to see if the reimbursement cost recovery issue can be solved. **Commissioner Heavey** asked if one month is enough time to work this out with the counties, have a proposed rule ready to go and not hold it over again. **Ms. Sutherland** thought that one month would be fine. **Commissioner Heavey** seconded the motion.

Doug Lasher, Clark County Treasurer, said he'd like to speak to Commissioner Graham's comment on the licensee having to notify the local taxing authority. He said new licensees claim that they don't know they are suppose to notify the local taxing authority. He'd like to be able to have the licensee notify the city or county by phone to indicate they are doing business. He said in Clark County, there have been a couple of incidences where the licensees have found out much later that they owed taxes and by then have a sum of money that is behind. **Commissioner Graham** asked whether, if the taxing authority is already getting the information that this person has started business, why would the licensee have to also notify the taxing authority. **Mr. Lasher** said it would be helpful if the licensees knew what is expected. The taxing authorities are trying to make it very clear to the licensees.

Linda Nelson, King County Finance in Seattle, said the one thing that really bothers people is that the legitimate licensees are paying taxes and the guy down the street might not be. That's the part that's unfair. She would like an affidavit issued. It is unfair to have one business paying taxes and another not. She thinks the change in the application form is a very good idea. Also, the taxing authority should verify what the licensee says regarding their local taxes. She said the Gambling Commission and the taxing authorities should definitely work together to find an equitable solution. She thinks the violator should pay the penalties imposed.

Barbara Corey, Whatcom County Treasurer, said she agrees with the previous two speakers. If this becomes a WAC rule, it will be a rule that is written down and must be followed year after year. She said they are willing to work with the Commission on cost reimbursement. She thanked the Commission for considering this petition.

Chuck Russell, Valley Tavern, said the Commission should think long and hard before it becomes

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involved in enforcing tax collection for local taxing agencies. He believes it is up to the taxing agencies to collect the taxes.

Paula Johnston, license inspector and local gambling enforcement officer in Bremerton, said there are more than 40 gambling licensees and there have only been a couple cases involving delinquent taxes. This petition tells the licensees that the Commission will start proceedings at the start of a delinquency rather than at the end. Currently, by the time the Gambling Commission gets a case, the amount owed has quadrupled or even more. Counties and cities would be more than happy to assist with cost recovery.

Chairman Tull said the motion is still on the table to hold this over until next month; vote taken, motion carried with three aye votes; **Commissioner Graham** voted nay.

LICENSING OF GAMBLING MANAGERS

Amendatory Section WAC 230-02-240 Commercial gambling manager defined.

Amendatory Section WAC 230-02-418 ((Bingo)) Charitable or nonprofit gambling manager defined.

Amendatory Section WAC 230-04-145 Licensing of charitable or nonprofit gambling managers ((of bingo games))--Application procedures.

Amendatory Section WAC 230-04-147 Notification to the commission upon beginning, terminating, or changing responsibilities ((as bingo game)) of charitable or nonprofit gambling managers.

New Section WAC 230-12-079 Duties and responsibilities of a charitable or nonprofit gambling manager.

Amendatory Section WAC 230-20-070 Regulation of managers, operators, and other employees--Charitable or nonprofit organizations.

Ms. Sutherland said Item 4 is for discussion only and final action in March. This is a rules package regarding the licensing of gambling managers or executive directors. The staff discussed this package for a number of months with the charitable/nonprofit study group. These rules provide for the licensing of individuals who have the highest level of authority over the gambling activity, the funds earned from the gambling activity and their disbursement, or those who supervise or manage the gambling activities of charitable or nonprofit organizations.. Staff recommends further discussion.

Chairman Tull called for anyone who wanted to testify on this proposed rule; no one came forward. He said there will be another hearing opportunity at the meeting next month in Tacoma. **Director Miller** said this proposal is a result of a loophole in the existing regulation regarding the regulation of charitable and nonprofit gaming.

COMMERCIAL STIMULANT RULES

Amendatory Section WAC 230-02-350 Commercial stimulant defined.

Amendatory Section WAC 230-02-360 Licensed premises defined.

Amendatory Section WAC 230-02-370 Food and/or drink business defined.

Amendatory Section WAC 230-02-380 Established business defined.

Amendatory Section WAC 230-04-080 Certain activities to be operated as a commercial stimulant only--Licensing of food and/or drink businesses.

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Amendatory Section WAC 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs.

Amendatory Section WAC 230-08-160 Quarterly activity reports by operators of social and public card rooms.

Repealer WAC 230-02-125 Adjusted net gambling receipts defined.

Repealer WAC 230-12-075 Commercial stimulant compliance.

Ms. Sutherland said Items 5 A through I are for discussion today with final action possible in March. These changes are to comply with the 1994 legislative change to RCW 9.46.0217. The primary concern here is to determine whether a business is engaged in the sale of food and drink for on-premises consumption as opposed to measuring the gambling activities against the sale of food and drink. This is for further discussion with final action next month.

Chairman Tull asked for anyone who wanted to testify; no one came forward.

RAFFLE RULES

Amendatory Section WAC 230-02-183 Active member defined

Amendatory Section WAC 230-08-070 Raffle records

Amendatory Section WAC 230-12-040 No firearms as prizes--Exceptions

Amendatory Section WAC 230-20-300 Control of raffle prizes

Amendatory Section WAC 230-20-325 Manner of conducting a raffle

New Section WAC 230-20-335 Raffles conducted among members of an organization--
Procedures--Restrictions

Ms. Sutherland said Item 6 A-F is a group of rules that apply to raffles and is proposed by staff in conjunction with organizations that hold raffle licenses. The rules basically simplify the record keeping requirements for raffles, allow simplified procedures for members-only raffles, and various other rule changes that help organizations with their raffles. This is for discussion only with final action next month.

Frank Lockhard, Ducks Unlimited, said his group has met with the Gambling Commission quite frequently. They have formed a task force of seven separate nonprofit organizations: Rocky Mountain Elks Foundation, Ducks Unlimited, Foundation for North American Wild Sheep, Mule Deer Foundation, National Wild Turkey Federation, Pheasants Forever, and Trout Unlimited. The task force was formed to hopefully liberalize some of the paperwork. He said one thing the groups all have in common is they all have volunteers so any one day there could be a whole new set of volunteers. He would like to request one change in Item 6B subsection (6). Records shall be maintained at the main administrative or business office of the organization that is located within Washington State. The organizations realized later that not everyone has the same structure so he wanted to propose one change. Reading on, "...If the organization does not have an administrative or business office within Washington State, or if the organization is structured to include more than one chapter or sub-unit that conducts raffles, they shall designate a records custodian that resides in Washington State who shall be responsible for retaining all original records." He would like to change the word "retaining" for "obtaining." He could not follow the letter of the law if this rule reads "retaining." He is proposing that each sub-unit would retain its own records.

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Commissioner Heavey said this is something the staff would need to answer. **Director Miller** said this has been a difficult area. The Commission has found that conservation groups have chapters all over the state that are part of a parent organization. This rule would require the custodian be listed on the application and the Commission would contact that individual to get the records. **Mr. Lockhard** said they are not looking for any lessening of accountability. **Commissioner Graham** suggested striking out "retaining." **Director Miller** explained that the Commission needs a central focal point and somebody to help get the documents together. **Mr. Lockhard** further asked the Commission to keep the paperwork at a minimum for the nonprofit organizations. Between the seven groups of the task force, there are approximately 25,000 members represented.

Rance Block, Washington Field Director of Rocky Mountain Elks Foundation, said staff differed with their opinion on a couple of the rules. His organization has a 50-page volunteer package that explains all the regulations. All of their records are maintained in Missoula, Montana. He said Washington state is the only state that has a supplement to their 50-page regulation packet. He said he has a steady toll of volunteers. On members-only raffles, he said the requirement (pertaining to the threshold level for recording prize winners) should be raised from zero to \$50 to alleviate the requirement that records be kept on prizes as small as a 50-cent key chain. He said the Commission does not agree with him. A substantial number of the prizes awarded average in cost of about \$20.00.

Chairman Tull asked how they deal with the audit requirements with regard to the lower cost prizes. **Mr. Block** said they keep records of anything donated or purchased and where it was used within an event. They also require a list of the items that are used for the prizes for raffles or amusement games. They don't keep a list of every person that wins a prize. **Director Miller** asked how the organization verifies the winners. The Commission has seen in the past that sometimes prizes are not awarded and there is no real way to track that. The \$50 threshold was a way to compromise for members-only raffles.

Commissioner Heavey asked what a members-only raffle is. **Mr. Block** said there are fund raising events that are only open to members. **Commissioner Heavey** asked if a members-only raffle is where people are required to be present to win; **Mr. Bishop** said yes, that's how they do it at their events. In one of the new rules in this section, 6F, the preamble defines a members-only raffle. **Commissioner Heavey** said if the prize isn't given away, then it goes back to the organization. He said he doesn't understand why records need to be kept unless the prize is given to someone who is not present. **Director Miller** said what the Commission had tried to do was structure a simplified system for these types of systems. Under section 6F, this talks about simplified procedures and does require members to be present to win. **Mr. Bishop** said that subsection 2(e) applies to all raffles. Under RCW 9.46.070, Duties and Responsibilities of the Commission, subsection (9) requires that all income from bingo, raffles, and amusement games be recorded and reported. For members-only raffles, the new rule reduces the record retention requirement from three years to one year. **Director Miller** said the threshold prize area needs to be explored. These meetings and negotiations have been quite complex.

Don Kaufman, Big Brothers and Sisters of Spokane, commented on Senate Bill 5269 which proposes to raise the allowed cost of raffle tickets to \$10.00. He said none of these rule changes address the issue of people under age 18 buying and/or selling raffle tickets. Kids often sell raffle tickets when the amount generated is under \$5,000 with no license. He would like raffle tickets that children are selling be limited to \$1.00. **Director Miller** said this brings up an area that hasn't been discussed by the Commission much. Kids have sold raffle tickets for years. **Chairman Tull** asked if most legitimate

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organizations would have the same argument. **Mr. Kaufman** said there may be situations where an exemption should be granted. There are controllable situations for raffle tickets.

Commissioner Heavey said this is not an automatic exemption. The provisions that are being discussed are provisions that may take place if the Director approves it. **Chairman Tull** asked if it's an unlicensed raffle (under \$5,000) today, is a person under 18 allowed to sell tickets. **Mr. Bishop** said that people under the age 18 who are members of a group have been allowed by policy to sell the raffle tickets but by law they cannot buy them. **Director Miller** said this rule is not necessarily directed at the under \$5,000 raffles.

Lynn Melby, Director of the Washington State Federation of Clubs, asked about the maintenance of records by fraternal organizations that have bingo operations. He said if the records are not required to be maintained, then there's the risk that the records will not be kept in the first place. Merely being able to call all of the records up from some chapter would not satisfy the Commission's necessity for accountability.

Housekeeping Changes

Amendatory Section WAC 230-02-010 Washington state gambling commission--Purpose and organization.

Ms. Sutherland said Item 7 is a housekeeping change; an amendment to 230-02-010 that just reflects the current number of assistant directors on staff.

Amendatory Section WAC 230-20-130 Operation of bingo upon retail business--Conditions

Amendatory Section WAC 230-20-620 Amusement games--Objects to be thrown to be uniform--similar games not to use different object unless designated

Ms Sutherland said Item 8 is two housekeeping rules to correct typographical errors.

Addendum -- PETITION

Amendatory Section -- WAC 230-40-400

Ms. Sutherland stated there is an addendum to the agenda, which is the petition submitted by the Recreational Gaming Association. Ron Porter will testify on behalf of the petitioners.

Ron Porter, President of the Recreational Gaming Association, represents the 109 card rooms licensees around the state. He said this rule change is to change the closure hours from 2:00 a.m. to 6:00 a.m. to 4:00 a.m. to 8:00 a.m. This would not be an expansion but a change in the closing hours. This is necessary due to the tribal operations that are open until 4:00 a.m. and it has already caused considerable business loss to card rooms in the area. **Mr. Porter** said there is one additional advantage to this change. Individuals who have been drinking in the card room would have two hours to be in a position where there wouldn't be alcohol served. Because of this change and the impacts it is having on the card rooms in Seattle, they are asking for an emergency adoption of the amendment.

Steve Downen, Riverside Inn in Tukwila, said the problem is with the casino that is now operating in Anacortes, which is probably 75 miles away from his establishment and is open to 4:00 a.m., the card room players are carpooling from his establishment to the tribal operations. This affects his weekend

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business. He would certainly like to see the rule changed immediately.

Mark Mitchell, owner of the Drift-on-Inn and Blackjack Cafe in North Seattle, said the Blackjack Cafe had five black jack games day and night before the Tulalip Tribe opened in Marysville and now he has none. He said his customers leave to go play cards on the Indian reservations. He really thinks an emergency ruling would help.

Rick Davis, Charlie Macks and the 21 Club, said the Tulalips are growing and he anticipates losing even more business. He said his customers are also leaving his establishments to drive to the Swinomish Casino and the Lummi's. He believes his business is down about 20 percent.

Sam Lanteau, Hideaway in North Seattle, said he sees many of his long-time customers who have stopped coming to play cards at his place, and are instead going straight to the casinos. The longer hours would help.

Director Miller said this is a very sensitive issue. He said Class II card games at tribal facilities are not under the same restrictions as licensed card rooms in the state of Washington. In order to go beyond 2 a.m., the Tribe must either have no objection from the local law enforcement agencies, or approval. He said there are 115 card rooms in the state. The same standard should be applicable. The level of regulation is commensurate with the wagering taking place.

Commissioner Heavey moved for filing of the rule; **Commissioner Graham** seconded the motion; **Chairman Tull** said this motion and second is based on the petition as written and not as an emergency. **Commissioner Heavey** said the emergency status should be considered and an answer brought by staff to the March meeting to determine whether or not emergency status will be given. **Chairman Tull** asked Mr. McCoy if it is possible for a petition to be transformed into an emergency. **Mr. McCoy** said that at the time of filing it must be designated as emergency or not an emergency. He said in determining emergency status, the rule change must be necessary for the preservation of the public health, safety, or general welfare. If staff determines an emergency does exist, they must submit an explanation along with the rule filing. **Chairman Tull** said the only problem he has in determining this as an emergency is that at the present time it does not contain the requirement to obtain approval from local law enforcement. He said he would be comfortable in taking this as an emergency because it is a direct result of action this Commission has taken previously. He would be comfortable taking emergency action but the commissioners would have to draft a provision that even during the emergency period, the director would have to receive confirmation or the lack of objection or approval from the relevant local jurisdictions. **Chairman Tull** moved that the motion be amended to be filed as an emergency subject to inclusion of the requirement that hours not be implemented except in those instances where the licensee has supplied to the director a written statement from local law enforcement jurisdictions containing no objection to the hourly change. **Commissioner Heavey** accepted this amendment to his motion. **Chairman Tull** called for a brief recess so that staff has time to consider the possible Liquor Board requirements and other things.

Mr. Davis said his understanding is that all tribes have to do is notify the local law enforcement of their hours. He asked why it couldn't be the same way; just notify the local law enforcement agency to the new hours. He said it would be difficult to gain approval if they have to get it from local law enforcement in order to stay open different hours.

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Chairman Tull said that since Commissioner Heavey has a time problem and there are other items on the agenda, the card room issue will have to be brought up in a few moments. **Director Miller** noted there may be an additional rule and there is also a presentation by the Washington Charitable and Civic Gaming Association. He said he also needed to spend some time with the commissioner on some legislation and tax bills.

Ms. Sutherland said that Items 8A and 8B need to be filed. **Chairman Tull** said that there is a motion to file the items 8A and 8B; proposed housekeeping changes to correct typographical errors. **Commissioner Mosbarger** moved to file these rules. **Commissioner Graham** seconded the motion. Vote taken on the filing of the housekeeping changes; motion carried.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

Don Kaufman said the Washington Charitable and Civic Gaming Association is taxed at full rates of 10 percent on gross profit for bingo and 5 percent of absolute for pull tabs; the nonprofit licensees are paying more than their fair share in taxes. He said the Commission has the right to endorse needed legislative tax changes and that the Commission could fulfill the Gambling Task Force's recommendations in doing so. Under the current system, only the distributors who sell pull tabs and the cities or counties who collect the taxes are the real winners. He said he will also show how the Commission could help reform the tax structure on pull tabs.

Mr. Kaufman said that in establishing the case for a rewrite of RCW 9.46.110, it is important to review two of the ten recommendations made by the Washington State Legislative Task Force on Gaming Policy in December, 1993: Under Recommendation #6, the Task Force recommends that the Legislature continue to explore ways for charities to improve the current gambling system of raffles, bingo, and casino nights to enable them to raise more money more efficiently. Under Recommendation #10, the Task Force recognizes that some charities have experienced a reduction in revenues due to increased gambling activity in the state. Therefore, the task force encourages the representatives of the tribes currently under compact or involved in active negotiations with the state, representatives of charitable organizations and the Gambling Commission to continue to develop solutions that would increase charitable dollars and make recommendations regarding whether the solutions should be adopted via legislation, agency rule making, or tribal compact. We know that taxes have to be done legislatively.

Mr. Kaufman said the next question in the mind of the Commission may be - whether the Commission will support Legislation, initiated by nonprofits. The answer is an emphatic YES. In RCW 9.46.090, under section (4), "...the Gambling Commission may periodically come before the legislature to talk about the type and the amount of tax that ought to be applied to each type of permitted gambling activity." Under section (5), "...any changes which may be made to the law of this state which furthers the purpose and policies set forth in RCW 9.46.010 as now or hereafter amended." He said the Commission has every right to endorse legislation and the WCCGA hopes to convince the Commission of that today.

Mr. Kaufman said page 4 of the packet shows that the nonprofit organizations are heavily taxed. One line that was left out is that the nonprofit organizations are not currently having to pay federal unemployment tax which is a very small tax. Nonprofit organizations are obligated to pay every other tax of every other business with the exception that they do not pay income tax on the bingo operation.

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Nonprofits do have to pay income tax on pull tabs and kitchen if there is a net profit. The tax that nonprofit organizations are paying on bingo and pull tabs far exceeds what we would be paying if we were a profit making entity.

Four of the licensees have volunteered some information that Mr. Kaufman believes is fairly impressive as to the amount of taxes being paid in the state and community. Big Brothers and Sisters in Spokane paid \$471,851 in taxes, licenses, and permits in 1994. The Imperials paid \$275,206, Spokane Youth Sports paid \$261,064 and Big Brothers of King County paid \$336,937. These amount to between 15 and 18 percent of gross profit. When it came down to net, they range from 48 percent of dollars to the charity up to 99 percent.

The next example on page 6 is comparing Big Brothers and Sisters of Spokane to "XYZ widget company." "XYZ" wouldn't have paid any gambling tax so the gambling tax was added back into their bottom line so their bottom line was \$977,709 but they had a tax burden of 20 percent of that to the federal government. Big Brothers and Sisters had gambling tax of \$291, 541 while the income tax to the widget company was \$195,542, so Big Brothers and Sisters of Spokane paid almost \$100,000 more in taxes than "XYZ" would have paid. The gambling taxes should not be any higher than the federal income tax structure in this state.

The next page is a comparison to tribal compacts. He said bingo games and pull tabs on tribal lands are not paying any taxes at this time. The compacts that Director Miller has negotiated have a two percent fee on net. Comparing the four licensees that have given this information, it is clear that the Big Brothers of Spokane is spending about \$272,000 more in taxes than a comparable casino, the Imperials spent \$202,000 more for comparable size casino, SYSA paid \$153,000 more, and Big Brothers of King County paid \$205,000 more than a comparable casino.

Mr. Kaufman said bingo taxes are 10 percent of gross profit, which is taxed on dollars after payout. He said they feel that although it is too high a rate, it is at least a reasonable tax. Depending on the payout structure, and it varies between 3.2 percent and 3.5 percent of gross, pull tabs are five percent of absolute gross, which they feel is a pretty unfair tax. The problem is that pull tabs and punchboards are being taxed on gross receipts. This was established primarily because of the stimulant aspects of pull tabs; however, proper recognition wasn't given to the fund raising aspects for nonprofits. Likewise, the stimulant licensees now have minimum stimulant requirements and they do need the net income from punchboards and pull tabs to remain in business today. This detailed information is on the back. For one month of operation from the four licensees that volunteered this information; losses on pull tabs ranged from 4.2 percent to 31 percent. This amounts to the licensees losing between \$16,000 and \$59,000 in actual bottom line losses. The taxes being paid range from \$4,100 to \$9,400.

Page 10 is the WCCGA's proposal, which puts the tax the same as bingo. This chart shows if pull tab taxes were different and they were put on the gross profit, the tax would be on the dollars actually being deposited into their bank accounts. There would be similar savings across-the-board. These are charitable dollars that are going to go back into the community. The pull tab tax is not a value-added tax, nor is it a sales tax. It comes from gross sales, which are fixed. Everyone is faced with the excise tax already on pull tabs.

Paying more taxes than similar for-profit businesses is not fair. Paying taxes on losses is not fair. Losing

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revenues to tribal gaming while they only pay two percent of net on casinos and zero percent on bingo and pull tabs is not fair. The WCCGA has formulated a legislative bill to revise RCW 9.46.110 to make the pull tab tax the same as bingo. This legislation does not level the playing field for tribal games, it does not bring the taxes down to a level that speaks to the appropriateness for nonprofits that serve the communities of Washington State, but what it does do is put fairness back into the tax and if at full tax, will reduce the pull tab taxes between 30 and 40 percent. In supporting this legislation the Commission would help fulfill the legislative task force's recommendations. Most nonprofits will raise more money from the same operation, which makes them more efficient. The House Bills have been inserted in the documents in the back on the addendum - the House Bill is now 1826 and the Senate Bill is 5829.

Chairman Tull thanked Mr. Kaufman for the excellent presentation. **Chairman Tull** asked if the legislation had been shared with staff previously. **Mr. Kaufman** answered yes. He said the problem is one of timing; all the bills have to be out before the next Commission meeting. Both bills have been filed and should come up for a hearing next week. **Director Miller** said these particular bills reduce taxes. He said tribes pay two percent of the net win, not the net income, which is vastly different. The bill has no impact on the Commission; fees stay the same. Staff has no objection to this legislation. **Director Miller** pointed out there are two other bills that are similar by the commercial industry that reduce taxes to a lower percentage if they are within so many miles of an Indian casino. The Licensed Beverage Association suggested that if the Commission makes a statement on one, they need to make a statement on both.

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UNFINISHED BUSINESS

Chairman Tull asked for Director Miller's view on the amendatory language for the card room petition.

Director Miller said the language staff proposes for WAC 230-40-400 -- Hours limited for card games: "Licensees shall not allow use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m. Provided, a licensee may extend hours of operation up to 4:00 a.m. upon application to the Commission and so long as no objection is raised by a local law enforcement entity. In any event, a licensee must observe a four-hour period of closure before beginning the next period of operation."

Sergeant John Lindner, King County Police Department, said he and his colleagues looked this over and they don't think there's a problem with enforcement on their part. One of the benefits may be that it would have an effect on the "sneak" games that occur at 2:00 a.m.

Chairman Tull said if this is passed, then during the next 30 days or so until the next Commission meeting, licensees could apply to the Commission to adjust their hours and the Commission staff would determine whether they would make their own phone calls to local law enforcement. During that same time period, the rest of this issue could be flushed out. If staff comes back with problems, the petition could be un-filed. This is not a long term commitment if it doesn't work out. After hearing how much gambling taxes the licensee spoke about paying, the Commission is actually helping that municipality, at least temporarily, to protect that revenue stream. There is no serious likelihood, initially, that there would be a law enforcement problem.

Chairman Tull said he accepts the language Director Miller read, and he moved to accept this amendment to Commissioner Heavey's previous motion; **Commissioner Mosbarger** seconded the motion. **Commissioner Heavey** asked if that means card rooms can begin applying to stay open these hours tomorrow; **Mr. McCoy** said they would have to wait until the rule has been filed with the Code Reviser and actually published, which takes approximately one week.

Mr. Davis asked if they would have to apply or would just have to give notification; **Director Miller** added the language that they may extend their hours "...with the consent of the director..." He said if there are some card rooms that are currently having problems, it is important to have discretion.

Mr. Davis asked what the timeframe will be on application processing; **Director Miller** said the rule must be filed first, and once the application is received by the Commission, staff will have to notify local law enforcement and make sure there's no objection, so this could take two to three weeks from now, if all goes well.

Chairman Tull deemed the motion amended as indicated by Director Miller. **Commissioner Heavey** said he is reluctant to make this change so quickly and without considering the full implications of what is being done by changing hours. He said local law enforcement should have a chance to look at the implications fully. He said he has no problem with holding this over the next 30 days to the March meeting. He said he has no philosophical objections to this but he does not think the card rooms are going out of business tomorrow if this is not passed immediately. **Chairman Tull** said the Commission has been extremely cooperative in terms of implementation timing with compacted tribes in reflection of their extreme cooperativeness and the special nature of those relationships. In this particular situation, it is still within Director Miller's discretion to grant a particular hour change request. He

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personally is very comfortable with taking this action today and if any problems surface, the petition would disappear in March. He said it's very unlikely there will be problems.

Director Miller said the Gambling Commission is the primary regulatory body out there on this issue. By contacting local law enforcement as staff has always done, we can see what law enforcement have in the way of staffing in the area and other problems they may be dealing with in the area. If law enforcement objects, there will not be an extension of hours.

Commissioner Heavey clarified that this action is not taken to force the director to approve applications unless he thinks he should. The Commission is not saying this is something the director must do but should take the time necessary to adequately address the issues that may be involved in terms of enforcement by the local police, etc. **Chairman Tull** concurred with Commissioner Heavey's remarks and said the director has a significant amount of discretion given to him by the Commission and that will continue, particularly during an emergency period.

Chairman Tull stated the motion to adopt an emergency rule with the provisions that have been read and slightly revised by Director Miller over the last few minutes; **Commissioner Heavey** accepted the motion as stated by Chairman Tull; motion carried with three aye votes; **Commissioner Graham** voted against the passage of this emergency rule change. **Chairman Tull** said this required and received three aye votes and is passed.

Chairman Tull said he is comfortable with recommending the passage of the legislation as explained by Mr. Kaufman.

Commissioner Heavey said he has no problem with the suggestion by Chairman Tull. **Commissioner Mosbarger** agreed that she has no problem with the suggestion and that information may be provided to the Legislature. **Chairman Tull** moved that a letter in concert with the Director be authorized in support of legislation with the concurrence of the other commissioners. **Director Miller** said that one point to keep in mind is given the increase in competition of the gambling dollar and given the task force especially, the Commission needs to look at ways to make it more profitable. **Chairman Tull** noted that, give the activities of the various licensees, it makes him wonder if there shouldn't be a substantial reduction. **Director Miller** asked if this would apply to the other legislation. **Chairman Tull** answered only for the nonprofit organizations at this time. Vote taken, motion carried.

He called for an executive session, provided that Commissioner Mosbarger is able to return in a few moments. (No executive session was held)

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant

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WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, MARCH 9, 1995

Chairman Tull called the meeting to order at 1:35 p.m. at the Sheraton Hotel, Tacoma, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; WANDA MOSBARGER, Vice Chair (via speaker phone); PATRICK GRAHAM; and EDWARD HEAVEY.**

OTHERS PRESENT: **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; CARRIE SUTHERLAND, Special Assistant, Public Affairs; SHARON TOLTON, Assistant Director, Special Operations; SHERRI WINSLOW, Assistant Director, Field Operations; JONATHAN McCOY, Assistant Attorney General; TINA GRIFFIN, Investigative Audit Unit; PATTI NORMAN-COLE, Rules Coordinator; and SUSAN GREEN, Executive Assistant.**

Chairman Tull said there will be no action taken on any licensing matter until Commissioner Heavey arrives. Reports that need no action will be heard first.

REVIEW OF FRIDAY'S AGENDA

Ms. Sutherland said there is a change on the agenda; one of the default hearings (Matthew Moore CR 94-1123) has been cancelled. Tomorrow there is a special review of CAYA, which was requested by the Commissioners. There are a total of 25 rules up for final action on the agenda; three have to do with the treasurer's petition; however, there will be another rule accompanying the petition, which is on the addendum, and deals with the agency being reimbursed for costs. There are six rules up for final action having to do with the licensing of gambling managers, there are nine rules up for final action having to do with commercial stimulant rules pursuant to the legislative change last year and there are six rules up for final action having to do with raffles and changes to raffle procedures. One housekeeping change is up for final action tomorrow. For discussion, there are some housekeeping changes and the Recreational Gaming Association's petition that was filed as an emergency at the last Commission meeting. For possible filing there are a number of housekeeping changes that are simply typographical errors. There are also three rules on the licensing of manufacturers or issuing of sales permits. There are addendums to the agenda; one is a cost rule relating to the taxing authorities petition and one is an amendment to a raffle rule, which is item 6(b). There is also a rule prepared by staff for emergency regarding setting forth the process for going from Phase I to Phase II as described in the tribal-state compacts. **Director Miller** said staff is requesting a new section of the WAC rules manual for tribal gaming regulation. He said

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this is a sound way to go through the procedural requirements, and will result in a Class III section in the WAC Rule Manual. Staff is starting the review process with the tribes and it is possible there could be some proposals next month. The other emergency rule deals with licensing of manufacturers. This rule would require a permit for some types of manufacturing, which would make a much less difficult process than having to obtain a manufacturing license.

Chairman Tull announced that copies of the addenda proposed rules would be available tomorrow for anyone who would like a copy.

STAFF REPORTS

TRIBAL GAMING IMPLEMENTATION

Ms. Tolton gave an update on the tribal casino openings. Currently, there are four casinos open; Jamestown is the most recent and opened in February. All four casinos are at Phase I as far as scope. Chehalis and the Muckleshoot Tribes anticipate they will open their facilities around May 1, 1995. Following that, Upper Skagit and Squaxin Island are projecting opening around November 1, 1995.

TRIBAL GAMING INITIATIVE

Director Miller said that three Indian tribes have filed an initiative. This initiative as filed reduces the 55 page compacts down to six pages. It would allow these tribes to have unlimited casino gambling; no limit on number or size of facilities, wagering limits, types of games, or credit. He said it is of great concern that this action would make the state of Washington the third largest gambling state in the nation with little to no state involvement in the regulation. In addition to having no limits, it also takes the state of Washington out of regulation completely. There are statements in the initiative that the state would have a role to do backgrounds but it's a very minor role; there is no veto authority, the Gambling Commission or whoever the Governor designates would have to give 12 hours notice to go to any place that isn't open to the public. It also requires a 48 hour notice to copy any document. In reality, what this would be is wide open, unregulated gaming. What makes this a unique proposal is the fact that in exchange for voting in this next general session, there would be a rebate from the slot machine revenues back to the voters. It is an initiative, which means they have to collect 220,000 for it to go on the ballot. The staff has been receiving quite a few calls.

Commissioner Graham asked about the Puyallup request that their operation be grandfathered. **Director Miller** said that issue is presently before the National Indian Gaming Commission and that no decision is a good decision at this point. **Commissioner Graham** asked about the suit presently in federal court on the slot machines being operated in the state. **Director Miller** responded that the first suit in Spokane is a result of an injunction and is stayed pending the appeal to the ninth circuit. The Rumsey case decision said that states only negotiate those activities that are authorized in that state, and there is a motion for reconsideration that is still pending. If that is upheld and the Court does not change its position, hopefully, there will be some action in Eastern Washington. There is one other lawsuit, the 11th Amendment case that the Supreme Court has decided to take in which the Spokane Tribe is alleging the state has negotiated in bad faith. The defense is that the state of Washington is a sovereign nation and

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therefore cannot be sued absent consent to suit. A decision should be made in early 1996.

Director Miller said tentative agreements have been reached with three additional tribes: the Nisqually Tribe, the Skokomish Tribe and the Hoh Tribe. Amendments have been reached with the Muckleshoot and Lower Elwha tribes. There may be a need for a special meeting of the Gambling Commission in late April or early May. The Nisqually meeting could be held in Olympia, but the Hoh Tribe is located in Forks. The Quileute Tribe apparently has resubmitted their compact and the Secretary of the Interior, which has approved the Compact. The Quileutes are now asking for an amendment like the other tribes. This would bring the total to 15 compacts. **Chairman Tull** asked what kind of local support had been received in the Forks area. **Director Miller** said there will be a local caucus meeting soon. There were some discussions early on with the Lower Elwha when those compacts came forward. The only concern regarding the Hoh compact so far was the community contribution aspect; to make sure that the proper portion was given to the city.

LEGISLATIVE UPDATE

Director Miller said there were quite a few bills relating to gambling that were introduced into the Legislature this year. The ones remaining include HB 1447, which would reduce taxes for those licensed gambling establishments that are within 50 miles of a tribal casino. It is still in the House; the companion bill in the Senate has died. HB 1562, relating to fund raising events, is sponsored by the private clubs of this state and proposed by Commissioner Graham, did pass the House yesterday. The bill, which would amend the law to allow for four events per year, make up to \$30,000, and have five paid helpers. The raffle bill would raise the maximum price of raffle tickets to \$25. There is some thought of adding a provision to give the Commission the authority to go beyond that. An example would be if an organization wanted to raffle off a house, they could sell fewer tickets at \$100 each and the Commission would have the ability to come forward and make the decision as to whether the organization could do this. It appears to have some good support. The charitable tax bill that was discussed at the last meeting died. **Director Miller** said there was a lot of input received regarding Chairman Tull's letter to the Legislature on the taxing issue.

CARD ROOM HOURS

Ms. Bishop said there are a total of 113 licensed card rooms in the state and 30 have requested the alternative hours so far. He said staff mailed a letter to local law enforcement requesting comments within 10 days; only two comments have been received. San Juan County Sheriff's Office objected, as did Kennewick's Chief of Police, who is opposed to any increase that would go toward funding gambling enterprises. Kennewick is very opposed to any increase in gambling. Tomorrow is the deadline for the ten-day comment period. Other areas that will be taken in account prior to final approval will be Commission staff recommendations as far as any cases pending and compliance problems that are on-going as well as input from any other state or local agency. He said four of the groups that requested staying open the new hours have not turned in their last quarterly activity reports.

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Chairman Tull called for a recess in order to give more time for Commissioner Heavey to arrive or to hook up a speaker phone for Commissioner Mosbarger.

***** R E C E S S *****

Chairman Tull said that Commissioner Mosbarger is in attendance via speaker phone now.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

Commissioner Tull moved for approval of the list as printed; **Commissioner** Graham seconded the motion; motion carried with three aye votes..

PRE-LICENSING/CERTIFICATION SUMMARIES

THE BUD JONES COMPANY, INC., CLASS III SUPPLIER

Ms. Fischer said the company is located in Las Vegas, Nevada, and was started in 1965 by Bud Jones and his wife, Carolyn. It has been a family-owned and operated business since that time. It is currently owned by Bud Jones and his daughter, Kathleen Steel. The company manufactures casino dice, chips, and roulette wheels, and sells other items that are available through the company 's catalog. It holds licenses in Connecticut, Illinois, Iowa, Louisiana, Mississippi and New Jersey. Tribal licenses are also held in Arizona, Louisiana and North Dakota. Personal background investigations were completed on the company's officers and their spouses. Based on the investigation by Special Agent Tim McGuire, staff recommends certification of the Bud Jones Company as a distributor of gaming equipment in Washington State.

Chairman Tull moved for certification; **Commissioner Mosbarger** seconded the motion, motion carried with three aye votes.

SHANAYON INDUSTRIES, INC., MANUFACTURER

Ms. Fischer said the company is located in Norwalk, California, and was started in 1980 by it's owner, Christopher Nipp. The company manufactures roulette and Big-6 wheels primarily for sale to Paul-Son Card and Dice Company in Las Vegas, Nevada. The company is licensed in Iowa and Nevada, and checks with these regulatory agencies revealed no derogatory information. A complete personal background investigation was conducted on Mr. Nipp. Agent Elmer Holland conducted an investigation and, based on his investigation, staff recommends certification as a manufacturer of gaming equipment.

Chairman Tull moved for approval; **Commissioner Mosbarger** seconded the motion; motion carried with three aye votes.

HEARINGS

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Ms. Sutherland said Matthew Moore's case has been withdrawn.

Wallingbull III, George, Marysville
CR 94-1104; Class III Tribal Employee

Chairman Tull moved that the Commission approve the staff's recommendation for denial of the application of certification with his ability to reapply after August of 1995.

Ms. Sutherland stated that, as of August of 1995, Mr. Wallingbull's probation will have been served. **Commissioner Mosbarger** seconded the motion. Motion carried with three aye votes.

QUALIFICATION REVIEWS

BIG BROTHERS/BIG SISTERS OF TACOMA, Tacoma

Ms. Patti Norman-Cole introduced Ms. Sylvia Anderson, Executive Director of Big Brothers and Big Sisters of Tacoma, who made a presentation.

Ms. Anderson brought some of the board members with her. In the last year there have been changes in executive directorship, the bingo manager and the snack bar manager due to people moving on. They have experienced a decline in the bingo revenue because they are about five minutes away from the Bingo Palace (Puyallup Tribe); however, they have seen an increase in their fund raising. At the time of their last review, they had four employees making over \$30,000. They have decreased their staff and currently have two employees in that category. Staff has been reduced by one in the program and 1 1/2 administratively. More matches have been served this year even with the decrease in staff than has been served in the last five years. They have recently hired a fund raiser in the hopes of off-setting the decline in bingo revenues. She also addressed that they are showing a deficit in the snack bar revenue. They hope that will change with the new manager; if not, they will look into leasing the snack bar to curtail any losses.

((Commissioner Heavey arrived at this time))

Ms. Anderson introduced a board member who was a big brother for eight years. **Rob Ogburn** said his little brother recently graduated from high school, got his first job and is taking electronics through a Voc-tech school. He said he enjoyed what he got out of the match and hopes that his little brother got something positive from the match, too. He said he's only been on the Board a short time but feels that it is a very good program for both children and adults.

Ms. Anderson introduced Board President Jim Matthies, public relations officer for the Tacoma Police Department; Treasurer Ed Loughrey, with the Tacoma Police Department and an attorney; Marsha Longs, an insurance agent; Denise Newman, Vice President of U.S. Bank; Dan Foley, with Key Bank Insurance; Rob Ogborn, an operations supervisor; and Jim Self, with Seattle Health Department.

Chairman Tull said it is fascinating to see the variety of people who are on the boards of these organizations.

Ms. Norman-Cole said Big Brothers/Big Sisters is licensed for a class "K" bingo, class "K"

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punchboard and pull tabs, and class "A" amusement games. The organization served 395 clients last year; contributions total \$6,951, and staff recommends qualification as a charitable organization.

Commissioner Heavey apologized for being late. He said he recently spoke with Senator Wojohn regarding Big Brothers and Sisters and the impact of Indian gaming on the bingo operation. She had indicated to him there had been a substantial decline of income with the advent of the compacts with the tribes and their gaming activities. He asked whether this is accurate and, if so, to what extent.

Director Miller noted the handout packet included a section on tribal bingo in the Pierce County region. He said the Puyallup Tribe has had three to four operations in the area. In 1992, they opened their Bingo Palace. Gross receipts for Big Brothers and Big Sisters of Tacoma were \$3.2 million in 1992, \$3.4 million in 1993, and \$3.2 in 1994. It's gone down roughly eight percent overall in sales, so their claim could be legitimate. For all of Pierce County, the situation is similar. There has been a slight decrease in overall gross revenues.

Commissioner Heavey asked the organization what effect, if any, this has had on the groups' activities. **Ms. Anderson** said 1.5 administrative staff and one program staff have been eliminated. Overhead is primarily for staff to oversee matches. If bingo revenues continue to decline, they will be focusing on another activity, like the Bowl-A-Thon, to raise funds. **Mr. Bishop** said it is important to note that tribal bingo is a Class II activity and the Commission could not have done anything to avoid this problem. **Commissioner Heavey** asked if the IGRA covers any Class II gaming; **Director Miller** said that IGRA addresses Class II gaming, which is under the regulatory authority of the tribe and federal government only, with no state involvement. **Ms. Norman-Cole** reminded the Commission that the recommendation was to approve this group as a charitable organization.

Chairman Tull said the opportunity to speak to the board members helps the Commission get across the importance of the burden placed on board members to pay attention and recognize they are playing with fire when they undertake gambling, which must be kept under control. He said it is extremely important to keep on top of what is going on in the gambling operation because someday they will have to answer questions about the operation. He said that in the several years of Commission reviews, it has been a good reminder of the wonderful work of these organizations that benefit from gambling, which makes it even more worthwhile.

Commissioner Graham moved for qualification; **Commissioner Mosbarger** seconded the motion; motion carried with four aye votes.

PROGRAM REVIEW:

SEATTLE SKATING CLUB, Seattle

Ms. Norman-Cole said the next review is the Seattle Skating Club and **Special Agent Rick Swanson** will give the presentation. **Ms. Winslow** said this was a program review, which is slightly different than a formal review. Staff actually went to the organization and

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interviewed members.

Mr. Swanson, Special Agent working out of the Lynnwood office, said this is an athletic organization with a Class "M " bingo license, a Class "O " punchboard/pull tab license, and licenses for amusement games and raffles. They were first formed in 1937 and have been licensed since 1974. They are overseen by a board of 4 officers and 6 trustees. The voting membership consists primarily of the parents and children who skate with the Club. The primary purpose of this organization is to provide opportunities for skaters to participate in the sport of amateur figure skating. This is accomplished by buying ice time at the Olympic View Ice Arena, and then charging the members only a minimal fee to skate, and by reimbursing some of the costs incurred during a competition. They sponsor ice shows for their skaters, an awards banquet, and provide three scholarships yearly. One area reviewed was the independent management control structure to verify compliance with WAC 230-12-078. The review also ensured that gambling activities are closely supervised, that gambling proceeds are used solely to advance the purpose of the organization, that all assets are protected from mis-use and that the Board of Directors policies are implemented. One concern noted is that there was no real oversight of the bingo manager or operation by the Board. This was caused when the organization eliminated the position of executive director at the end of 1993. They have since created a finance committee and are working on developing procedures. Another area of concern was the organization reimbursing skaters for competition expenses. Although the organization has limited assurance that costs were actually incurred, no documentation was maintained. Commission staff has worked with the organization and they will submit a plan to ensure that proper documentation is kept in the future. Seattle Skating Club currently has two employees making over \$30,000. One is Carla Stanford, who is the primary bingo manager. Since she was hired in 1992 she has made their bingo hall one of the most profitable in the state. The second person is Bernard Ford, who is their training director. He is a five-time world champion ice dancer hired last October to help develop a strong winning program for the club. Based on the review, staff recommends qualification as an athletic organization for the purpose of conducting gambling.

Colleen Parke introduced the Board. She said she became involved with this group in 1977 and a lot has changed. For seven or eight years, the bingo operation didn't work out very well, but it began to improve in the eighth year. She said they recently formed a partnership with Seattle Junior Hockey to build an ice arena, which she said is possibly the best in the country. The executive director left in December of 1993 and they chose not to replace him yet, although she said they are aware of the importance of having someone in that position. They hired a consulting firm comprised of world and international figure skating professionals, who led them to their present director, Bernie Ford. Right now, they are working on expanding their program.

Ms. Parke said they have produced a brochure of their programs and is being mailed across the country to invite more kids into the skating program. They have 20-25 committees of volunteers who meet quite often to get the job done and bring suggestions back to the board. The newly-formed finance committee is working on getting a better handle on the bingo operation. The scholarship committee makes sure scholarships are

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given out fairly. They have session monitors who collect money from the skaters who come to take session. They disburse punch cards which are now used for skaters. Volunteers also judge skating events and don't even charge back their mileage, which under WSFSA rules they could do. Ballet classes were held in the ballet room last summer and will be held again. The sports therapy clinic, which has leased the weight room, is working on programs with them to make this affordable to the skaters. She said they are working on a process to better track the funds spent by skaters who go to competitions. There are only three competitions they reimburse for and these are called qualifying competitions; regional, sectional, and national, which advance the skaters to world class level.

VIDEO WAS SHOWN of skaters and coaches.
((Commissioner Mosbarger disconnected at this time)).

Ms. Parke said some of the Commission's agents (Rick Swanson, Bill Kesel and Kristi Tellefson) came out to the rink and saw skaters. **Director Miller** said that our agents are there to verify what the agency is being told; the agency is very proud of this organization.

Mr. Swanson said staff recommends approval as an athletic organization. **Commissioner Graham** moved for recertification; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

SPECIAL REPORT:

PUGET SOUND RUGBY EDUCATION FOUNDATION, Seattle

Ms. Norman-Cole said this group was before the Commission in October in Leavenworth, and at that time they were granted temporary certification. During that meeting, the Commission voiced concern regarding a \$155,000 net loss for the year that was reviewed. There has been a change in the Board and they also have a new bingo manager. Of the seven quarters the organization has run a bingo game, they have not been in compliance with prize payout or net income compliance.

Ben Allgood, Executive Director, said the Board's president is also a doctor who could not be present because he is working at the Fred Hutchinson Cancer Research Center. He introduced Vince Schmidt, the organization's treasurer and secretary for the organization who is also CEO and principal financial officer of R.W. Smith and Associates and a CPA by training, **Launa Hoy** is the bingo manager and in the short time she's been working with them has won the hearts and minds of the new Board as well as the players. **Nu Faala**, is a world-class rugby player and is the number four body builder/weight lifter in the world for Natural Athletes Strength Association. He trains without any drug enhancement. He spent over 500 hours this year alone talking to children and high school students regarding not using drugs.

Mr. Allgood said certain members of the rugby community and representatives of Dick Smith who is a major contributor to rugby discovered the bingo operation was in poor shape. They were in a long downward spiral in attendance and the relationship between the former bingo manager and staff was not good. In January 1995, he became involved

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as executive director. They needed a new board of directors and they now have three new members. They were directed by Patti Norman-Cole and Jacki Fischer, who were both extremely helpful. He said they have a problem with significant negative reaction in the community with the players as a result of the past-manager's behavior. He said in the last two weeks they have reconfigured the games, attendance is up 36 percent, and requested to be changed to a Class H game. Staff is going to recommend one step lower, but he disagrees with that because their approval rate is moving along well.

Mr. Allgood said they have more bookings and he feels they will increase. The snack bar problems were noted by the Commission staff a long time ago, and the snack bar has been reconfigured and is showing a profit. They are in the process of seeking a vendor who would provide a lease. The local retail and commercial neighbors are very pleased that their operation is there and is getting better. He said working with the Commission staff has been enlightening for him, and he has found high quality expertise in the people who have helped him with the bingo operation management, especially Ms. Norman-Cole and Ms. Fischer have been immensely helpful. He said outreach is a major part of their program; they have raised half a million dollars to fund many of these funds aside from the bingo. He said a team went to Bermuda and Mr. Smith paid for all food and lodging for the players.

Chairman Tull said he is pleased that there is positive news and that the group is taking some serious steps to improve.

Director Miller asked how long this organization is willing to keep losing money. **Mr. Allgood** said the President's Committee has met and he believes they will move into positive cash flow this month. The President's Committee is working toward total integration of all of the rugby activity in the Puget Sound area.

Director Miller said groups that lose a lot of money over a period of time have been suspended in the past. The Mountlake Terrace Lions Club was one such group. Now groups are downgraded to the level being performed. There are rules now that the Commission has to follow as a matter of law. **Mr. Allgood** asked if there was a mechanism for managing the process of the group exceeding the class "G" level. He believes they will exceed this in April or May. **Ms. Norman-Cole** said that staff is recommending downgrading two classes to a "G". **Mr. Bishop** said there was a rule passed that makes the downgrade automatic and there is no way to change that process unless they were to petition the Commission. He explained that, should they achieve the net return for the level above that for two consecutive quarters, they can ask for and receive above that level. Otherwise they have to come before the Commission and petition the Commission. The net return will be what Mr. Allgood needs to watch.

Commissioner Heavey asked what the relationship is between the Rugby Association and the bingo game. **Mr. Allgood** answered they were estranged brothers. The Board envisions a time when the bingo hall can also be used by the youth for activities other than bingo. **Commissioner Heavey** noted the minutes from PSRA's meetings; it refers to West Seattle Bingo. **Mr. Bishop** said the point is that West Seattle Bingo is Puget Sound Rugby Education Foundation's bingo game. The business name for it is West Seattle

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Bingo. **Commissioner Heavey** asked if the Commission is going to see attention paid to this bingo game on an on-going basis. **Mr. Allgood** answered that he felt within six months they would know whether to continue or not.

Commissioner Graham moved for temporary recertification as an athletic organization for six months only. **Director Miller** said they would be downgraded to a Class "G"; **Commissioner Heavey** seconded the motion with emphasis that it be for six months only. **Chairman Tull** said the six months is with the understanding that the class change will take place pursuant to the rule. Vote taken; motion carried with three aye votes.

Chairman Tull said the scheduled Follow-up review and the Group II reviews will be heard tomorrow due to a time problem. He called for a short recess.

***** RECESS *****

Petition for Review:

Preston, Michael, Seattle

CR 94-0064; Bingo Manager

((TO OBTAIN A TRANSCRIPT OF THIS PROCEEDING, CONTACT THE WSGC DIRECTOR'S OFFICE AT (306) 438-7640; THE DECISION AND ORDER WAS ANNOUNCE AT THE 3/10/95 MEETING))

Chairman Tull called for Executive Session and adjourned the public meeting.

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MINUTES COMMISSION MEETING FRIDAY, MARCH 10, 1995

Chairman Tull called the meeting to order at 10:10 a.m. at the Sheraton Hotel, Tacoma, Washington.

MEMBERS PRESENT: **ROBERT M. TULL, Chairman; PATRICK GRAHAM, and EDWARD HEAVEY.**

OTHERS PRESENT: **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHERRI WINSLOW, Assistant Director, Field Operations; SHARON TOLTON, Assistant Director, Special Operations; JONATHAN McCOY, Assistant Attorney General; CARRIE SUTHERLAND, Special Assistant, Public Affairs; PATRICIA NORMAN-COLE, Rules Coordinator; TINA GRIFFIN, Investigative Audit Unit; and SUSAN GREEN, Executive Assistant.**

Chairman Tull said the public portion of this meeting was convened a little late so that the commissioners could spend a few minutes working on an appeal. There are a few addenda to the published agenda, which were discussed yesterday; one is a proposed rule from staff regarding cost recovery in certain tax collection licensing matters, and one is a rule regarding a process for certain Phase II reviews in connection with Class III casinos that are operating through compacts with various Indian tribes throughout the state. He said there are a couple of reviews that had to be held over from yesterday; the Boys and Girls Club of King County and the Boys and Girls Club of Wallingford.

Director Miller requested an executive session today since there was not enough time yesterday. Discussion will include litigation and investigations.

APPROVAL OF THE MINUTES FROM THE FEBRUARY 9-10, 1995, MEETINGS

Commissioner Graham moved for acceptance of the minutes from the February 9-10, 1995, Commission meeting in Olympia, Washington, as set forth and printed in the agenda packet; **Commissioner Heavey** seconded the motion; motion carried.

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SPECIAL REPORT

Central Area Youth Association, Seattle Special Scope Audit

Tina Griffin gave a report on the special scope audit of CAYA. In March 1994, CAYA's Board of Directors contacted the Gambling Commission staff with many areas of concern they had regarding employees' misuse of the organization's assets. She said the audit, begun in April 1994, focused on these concerns. The findings of the audit are summarized in a report provided to the Commissioners, and the warning letter that was issued is also contained in that report. She said last month she went back to CAYA to see if the original findings had been corrected. With one exception, all violations have been materially resolved. The exception is a major area of concern; they have failed to develop a formal written internal control policy as required by WAC 230-12-078. She said it should be noted that the Board has made efforts to alleviate some of the related party conflicts. She introduced the Brenda Little, vice president of the Board.

Brenda Little said she is an attorney with Seattle School District and was previously with the Attorney General's Office where she represented three community colleges. She said anyone who has been in Washington state during the last year knows about their program. The main focus today is to answer some of the Gambling Commission's concerns and express some of the work they've done to alleviate the problems. At the time the CAYA Board approached the Gambling Commission, she was the treasurer and has a fair understanding of the internal controls and the financial outlook. She introduced the CAYA board members and staff present: Emory Bundy, who works for the Bullett Foundation, was the vice president at the time the Board approached the Gambling Commission and is now the treasurer-elect; Tony Ward-Smith, new chairman of the bingo commission, is a long-time board member who is also a small business owner; Mr. Brown, who has been on the CAYA Board for 25 years and recently retired from the Parks Department; Mr. Russell, who is the newest board member and works for the National Parks Department; and Mr. Little, a founding father of CAYA. **Ms. Little** introduced staff members, Mr. Lewis Clark, new executive director and Princeton graduate; Sandra Little-Berthe', deputy director; Gracie Miller, bingo manager, who was with the bingo operation when it was on the corner of 23rd and Union (she said the bingo game has improved financially under Ms. Miller's direction) and Shannon Hunter, assistant bingo manager.

Ms. Little said CAYA was founded 30 years ago with the primary purpose of helping to form the minds, bodies, and intellects of inner-city kids. She said they are especially

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proud of their tutoring program and they are closely aligned with the Seattle School District. They interface in terms of students, records and systems in identifying those students who really need help. The pivotal program is their sports program; she said she ran track and her brothers were also involved in the basketball program. They have the basic sports for guys, and they are trying to expand the sports program to include women. They hope to have women's soft ball and track. There is a cultural arts program, a teen parent program to keep the mothers in school and teach them parenting skills, and the Inner City Outings program that involves taking kids out to the wilderness. CAYA is a community-run organization with volunteer and board members who put in a lot of time, effort and care into the programs. She said they have been working vigorously with the Gambling Commission to change some of their past practices so they can come up to the 21st century. She said when Sandra Little-Berthe' first came to CAYA, they didn't have a computer or an accounting system. Now, more of the Board members have college degrees and know more about business standards. They are updating accounting procedures. She said that Director Miller has informed her that staff is recommending a provisional license, which is fine with CAYA. She introduced Tony Ward-Smith to help answer any questions of the Commission.

Director Miller said that the Gambling Commission appreciates the cooperation of CAYA and said this has been a long-term situation. The Commission staff has not had problems with CAYA's programs; the problems were with its bingo operation. The fundamental principles and objectives of the organization have always been truly beneficial to the community. They have made great strides in the bingo operation. The investigation resulted in a life-time ban of the former bingo manager from bingo in this state, a one-year revocation of the assistant bingo manager and a six-month suspension of another bingo manager who was also the executive director. The initial review found there were also some short-comings in the oversight by the Board and too much authority given to the executive director position. Since there was a commitment to change, the organization received a warning letter instead of penalizing the program. The follow-up review found compliance with virtually all of the concerns except for internal controls, which are quite important and is the reason Commission staff is recommending temporary certification. The internal controls are required to be submitted to the Commission in a timely fashion. Upon review and successful implementation of those internal controls, staff will come before the Commission to resolve the issue. **Mr. Bishop** said not only internal accounting controls, but also a management control system that internal accounting controls would be a part of.

Commissioner Heavey said his questions should not be viewed as hostile, but in the current political climate, those who provide services to the disadvantaged are being placed under a microscope; things that are acceptable in other activities of life are totally unacceptable within the operations of those that provide services for the disadvantaged.

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The Commission has a responsibility to be sure this organization is above reproach, even if that standard is unfair. He asked about the trip to Las Vegas, which was under particular scrutiny by the hearing examiner, and said that some of the same people who took the trip are in positions of great control now. He questioned the wisdom of placing individuals who came under particular criticism by the hearing examiner in the same role where they are in a position of approving expenditures, which is where that same type of misconduct could take place. He asked how he, as an individual commissioner, can be assured that those individuals are not going to engage in that same lax bookkeeping and same lax attitude that was the problem leading to the substantial criticism of an organization that has provided 30 years of outstanding service to the community. He said it would be very inappropriate that the programs could be hindered because of not responding to this criticism. It does not appear to him that CAYA has overreacted to the extent that it should have in light of the criticism and the fact that it is now being placed under a microscope.

Mr. Ward-Smith asked Commissioner Heavey whether he is asking about policies and programs or about specific individuals and a particular instance where a trip was taken by staff and management. **Commissioner Heavey** said he is not concerned about the trip; he is concerned about the people who are still with the organization and who were also present on that trip. **Mr. Ward-Smith** said some of the people organized that trip and eagerly went on the trip, and then some were asked to go along because of their responsibilities to the agency and to the bingo operation. The Board sorted the particulars of that situation and figured out what was right and what was wrong and got rid of the wrong and kept the right. The person who went on the trip is still an important person in the organization, and they strongly defend that person's abilities, performance, and ethical behaviors. That person was crucial in the organization coming to terms with the problems they had and in helping solve those problems, and is now helping to develop and manage the ongoing system of management solutions. With very good reason, he said they are willing and eager to count on that person.

Chairman Tull asked if, on that particular trip, the person was part of the problem or whether she prevented the problem. **Mr. Ward-Smith** said she did go along on the trip but made no decisions about the trip other than she was asked to go. **Chairman Tull** said the problem is not with the trip; the Commission understands the value conferences can provide. He said apparently no one on that trip found it necessary to question whether the group needed to be gone that long or if they needed to be doing the things they did. The absence of control is the essence of the problem. He said this group is not the first to come under scrutiny. He said it's unfortunate that a criminal activity was involved and he knows it has hurt CAYA in lots of ways. It hurts the cause of charitable fund raising throughout the state, which is the Commission's big concern right now. He concurred with Commissioner Heavey that it is less than clear that this issue has been addressed.

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Ms. Little said it is difficult to talk about the specific issue without talking about past practice. CAYA had past practices that would not pass the "sniff" test. When she came on the Board four years ago, she was appalled at the past practices, but it was difficult for the long-timers to hear from the new board members that their practices may not pass muster. The trip was taken annually for years and was never questioned. The Las Vegas trip is symbolic of Director Miller's concerns. The internal controls by the Board were so lax in the past that it allowed four people to go on a trip and charge alcohol to their rooms and use agency money for kids to go see the Cirque de Soleil.

Ms. Little said she was told when she was hired that this Las Vegas trip was a mandatory trip that the Gambling Commission told them to go on. When they came to Director Miller, he explained that wasn't true. She said she isn't disagreeing with the provisional license, because the Las Vegas trip symbolizes where they were, but looking at where they are now, she said no one will ever go to Las Vegas on CAYA's dime. Now every trip is scrutinized and all invoices are looked at. They are putting internal controls in place and taking responsibility for their actions. **Chairman Tull** asked if there has been any attempt to gain reimbursement for the expenses from the trip; **Ms. Little** said they have been taken for amounts of money here and there, and last month the Board authorized expenditures for general counsel, which will help them get reimbursement.

Commissioner Heavey said he doesn't see anything reflecting that they're tightening up to the degree that they ought to. He'd like to see evidence of overreacting, such as developing a code of conduct to address these particular issues. He said he is not interested in removing someone from a position; his concern is that this person took the trip and is still in the position they held at the time. He noted problems are still occurring with the accounting system, although to a much lesser degree. There are four or five instances out of 13 that indicate there is a lack of monetary control. Besides the code of conduct, they also need to make sure the financial controls are really tight so they won't face the problem of a very valuable organization coming under undue criticism. **Ms. Little** said she often tells the Board, in terms of the members personally, they were shielded, but if anything else happens, they won't be able to blame it on an over-zealous executive director or anyone but the Board. She's slowly and surely pushing for internal controls being put into place. **Commissioner Heavey** congratulated CAYA on 30 years of valuable service to the entire community and said service to their community is service to all.

Mr. Ward-Smith said the response to the problems has turned around the organization dramatically and the Board has become totally involved with the organization, including the bingo side, in a way that they weren't before. There is a new executive director and a new relationship between the Board and the executive director with new approaches and practices coming out of these relationships. They have outside auditors and CPA firms

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working for them. They have taken the everyday management of the financial affairs in-house full-time instead of on a part-time basis. When they look over the guidelines they were given to improve the bingo operation, the same guidelines apply to them in the overall and they have acted on them in that broader sense. He said although the organization has been in existence for 30 years, the bingo operation is only ten years old. He said he suggested shutting down the bingo operation when he came on the Board in 1988, but instead the Board changed it and opened the Aurora Bingo operation. He said the agency had a budget of \$200,000, at that time, to run youth programs and only ten percent came from bingo. Now agency has a budget of \$1.5 million for the programs they run and 52 percent of the program money comes from the bingo operation. They are optimistic because of everything they've been through and see these things as making them better performers.

Commissioner Heavey asked if the executive director plays any role in recruiting new board members; **Ms. Little** said there are two positions he can nominate people for, but it is completely up to the Board as to who can serve on the Board. She said Mr. Clark thought the Board was too saturated with community activist/volunteer types who didn't have expertise in running businesses.

Commissioner Heavey said he was involved in an organization where the founder dominated the Board and the organization was hers and not independent. When he became involved on the Board he was recruited by her, but they changed to where she had no right to recruit members for the Board because she was dominating the Board, which is his concern about CAYA. He said that under Gambling Commission rules, the Board must be independent. The executive director cannot play a principle role in the selection of the Board, because then it may be just a matter of time before they get into the same position to where the Board is dominated by the executive director instead of being independent. **Ms. Little** said that the experience with Mr. Preston was so unpleasant that now her greatest fear is that they may not be letting the executive director breathe. The executive director now has less power and less authority than Mr. Preston, did, and at this point in time, the Board is more comfortable with the arrangement.

Chairman Tull said that during the ten years he's served on the Commission, he's had his eyes opened to a number of things and has become increasingly committed to the idea that the history being reviewed shows there is an opportunity for disaster and the Commission has seen these situations result in disaster before. The Commission has made steady progress toward institutionalizing the types of controls that have always been known about but only occasionally implemented.. The signal Chairman Tull wanted to send to CAYA is that they came very close to no longer being a bingo licensee in this state had CAYA not impressed the Commission staff with its willingness to take massive

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and immediate corrective measures. He said the message has to go out to other licensees that this may have been the last warning to the bingo community in the state of Washington. That doesn't mean the Commission won't assist organizations that are in trouble. He said the only people who embezzle money from an organization are people who are trusted with the money.

Commissioner Heavey moved that the qualification be continued on a temporary basis for six months. **Commissioner Graham** seconded the motion. **Chairman Tull** said he is a little disturbed that it has taken as many months as it has to clear up all of the problems but the size of the organization is a factor. He thanked CAYA for the cooperation shown. All in favor; motion carried with three aye votes for temporary qualification.

Chairman Tull thanked Tina Griffin for a very good report; it was very clear and the general quality was very good.

ADOPT OR AMEND RULES TREASURERS' PETITION

Amendatory Section WAC 230-04-280 -- (~~Notification to law enforcement.~~) Licensees must notify law enforcement and local taxing authorities.

New Section WAC 230-04-405 -- Commission may seek reimbursement for costs incurred in pursuing license revocation for failure to pay gambling taxes.

Amendatory Section WAC 230-04-400 -- Denial, Suspension or Revocation of Licenses

Amendatory Section WAC 230-50-010 -- Adjudicated proceedings--Hearings

Ms. Sutherland said Item 3 is a petition by the Taxing Associations and there are three rules involved. This petition has been on the agenda for a number of months and Commission staff has worked with the Taxing Associations on the changes. One of the rules requires the licensee to notify the taxing authority when they receive a license or renewal. Another rule provides for the revocation of licenses for failure to pay taxes, and the third rule provides for the brief adjudicative proceeding procedure to be used in the revocation procedure. Also, the Commission discussed issues regarding to the cost to the agency and the Commission asked staff to bring forward a rule that might deal with that issue. She met with a number of the taxing authorities in February and created something that was felt all could agree on, which, is in the form of an addendum to the agenda and is up at this time for filing. It essentially states that when pursuit of taxes is begun, the Commission will attempt to get reimbursement for costs from the delinquent licensee out of a settlement. If the Commission is unable to get that reimbursement, the taxing authority will reimburse the Commission. When a case is referred to the Commission, it will be agreed at that point to be responsible for the costs. **Commissioner Graham** said it says, "...The Commission may seek to be reimbursed." He asked why it doesn't say, "...The Commission will be reimbursed." **Ms. Sutherland** said the rule says

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first what the Commission will try to do is seek reimbursement from the licensee. If the Commission is unable to do that, then the Commission will seek reimbursement from the taxing authority. **Commissioner Graham** said all through the rule it says the Commission will seek reimbursement. **Ms Sutherland** said it was the intent of the rule. The reference to "in part" was if, perhaps, the licensee had paid a portion of the Commission's costs and then defaulted, the Commission could seek the remainder of the costs from the taxing authority. **Commissioner Graham** said he didn't want the Commission to be in a position where if the taxing authority loses, the Commission loses too.

Commissioner Heavey said he has a problem with this approach because it provides that someone has the right to petition the Commission for revocation of a license based on actual or perceived violation of the law. He has a problem with conditional exercise of authority. **Director Miller** said the intent was that if the county came forward for help, they would sign a contractual agreement that costs would be reimbursed. If that were not the case, the Commission probably wouldn't take on any more cases. **Chairman Tull** said Commissioner Heavey has a good point that could be remedied by adding language. **Director Miller** said the difficulty would be in anticipating the costs. The other thing would be if the Commission has to go through a hearing after the charges are filed, the costs would increase. The approach taken was more of recouping costs after the fact. **Commissioner Heavey** said the other way it could be done would be a filing fee which would be at the conclusion of the proceedings. He has a real concern about the rule saying the Commission will do something if the taxing authority does something. **Director Miller** said the Commission has not done this before; it is a service the Commission is providing for the counties. One of the dilemmas on this is that the Commission has always taken cases when the city has received a judgment. The Commission has always had the ability to assess a fine. What this rule does is give the Commission the ability to recover costs in the event the Commission is not able to from a licensed entity. He also said he isn't sure the cities can collect fines on the Commission's behalf. The cities have no licensing authority. **Chairman Tull** said this is a very complex issue.

Director Miller suggested that if the Commission cannot go forward with this today, that they may just vote no instead so the agenda can be relieved for next month. **Chairman Tull** said this should not be rushed. He asked if this new section could be filed and continue the other package. **Director Miller** asked if the concern is the procedure or the legality; **Commissioner Heavey** said his concern is legality and suggested that the language be amended to the first sentence be left as is and then the local taxing authority, "...shall reimburse the Commission for costs incurred." He said he has a problem with continuing this again and with the time the treasurers are having to spend coming to the meetings. **Director Miller** said the Commission does go after delinquent tax payers such as the case in King County. This would have been a good example that

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the Commission should have gotten some of the investigation monies back. The Commission does currently assist, it's just not done until the taxing authorities take the first step.

Commissioner Heavey seconded Chairman Tull's motion to file the proposed new section and to continue the rest of this section; vote taken, motion carried with three aye votes.

LICENSING OF GAMBLING MANAGERS

Amendatory Section WAC 230-02-240 -- Commercial gambling manager defined.

Amendatory Section WAC 230-02-418 -- ~~((Bingo))~~ Charitable or nonprofit gambling manager defined.

Amendatory Section WAC 230-04-145 -- Licensing of charitable or nonprofit gambling managers ~~((of bingo-games))~~ -- Application procedures.

Amendatory Section WAC 230-04-147 -- Notification to the commission upon beginning, terminating, or changing responsibilities ~~((as bingo-game))~~ of charitable or nonprofit gambling managers.

New Section WAC 230-12-079 -- Duties and responsibilities of charitable or nonprofit gambling manager.

Amendatory Section WAC 230-30-070 -- Regulation of manager, operators, and other employees -- Charitable or nonprofit organizations.

Ms. Sutherland said these are rule changes up for possible final action today. They provide for the licensing of executive directors or those people with the highest level of authority over the gambling activity and the funds earned and disbursed. Staff recommends final adoption. **Chairman Tull** said this is an opportunity for public testimony and asked if anyone wished to be heard.

Jim Williams said he is confused about the license for the charitable nonprofit organizations. He said the rule states that a charitable or nonprofit manager is one who oversees any gambling activity. He said he doesn't see an exemption for any license classes. He said organizations holding raffles would be required to obtain permission.

Director Miller said the purpose is to define what a gambling manager is and what the duties and responsibilities are for of that position. Someone should be responsible for the gambling operation.

Mr. Williams asked how he gains the Commission's permission if he wants to manage a raffle. **Mr. Bishop** said the same way that it is currently done. On the application to run that activity it requires the name of the manager and certain information for the background to be done on this person. This is part of the license approval process currently for the activity. There is a separate license for higher level activity for those

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people. The rule summary should have said this affects all licenses in this particular case. **Director Miller** said there is a packet put out by the Commission for the licensees. He said Mr. Williams has raised a very valid point. The Commission doesn't know all the unlicensed activities out there and yet the licensees are still required to maintain certain records under state law. The intent was not to burden the small operations and he thinks the language works.

Mr. Bishop said that in the preamble, "each charitable," etc., etc., "licensed to conduct gambling activities shall designate..." It does not apply to unlicensed activities.

Chairman Tull said the syntax in 145 is still unclear. He said the responses were helpful. "Managers responsible for the following functions shall be licensed." Then it lists a primary manager. He asked if "Manager" is a person or a function. They discussed clarifications and the solution discussed was to remove the word "function" and say "the following gambling managers." **Director Miller** suggested "primary" manager be taken out and to say "for class D and above bingo games." He asked Mr. Bishop if this would work. **Mr. Bishop** said yes.

Commissioner Heavey suggested saying "the following individuals of charitable or nonprofit organizations shall be designated as gambling managers and shall be licensed by the Commission." **Mr. Bishop** said he thought that would work and could certainly see what the Commissioners were talking about.

Chairman Tull said this should be readable and understandable by the licensee community. He continued this rule until the April meeting.

COMMERCIAL STIMULANT RULES

Amendatory Section WAC 230-02-350, Commercial stimulant defined.

Amendatory Section WAC 230-02-360, Licensed premises defined.

Amendatory Section WAC 230-02-370, Food and/or drink business defined

Amendatory Section WAC 230-02-380, Established business defined.

Amendatory Section WAC 230-04-080, Certain activities to be operated as a commercial stimulant only--Licensing of food and/or drink businesses.

Amendatory Section WAC 230-08-130, Quarterly activity reports by operators of social and public card rooms

Repealer WAC 230-02-125, Adjusted net gambling receipts

Repealer WAC 230-12-075, Commercial stimulant compliance

Ms. Sutherland said this is a group of rules that amend the commercial stimulant rules to comply with a 1994 Legislative change to RCW 9.46.0217. These have been discussed with licensees and essentially take the Commission's staff time away from measuring the

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food and drink sales against the gambling activity and allow staff to focus on other priorities. The primary concern of the Commission is simply whether a business is engaged in the sale of food and drink for on-premise consumption. This is up for possible final action today. **Director Miller** said the term now is "established business." This will be the test in the future, ensuring it's a legitimate, established business. **Commissioner Graham** moved to accept the rules in section five. **Commissioner Heavey** seconded the motion, motion carried with three aye votes. **Chairman Tull** said this is effective July 1 1995.

RAFFLE RULES

Amendatory Section WAC 230-02-183, Active member defined

Amendatory Section WAC 230-08-070, Raffle records

Amendatory Section WAC 230-12-040, No firearms as prizes--Exceptions

Amendatory Section WAC 230-20-300, Control of raffle prizes

Amendatory Section WAC 230-20-325, Manner of conducting a raffle

**New Section, WAC 230-20-335, Raffle conducted among members of an organization--
Procedures--Restrictions**

Ms. Sutherland said Item 6 A-F is also a package up for final action. These raffle rules have been proposed by staff in conjunction with a number of organizations that hold raffle licenses. This package essentially simplifies the record keeping requirements for raffles. There is an addendum to item 6 B in the handout packet and the change sets forth (on the second page of the rule) more details that must be provided to the Commission in a request to maintain the records in alternative location. Staff recommends final adoption of this package with the amendment.

Kevin Crum spoke on behalf of the Washington Charitable and Civic Gaming Association. He said the Association knows that currently the raffle ticket price is limited to \$5. They understand there is legislation that could change this and they have a concern regarding the age of the ticket sellers for raffle tickets with a value of \$5 or more. The Association would like these limited to persons 18 years of age and older. The concern is for the youth and the larger cash handling. **Chairman Tull** said that the rule currently says 18 years of age. The director must grant a waiver for ticket sellers under 18. **Director Miller** said the state has had youth selling raffle tickets for years. Youth cannot be involved in the management operation but youth do sell raffle tickets. The Commission has not had many complaints on this.

Chairman Tull asked what the statute says now about selling raffle tickets. **Director Miller** said that it doesn't. **Mr. Bishop** said it is only under the section on coin flipping or dice rolling that says they shall be 18 years old. **Chairman Tull** stated the Commission's current rule defines an active member using an 18 year old proviso. **Director Miller** said

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that these rules encompass years of experiences. The issue of who can sell could be a separate issue in the future.

Director Miller said the wildlife organizations that have worked with the Commission would like to see higher limits, and quite a few people are promoting raising the limit from five dollars. Right now, a book of 20 tickets is sold for \$5 each. The law requires a patron to buy one ticket only. The concern is, when the wager goes up, there is a danger to youth, because they will have to handle larger sums of money.

Rance Block, field director for the Rocky Mountain Elks, said he wants to be sure the issues of the rule changes they have been working with the Commission on are separate from the house bill and are handled separately. He said he appreciates the support of Commission staff in working out these rules.

Mr. Williams thanked Deputy Director Bishop for recognizing that members-only raffles need to be changed and for putting together those changes. In the future, he suggests the Commission look at some recordkeeping changes. He also suggested some new rules, i.e., that these raffles are only open for the attendees at that night's session, the raffles are a "must be present to win," the raffle tickets are not available until the individual gets through the door that evening, the attendees in most cases deposit their raffle tickets for the prize they want to attain, the winning tickets are drawn in front of all attendees, the winning tickets are verified in front of all attendees, and the attendees then see the individual who wins that prize.

Commissioner Heavey moved to adopt 6A-F; **Commissioner Graham** seconded the motion; motion carried with three aye votes.

HOUSEKEEPING CHANGES

Amendatory Section WAC 230-02-010 -- Washington state gambling commission -- Purpose and organization.

Ms. Sutherland said Item 7 is a housekeeping change up for final action and it just represents the current number of assistant directors on staff at the Gambling Commission. Staff recommends final adoption.

Commissioner Graham moved to adopt, **Commissioner Heavey** seconded the motion; motion carried.

Amendatory Section WAC 230-20-130 -- Operation of bingo upon retail business -- Conditions

Amendatory Section WAC 230-20-620 -- Amusement games -- Objects to be thrown to be

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uniform -- similar games not to use difference object unless designated

Ms. Sutherland said Item 8 A and B are simply housekeeping changes to correct typographical errors and they are up for further discussion.

CARD ROOM PETITION

Amendatory Section -- WAC 230-40-400 - Hours limited for card games

Ms. Sutherland stated that Item 9 was brought forward to the Commission last month as a petition by the Recreational Gaming Association and the Commission filed it as an emergency rule, which made it effective upon filing. The rule allows card rooms to change their closure period from between 2:00 a.m. and 6:00 a.m. to 4:00 and 8:00 a.m. if the director approves this and local law enforcement has no objection. Staff recommends further discussion. This will be on the agenda this month and next month.

Mr. Bishop said 31 card rooms requested using these new hours of the 113 total licensed card rooms. On February 28, 1995, the Commission mailed letters with a copy of the new rule to all of the sheriffs and police chiefs in Washington State. The letters included the licensed card rooms within their jurisdictions and asked them to comment whether these businesses had their approval to go forward with these hours. As of this morning, five responses were received from law enforcement; four were opposed, and one said they would not approve two particular card rooms. The criteria for allowing the change in hours would be primarily law enforcement input, Gambling Commission staff input, and any input the Commission might receive from other state or local authorities.

Commissioner Heavey said it says "...No objection is raised by a local enforcement entity." He asked if that means King County can object to a card room in another city being open until 4:00 a.m. **Director Miller** said the intent was to notify law enforcement in the area of the card room. **Commissioner Heavey** suggested changing the wording to "...local law enforcement entity having jurisdiction." **Chairman Tull** asked what that would mean if the prosecuting attorney had objections. **Director Miller** noted that the prosecuting attorneys were not contacted. **Mr. Bishop** said he felt Commissioner Heavey's suggestion would cover it. **Director Miller** said that it was the intent of the Commission to mirror this after the tribal gaming situation because that was the argument for extending the hours.

Rick Davis, Charlie Macks and the 21 Club, asked how many letters were mailed; **Mr. Bishop** said of the 113 card rooms, every law enforcement agency that had a card room in their jurisdiction was contacted; either the chief of police or the sheriff. **Mr. Davis** said he thought that four negative responses was not much. **Mr. Bishop** said that the letter stated if the Commission did not hear from the law enforcement entities, the Commission would assume they had no objections. **Director Miller** added the Commission planned to give

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conditional permission in writing, commencing next week. **Chairman Tull** asked about the procedural effects of the emergency rule. **Director Miller** said approval is to be granted with the discretion of the director.

Ms. Tolton said there may be additional costs for her division to monitor the hour changes. She has also been questioned by some law enforcement people; i.e., should the sheriff or chief of police change their position, could these people write to the Commission regarding their concerns and position. **Director Miller** said yes to both questions. **Commissioner Heavey** moved to amend this rule to say, "that has primary jurisdiction." **Chairman Tull** said it could be spelled out to say "local law enforcement entity," and it is an issue that should be addressed by staff. Motion denied due to no second. **George Teeny** asked about the question of the enforcement agents being concerned regarding two of the card rooms in the town. **Chairman Tull** said that question could be taken up with staff.

HOUSEKEEPING CHANGES

Amendatory Section WAC 230-04-075 - No license required for certain bingo, raffles, and amusement games.

Amendatory Section WAC 230-20-090 - Limits on compensation paid to members or employees.

Amendatory Section WAC 230-20-170 - Bingo operation date limitations

Amendatory Section WAC 230-20-190 - Bingo card prices

Amendatory Section WAC 230-20-220 - Operators shall not play

Amendatory Section WAC 230-25-070 - Fund raising events--Central accounting system required

Amendatory Section WAC 230-20-630 - Amusement games--Fees, rules, prizes and variations in objects to be posted--Fees to be paid in cash or scrip((¢))--Prizes not to differ from those posted

Amendatory Section WAC 230-25-055 - Use of chips, scrip((¢)) or similar items at fund raising event

Amendatory Section WAC 230-25-330 - Recreational gaming activity--Rules for play

Amendatory Section WAC 230-46-010 - Purpose

Ms. Sutherland said rules under Item 10 are up for discussion and possible filing. **Commissioner Heavey** moved for filing; **Commissioner Graham** seconded the motion; motion carried with three aye votes.

LICENSING OF MANUFACTURERS/SALES PERMITS

Amendatory Section WAC 230-04-110 - Licensing of Manufacturers

New Section WAC 230-04-115 - Licensing of manufacturers--Exceptions--Special sales permit

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Amendatory Section WAC 230-04-203 - Fee--Commercial stimulant and other business organizations

Ms. Sutherland said Item 11 A-C is a rules package proposed by staff. This package allows the director to grant a special sales permit that would allow manufacturers to sell to a distributor gambling equipment on a limited basis. The justification for this is when demand for equipment is relatively low and it is not economically feasible for the licensee or applicant to go through the process, or if the licensing process is really not necessary for the protection of the public. Staff recommends emergency filing of this package.

Commissioner Heavey moved for filing and adoption as an emergency; **Commissioner Graham** seconded the motion; motion carried.

ADDENDUM

WAC 230-48-010 Tribal-state compacts--Phase II commission review

Chairman Tull said that WAC 230-48-010 is a new section proposed by Staff. This rule provides tribal casinos a mechanism to increase wagering limits, wagering stations and hours of operation through a Phase II investigative review and Commission approval process. This rule was referred to yesterday and is available to everyone this morning.

Ms. Sutherland said the Commission has created a new section of WACs and this is the first of hopefully many WACs pertaining to tribal gaming. **Chairman Tull** said he has had numerous conversations with the director regarding the implementation of the more recent compact amendments and it was his recommendation that a process be identified and be approved by the Commission. His suggestion would ultimately approve Phase II review. He also noted there are a number who are eligible for consideration for going to Phase II. He said there are copies of the check list in the commissioner's packets.

Commissioner Heavey moved for adoption as an emergency rule with ongoing rule discussion; **Commissioner Graham** seconded the motion; motion carried with three aye votes. **Chairman Tull** said that a separate chapter is a good idea and more things will come up over time.

UNFINISHED BUSINESS **QUALIFICATION REVIEWS**

FOLLOW-UP REVIEW:

BOYS AND GIRLS CLUBS OF TACOMA PIERCE COUNTY

Ms. Norman-Cole said Boys and Girls Clubs of Tacoma Pierce County came before the Commission in January and at that time a review regarding their structure was

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requested. The staff has concluded that only the administrative group can conduct gambling. There are several other groups that are listed in the packet but under the this organization's present structure, only the primary organization can operate gambling. **Mr. Bishop** gave a brief overview of the previous structure of this organization and said in 1992 they changed their organization. Under the by-laws the members elect the officers. He said they will only be allowed one bingo game and two fund raising events. Staff has discussed this with them and they are aware of the new limitations. Qualification was temporary in January and recommendation by staff is to certify this group.

Commissioner Heavey moved for qualification; **Commissioner Graham** seconded the motion. Vote taken, motion carried with three aye votes.

GROUP II's

BOYS AND GIRLS CLUB OF KING COUNTY, Seattle

Ms. Norman-Cole said an analysis was done of Boys and Girls Club of King County and Boys and Girls Club of Wallingford because it was thought they were linked. However, it was found that these two organizations are separate.

Boys and Girls Club of King County is located in Seattle and is classified as a charitable organization. They are licensed for class "I" bingo and class "H" punchboard and pull tabs. The organization was first formed in 1943 and currently has 70 voting members. Program services have increased approximately six percent in providing programs to the youth of King County. Total number clients served was 14,100. Net gambling revenue totaled \$244,387; bingo net income was \$198,234. This organization spent \$3,939,834 in support of its stated purposes. Staff recommends qualification as a charitable organization for the purposes of conducting gambling in the state of Washington.

BOYS AND GIRLS CLUB OF WALLINGFORD, Seattle

Ms. Norman-Cole said Boys and Girls Club of Wallingford is also located in Seattle and is classified as a charitable organization as well. They are licensed for class "H" bingo and class "F" punchboard and pull tabs. This organization was first formed in 1948 and currently has 24 voting members. The organization maintains a full time administrative office in Seattle and also operates child care programs at various locations within the city. Clients served were: 1,100 boys and girls. Sponsorships totaled \$13,119, net gambling revenues were \$155,274, and bingo net income was \$125,765. This organization spent a total of \$367,863 in support of its stated purposes. The organization was able to expand its child care facility by adding another building in Lake City, which has enabled them to serve 16 more children each day at this day care facility. Staff recommends qualification as a charitable organization for purposes of conducting gambling in the state of Washington.

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Commissioner Graham moved for qualification of both organizations; **Commissioner Heavey** seconded the motion, motion carried with three aye votes.

COMMENTS OF PUBLIC OR PUBLIC OFFICIALS

Anthony Passanate, Assistant Manager, Lakewood City Bingo, said his union was in the forefront in 1972 of getting gambling legalized in the state of Washington. He is appealing on his own behalf to the intent of gambling in the state and that it was intended for nonprofit. He asked the Commission to explore lowering the taxes on pull tabs to help the smaller bingo halls that may go out of business due to all the taxing on gambling.

Chairman Tull said it would be nice to receive the specific views of those who say the statutes of the state can be altered by the Commission, because the Commission is not aware of any option it has to lower taxes. **Mr. Passante** said he has worked with Commission staff and they have been nice to work with. **Chairman Tull** said the charities should get a hold of their legislators in every district throughout the state. **Director Miller** said Chairman Tull wrote a letter on behalf of the Commission to support a reduction in taxes. **Chairman Tull** said the meeting is adjourned and called for executive session. He asked Mr. McCoy whether the Commission can make a decision on the appeal and send out notification; **Mr. McCoy** said the decision must be announced in public session.

Chairman Tull said the Commission will convene in Executive Session after recessing for a few minutes. **Director Miller** said the executive session would be brief. **Chairman Tull** stated anyone wishing to hear the outcome of the appeal should wait.

*****RECESS*****

Chairman Tull reconvened the meeting after executive session. Regarding the Case Number 94-0064, he said he would summarize the first two parts, which were basically that the Commission adopted the Findings and Conclusions of Administrative Law Judge Heller. The Commission did reach a somewhat different final decision and order regarding sanction. He read, "It is clear from the record that Mr. Preston was both aware of and condoned misconduct of staff members under his direct supervision and control and personally participated in a pattern of misconduct which resulted in substantial inurements of CAYA gambling funds to his and his staff's benefit. Such behavior cannot be tolerated of a Gambling Commission licensee. Now, therefore, in accordance with the recommendation of the initial order, the license of Michael R. Preston is hereby suspended for a period of six months; the Commission notes that as a result of the application of WAC 230-04-145, paragraph 2(c), Mr. Preston's license has already expired by operation of law. No credit is therefore appropriate for the period of voluntary

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suspension already served as a result of Mr. Preston's surrender of his license prior to the hearing of this matter. In order to give affect to this order, Mr. Preston is deemed ineligible for licensing from the Commission for a period of six months from the entry of this order. Following this period of ineligibility, Mr. Preston may again seek licensure but is still required to demonstrate his qualification for licensure in accordance with RCW 9.46 and WAC 230-04-400. Dated this 10th day of March" and it bears the signatures of the three Commissioners present. **Chairman Tull** said he was aware of no other business before the Commission this morning, meeting is adjourned.

Note: These printed minutes plus the tapes constitute the full minutes.

Susan D. Green
Executive Assistant

following the drawing: Provided, That this subsection shall not restrict commission staff or local law enforcement authorities from review of any required records prior to the allowed completion date; and

(6) Records shall be maintained at the main administrative or business office of the organization that is located within Washington state and available for commission review or audit upon request. Organizations that do not have an administrative or business office located within Washington state structured to include more than one chapter or other subdivided unit that conducts raffles under the parent organization's license, shall designate records custodians that reside in Washington state. Such custodians shall be responsible for retaining all original records and making such available for review or audit at any reasonable location within seven days of a request by commission staff. Provided, That the director may authorize an organization to maintain records at alternative locations if the organization has demonstrated the ability and desire to comply with all commission requirements. Records maintained under such an agreement shall be made available for commission review and audit at any designated location within seven days. The director may revoke this authority at any time by providing written notice. A request to maintain records at alternative locations shall include at least the following:

(a) The conditions that preclude or restrict compliance with normal records maintenance requirements of this subsection, including costs;

(b) The address of the location where all records will be maintained;

(c) If such records are retained outside the state of Washington, the name, address, and telephone number of a resident of the state of Washington who is authorized by the organization to accept a request for records;

(d) The name, address, and telephone number of a primary and alternate records custodian; and

(e) A notarized statement by the chief executive officer of the organization acknowledging responsibility for providing records and that failure to comply with a request for records within the allotted time may result in suspension or revocation of all licenses held by the organization.

WSR 95-07-094
PERMANENT RULES
GAMBLING COMMISSION

[Filed March 17, 1995, 3:36 p.m., effective July 1, 1995]

Date of Adoption: March 10, 1995.

Purpose: Packet of rules clarify commercial stimulant in accordance with amendments to RCW 9.46.0217. Net gambling receipts are no longer required to be less than gross food and drink sales.

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-350, 230-02-360, 230-02-370, 230-02-380, 230-04-080, 230-08-130, and 230-08-160.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0217.

Pursuant to notice filed as WSR 95-04-038 on January 25, 1995.

Effective Date of Rule: July 1, 1995.

March 17, 1995
Patricia Norman-Cole
Rules Coordinator

AMENDATORY SECTION (Amending Order 165, filed 3/16/87)

WAC 230-02-350 Commercial stimulant defined. "Commercial stimulant" means ~~((a))~~ a licensed gambling ~~((activities, when))~~ activity operated by an established food and/or drink business with the ~~((primary))~~ purpose of increasing the volume of food and/or drink sales for "on-premises" consumption. ~~((For purposes of chapter 9.46 RCW and these rules, gambling activities shall qualify as a commercial stimulant only when the combined "adjusted net gambling receipts" from punchboards, pull tabs, and public card rooms are less than the total "gross" sales from the food and/or drink business.))~~

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-02-360 Licensed premises defined. "Licensed premises" means the physical building and property, upon which the licensed gambling activity occurs, as set out ~~((and approved))~~ on the license application and approved by the commission: Provided, That ~~((where))~~ when only a portion of a building is ~~((leased))~~ utilized for purposes of operating a food and/or drink business or for conducting gambling or related activities, only that portion set out in the ~~((lease document))~~ application on file with the commission, shall be considered the licensed premises~~((: Provided further, That when owners or holders of a substantial interest, of a food and/or drink business, licensed to conduct gambling activities, also operate additional and separate businesses in the same building or on the same property, only the gross sales from the licensed food and/or drink business, as set out and approved on the license application, shall be included for commercial stimulant purposes))~~.

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-02-370 Food and/or drink business defined. "Food and/or drink business" means any business which is primarily engaged in the sale of food and/or drink items, to persons other than owners, employees, or substantial interest holders, for consumption on the licensed premises~~((: Provided, That for purposes of chapter 9.46 RCW and these rules, a business is determined to be primarily a "food and/or drink business" when the total gross sales of food and/or drink, for on premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises. Provided further, That food and drink items furnished to employees, without their actually paying for it, shall be treated as sales only if:~~

- ~~(1) Detailed records are maintained;~~
- ~~(2) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and~~
- ~~(3) No more than one meal per employee is recorded during any four hour work shift).~~

AMENDATORY SECTION (Amending Order 161, filed 9/15/86, effective 1/1/87)

WAC 230-02-380 Established business defined.

"Established business" means any business ~~((who))~~ that has applied for and received all licenses or permits required by any state or local jurisdictions and has been open to the public for a period of not less than ninety days: *Provided*, That the commission may grant "established" status to a business that:

- (1) Has completed all construction and is ready to conduct business;
- (2) Has obtained all required licenses and permits;
- (3) Provides the commission a planned operating schedule which includes estimated gross sales from each separate activity to be conducted on the proposed premises, including but not limited to the following:
 - (a) Food and/or drinks for on-premises consumption;
 - (b) Food and/or drinks "to go"; and
 - (c) All other business activities.
- (4) Passes an inspection by the commission.

AMENDATORY SECTION (Amending Order 23, filed 9/23/74)

WAC 230-04-080 Certain activities to be operated as a commercial stimulant only—Licensing of food and/or drink businesses.

The commission may issue a license to operate punchboards and pull tabs ~~((or))~~ or public card rooms ~~((, licensed for use as a commercial stimulant))~~ as commercial stimulants to any established business primarily engaged in the sale of food and/or drink items for consumption on the licensed premises. Such activities shall not be operated other than as a commercial stimulant. The following requirements apply to applicants for a license to use gambling activities to stimulate food and/or drink sales:

(1) For purposes of chapter 9.46 RCW and these rules, a business shall be presumed to be a "food and/or drink business" as defined by WAC 230-02-370 if:

(a) It is licensed by the liquor control board to sell alcohol beverages at retail to the public for on-premises consumption and:

- (i) It is a tavern that holds a valid Class "B" liquor license; or
- (ii) It is a restaurant with a cocktail lounge that holds a valid Class "H" liquor license.

(b) It sells food and/or drink items at retail to the public and:

(i) All food is prepared and served for consumption on the licensed premises: *Provided*, That food may be prepared at other locations and served on the premises if the food is:

- (A) Prepared by the licensed business; or
- (B) Purchased from caterers by the licensed business as a wholesale transaction and resold to customers at retail.

(ii) The total gross sales of food and/or drink, for on-premises consumption, is equal to or greater than all other combined nongambling gross sales, rentals, or other income producing activities which occur on the licensed premises when measured on an annual basis. Applicants seeking qualification for a license under this subsection shall submit data necessary to evaluate compliance with these requirements as a part of their application. For purposes of determining total gross sales of food and drink for on-

premises consumption, meals furnished to employees, free of charge, shall be treated as sales only if:

- (A) Detailed records are maintained;
- (B) The sale is recorded at estimated cost or menu price, but not more than five dollars per meal; and
- (C) No more than one meal per employee is recorded during any four-hour work shift.

(2) When an individual, partnership, or corporation operates two or more businesses within the same building or building complex and such businesses meet the requirements of subsection (1)(a) or (b) of this section, one of the businesses may be designated as a "food and/or drink business" if all of the following conditions are met:

(a) The business being stimulated is physically isolated from all other businesses by walls and doors that clearly demonstrate the business is separate from other business being transacted at that location;

(b) All business transactions conducted by the applicant business are separated from the transactions conducted by all other businesses:

- (i) Legally in the form of a separate corporation or partnership; or
- (ii) By physical separation of all sales and accounting functions, and the methods of separation are approved by the commission;

(c) All gambling activities are located and occur upon the licensed premises, as defined in the license application and approved by the commission; and

(d) All gambling activities occur only when the food and/or drink business is open for customer service.

AMENDATORY SECTION (Amending Order 251, filed 5/17/94, effective 7/1/94)

WAC 230-08-130 Quarterly activity reports by operators of punchboards and pull tabs. Each licensee for the operation of punchboards and pull tabs shall submit an activity report to the commission concerning the operation of the licensed activity and other matters set forth below:

(1) Reports shall be submitted detailing activities occurring during each of the following periods of the year:

- (a) January 1st through March 31st;
- (b) April 1st through June 30th;
- (c) July 1st through September 30th; and
- (d) October 1st through December 31st.

(2) A report shall be submitted for any period of time the activity was operated or a license was valid. If ~~((the licensee does not renew his license, then he shall file))~~ a license is not renewed, a report for the period between the previous report filed and the expiration date ~~((of his license))~~ shall be submitted;

(3) The report form shall be furnished by the commission and the completed report shall be received in the office of the commission or postmarked no later than ~~((30))~~ thirty days following the end of the period for which it is made ~~((:))~~;

(4) The report shall be signed by the highest ranking executive officer or ~~((his))~~ their designee. If the report is prepared by someone other than the licensee or ~~((his))~~ an employee, ~~((the))~~ the preparer shall print his/her name and phone number on the report ~~((:))~~;

PROPOSED

Purpose: Amendment will allow card room licensees to extend hours of operation to 4:00 a.m. with the consent of the director providing local law enforcement does not object.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: New rule will allow card room licensees to extend hours of operation to 4:00 a.m. with the consent of the director providing local law enforcement does not object.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 x 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 x 301; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 x 369.

Name of Proponent: Recreational Gaming Association, Skyway Bowl, 11819 Renton Avenue South, Seattle, WA 98178, private.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Allow card room licensees to extend hours to 4:00 a.m.

Proposal Changes the Following Existing Rules: Allow card room licensees to extend hours from 2:00 a.m. to 4:00 a.m. with the consent of the director.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn, Yakima Valley, 1507 North 1st, Yakima, WA 98901, on April 14, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by April 10, 1995, TDD (360) 438-7638, or (360) 438-7654 x 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by April 12, 1995.

Date of Intended Adoption: April 14, 1995.

February 16, 1995
Patricia Norman-Cole
Rules Coordinator

AMENDATORY SECTION (Amending Order 118, filed 1/22/82)

WAC 230-40-400 Hours limited for card games.

Licensees shall not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m. Provided, a licensee may extend, with the consent of the Director, hours of operation up to 4:00 a.m. upon application to the Commission and so long as no objection is raised by a local law enforcement entity. In any event, a licensee must observe a four hour period of closure before beginning the next period of operation.

No card games shall be allowed in any public card room at any time the profit seeking retail business to be stimulated thereby is not open to the public for business.

At all times during the hours of operation of a Class E card room, the operator or a licensed card room employee must be on duty and in the licensed card room area.

WSR 95-06-012
PROPOSED RULES
GAMBLING COMMISSION
[Filed February 16, 1995, 4:13 p.m.]

Original Notice.

Title of Rule: WAC 230-02-125 Adjusted net gambling receipts defined; and 230-12-075 Commercial stimulant compliance.

Purpose: Net gambling receipts are no longer required to be less than gross food and drink sales. Definition of commercial stimulant compliance has been incorporated into WAC 230-04-080 allowing WAC 230-02-125 and 230-12-075 to be repealed.

Statutory Authority for Adoption: RCW 9.46.070 and 9.46.0217.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: WAC 230-02-125 and 230-12-075 are being repealed due to changes in requirements and consolidation of commercial stimulant compliance definition into WAC 230-04-080.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 x 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 x 301; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 x 369.

Name of Proponent: [Gambling Commission], governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: Packet of amendments filed under WSR 95-04-038 will clarify commercial stimulant in accordance with amendments made to RCW 9.46.0217. Net gambling receipts will no longer be required to be less than gross food and drink sales which allows WAC 230-12-075 to be repealed. WAC 230-02-125 has been incorporated into WAC 230-04-080.

Proposal Changes the Following Existing Rules: Packet of amendments filed under WSR 95-04-038 will allow these two rules to be repealed.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Red Lion Inn, Yakima Valley, 1507 North 1st, Yakima, WA 98901, on April 14, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by April 10, 1995, TDD (360) 438-7638, or (360) 438-7654 x 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by April 12, 1995.

Date of Intended Adoption: April 14, 1995.

February 16, 1995
Patricia Norman-Cole
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-02-125 Adjusted net gambling receipts defined.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-12-075 Commercial stimulant compliance.

WSR 95-06-013 PROPOSED RULES GAMBLING COMMISSION [Filed February 16, 1995, 4:20 p.m.]

Continuance of WSR 95-04-040.

Title of Rule: WAC 230-04-280 (~~Notification to law enforcement~~) Licensees must notify law enforcement and local taxing authorities; WAC 230-04-400 Denial, suspension or revocation of licenses; and WAC 230-50-010 Adjudicated proceedings—Hearings.

Purpose: WAC 230-04-280, sets out the guidelines for notification to law enforcement and local taxing authorities; WAC 230-04-400, to include failure to make required gambling tax payments to local taxing authorities; and WAC 230-50-010, to include hearings held due to failure to pay required gambling taxes.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Chapter 9.46 RCW.

Summary: WAC 230-04-280, amendment sets out the guidelines for notification to law enforcement and local taxing authorities; WAC 230-04-400, amendment includes failure to make required gambling tax payments to local taxing authorities; and WAC 230-50-010, amendment includes hearings held due to failure to pay required gambling taxes.

Name of Agency Personnel Responsible for Drafting: Patricia Norman-Cole, Rules Coordinator, Lacey, 438-7654 x 364; Implementation: Frank L. Miller, Director, Lacey, 438-7654 x 302; and Enforcement: Ben Bishop, Deputy Director, Lacey, 438-7654 x 369.

Name of Proponent: [Gambling Commission], governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 230-04-280 sets out guidelines for notification to local law enforcement and local taxing authorities; WAC 230-04-400 amendment will include failure to make required gambling tax payments to local taxing authorities; and WAC 230-50-010 amendment includes hearings held for failure to pay required gambling taxes.

Proposal Changes the Following Existing Rules: WAC 230-04-280 amendment sets out guidelines to notifying local law enforcement and local taxing authorities; WAC 230-04-400 amendment includes failure to make required gambling tax payments to local taxing authorities; and WAC 230-50-010 amendment includes hearings held for failure to pay required gambling taxes.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The agency has considered whether these rule changes would create an economic impact on small businesses as defined in chapter 19.85 RCW. It has determined that there are no economic impacts to small business as a result of these proposals for the following reasons: No cost or expenditure of resources; no affect on industry; and no substantive change in existing regulatory scheme.

Hearing Location: Sheraton Hotel, 1320 Broadway Plaza, Tacoma, WA 98405, on March 10, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patricia Norman-Cole by March 6, 1995, TDD (360) 438-7638, or (360) 438-7654 x 364.

Submit Written Comments to: Patricia Norman-Cole, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by March 8, 1995.

Date of Intended Adoption: March 10, 1995.

February 16, 1995
Patricia Norman-Cole
Rules Coordinator

AMENDATORY SECTION (Amending Order 5, filed 12/19/73)

~~WAC 230-04-280 ((Notification to))~~ Licensees must notify law enforcement and local taxing authorities. ~~((Each licensee for the operation of an authorized gambling activity, within ten days after issuance of the license and before initially conducting any activity under the license, shall notify, in writing, the law enforcement agencies set forth below of the name and address of the licensee, the address where the activity will be conducted, the type of activity licensed, the date the activity shall first be conducted, and if the activity is planned to be conducted on a regular basis, the proposed schedule for the operation of the activity:~~

~~When the activity is to be conducted within a city or town, the local police agency shall be notified, and when the activity is to be conducted within a county, then the sheriff's office shall be notified.~~

~~No activity shall be initially conducted until such notification has been made:))~~ In accordance with RCW 9.46.070, the commission will continue to cooperate, and

PROPOSED

Attachment L

WSR 06-07-157

PERMANENT RULES GAMBLING COMMISSION

[Order 457 -- Filed March 22, 2006, 9:35 a.m. , effective January 1, 2008]

Effective Date of Rule: January 1, 2008.

Purpose: The gambling commission is rewriting its rules manual using plain English techniques. The rules manual has been divided into sections and is being rewritten a section at a time. The first sections reviewed are the licensing chapter. As part of the rewrite, some items from other chapters (chapter [230-02](#) WAC, General provisions and definitions; chapter [230-04](#) WAC, Licensing; chapter [230-08](#) WAC, Records and reports; and chapter [230-12](#) WAC, Rules of general applicability), may be incorporated into the new licensing chapter. Following are rules regarding licensing and permitting which are rewritten in plain English and numbered as chapter [230-03](#) WAC. Fees related to permits, licenses, and identification stamps are numbered as chapter [230-05](#) WAC.

Statutory Authority for Adoption: [RCW 9.46.070](#).

Adopted under notice filed as WSR 06-04-057 on January 27, 2006, with a published date of February 15, 2006.

Changes Other than Editing from Proposed to Adopted Version: [WAC 230-03-020](#) and [230-03-210](#) were updated to reflect changes to current rules filed under WSR 06-04-040 with a published date of February 15, 2006, and adopted under WSR 06-07-084. The amendment increased the threshold to qualify for a punchboard/pull-tab business permit from \$20,000 to \$25,000.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 76, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 76, Amended 0, Repealed 0.

Date Adopted: March 22, 2006.

Susan Arland

Rules Coordinator

OTS-8542.3

Chapter [230-03](#) WAC

Attachment L

NEW SECTION

WAC 230-03-175 Requirements for commercial stimulant businesses. Businesses must provide evidence for us to determine the business' qualifications as a commercial stimulant as set forth in [RCW 9.46.0217](#). That evidence includes, but is not limited to:

(1) Proof that it is an "established business" as used in [RCW 9.46.0217](#). "Established business" means any business that has been open to the public for sales of food or drink for on-premises eating and drinking for ninety days or more; or

(a) Provides us with a proposed operating plan which includes:

(i) Hours of operation; and

(ii) Estimated gross sales from each separate activity the business will conduct on the business premises including, but not limited to:

(A) Food or drinks for "on-premises" eating and drinking; and

(B) Food or drinks "to go"; and

(C) All other business activities; and

(b) Is ready to conduct food or drink sales; and

(c) Passes an inspection by us; and

(2) Proof that it is "primarily engaged in the selling of food or drink for consumption on premises" as used in [RCW 9.46.070\(2\)](#). "Primarily engaged in the selling of food or drink for consumption on premises" means that before receiving a gambling license the business has total gross sales of food or drink for on-premises consumption equal to or greater than all other combined gross sales, rentals, or other income-producing activities which occur on the business premises when measured on an annual basis.