

A-Engrossed
Senate Bill 355

Ordered by the Senate April 14
Including Senate Amendments dated April 14

Sponsored by Senator NELSON (at the request of Frank Thomas, Community Connections of NE Oregon)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes licensee to conduct bingo[, *lotto or Monte Carlo event*] operations in more than one county. Specifies that licensee may conduct only one bingo[, *lotto or Monte Carlo event*] operation within single county. **Specifies that device used to conduct lawful bingo operation is not "gray machine."**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to gaming operations conducted by tax exempt organizations; amending ORS 167.117 and
3 464.360; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 464.360 is amended to read:

6 464.360. **(1) Except as provided in subsection (2) of this section,** an organization may, at any
7 one time, be licensed to conduct only one bingo, lotto or Monte Carlo event operation. The license
8 shall authorize the organization to conduct its operation within only one county, which shall be a
9 county designated by the licensee at the time of application for the license. The license shall au-
10 thorize the organization to conduct [*its*] games at a designated location [*which*] **that** shall not vary
11 except upon authorization of the Department of **Justice**.

12 **(2) The department may license an organization to conduct one bingo game per county**
13 **in not more than three counties provided that:**

14 **(a) The bingo games are conducted at a location in which the organization regularly**
15 **conducts charitable program activities; and**

16 **(b) The organization has a cumulative annual handle from its bingo operation that does**
17 **not exceed \$250,000.**

18 **SECTION 2.** ORS 167.117 is amended to read:

19 167.117. As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless the context requires
20 otherwise:

21 (1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player
22 covers or uncovers a number selected from a container, and which is won by a player who is present
23 during the game and who first covers or uncovers the selected numbers in a designated combination,
24 sequence or pattern.

25 (2) "Bookmaker" means a person who unlawfully accepts a bet from a member of the public upon
26 the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 on the wager.

2 (3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the
3 public as a business, rather than in a casual or personal fashion, upon the outcomes of future con-
4 tingent events.

5 (4) "Casino game" means any of the traditional gambling-based games commonly known as dice,
6 faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-'em, seven-and-a-half, big injun,
7 klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer,
8 baccarat, pai gow, beat the banker, panquiqui, red dog, acey-deucey, or any other gambling-based
9 game similar in form or content.

10 (5)(a) "Charitable, fraternal or religious organization" means any person that is:

11 (A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious,
12 philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes; and

13 (B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious
14 purposes.

15 (b) The fact that contributions to an organization profiting from a contest of chance do not
16 qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt
17 from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended,
18 constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or re-
19 ligious organization.

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

23 (7) "Gambling" means that a person stakes or risks something of value upon the outcome of a
24 contest of chance or a future contingent event not under the control or influence of the person, upon
25 an agreement or understanding that the person or someone else will receive something of value in
26 the event of a certain outcome. "Gambling" does not include:

27 (a) Bona fide business transactions valid under the law of contracts for the purchase or sale at
28 a future date of securities or commodities, and agreements to compensate for loss caused by the
29 happening of chance, including but not limited to contracts of indemnity or guaranty and life, health
30 or accident insurance.

31 (b) Engaging in contests of chance under the following conditions:

32 (A) The contest is played for some token other than money;

33 (B) An individual contestant may not purchase more than \$100 worth of tokens for use in the
34 contest during any 24-hour period;

35 (C) The tokens may be exchanged only for property other than money;

36 (D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on
37 the premises, the tokens are not redeemable on the premises where the contest is conducted or
38 within 50 miles thereof; and

39 (E) Except for charitable, fraternal or religious organizations, no person who conducts the con-
40 test as owner, agent or employee profits in any manner from operation of the contest.

41 (c) Social games.

42 (d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118,
43 by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to
44 464.380 and 464.420 to 464.530 to operate such games.

45 (8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or

1 usable in the playing phases of unlawful gambling, whether it consists of gambling between persons
2 or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other
3 items used in the playing phases of lottery and policy schemes are not gambling devices within this
4 definition. Amusement devices other than gray machines, that do not return to the operator or
5 player thereof anything but free additional games or plays, shall not be considered to be gambling
6 devices.

7 (9)(a) "Gray machine" means any electrical or electromechanical device, whether or not it is in
8 working order or some act of manipulation, repair, adjustment or modification is required to render
9 it operational, that:

10 (A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch
11 capable of removing or recording the removal of credits earned by a player, other than removal
12 during the course of continuous play; or

13 (B) Plays, emulates or simulates a casino game, bingo or keno.

14 (b) A device is no less a gray machine because, apart from its use or adaptability as such, it
15 may also sell or deliver something of value on the basis other than chance.

16 (c) "Gray machine" does not include:

17 (A) Any device commonly known as a personal computer, including any device designed and
18 marketed solely for home entertainment, when used privately and not for a fee and not used to fa-
19 cilitate any form of gambling;

20 (B) Any device operated under the authority of the Oregon State Lottery;

21 (C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who
22 has been approved under rules adopted by the Oregon State Lottery Commission;

23 (D) A slot machine; *[or]*

24 (E) Any device authorized by the Oregon State Lottery Commission for:

25 (i) Display and demonstration purposes only at trade shows; or

26 (ii) Training and testing purposes by the Department of State Police; **or**

27 **(F) Any device used to operate bingo in compliance with ORS 167.118 by a charitable,**
28 **fraternal or religious organization licensed to operate bingo pursuant to ORS 167.118, 464.250**
29 **to 464.380 and 464.420 to 464.530.**

30 (10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto
31 or raffle games, the value of raffle chances sold or the total amount collected from the sale of imi-
32 tation money during Monte Carlo events.

33 (11) "Internet" means an interactive computer service or system or an information service, sys-
34 tem or access software provider that provides or enables computer access by multiple users to a
35 computer server and includes, but is not limited to, an information service, system or access soft-
36 ware provider that provides access to a network system commonly known as the Internet, or any
37 comparable system or service and also includes, but is not limited to a World Wide Web page,
38 newsgroup, message board, mailing list or chat area on any interactive computer service or system
39 or other online service.

40 (12) "Lottery" or "policy" means an unlawful gambling scheme in which:

41 (a) The players pay or agree to pay something of value for chances, represented and differen-
42 tiated by numbers or by combinations of numbers or by some other medium, one or more of which
43 chances are to be designated the winning ones; *[and]*

44 (b) The winning chances are to be determined by a drawing or by some other method; and

45 (c) The holders of the winning chances are to receive something of value.

1 (13) "Monte Carlo event" means a gambling event at which wagers are placed with imitation
2 money upon contests of chance in which players compete against the house. As used in this sub-
3 section, "imitation money" includes imitation currency, chips or tokens.

4 (14) "Numbers scheme or enterprise" means a form of lottery in which the winning chances or
5 plays are not determined upon the basis of a drawing or other act on the part of persons conducting
6 or connected with the scheme, but upon the basis of the outcome of a future contingent event oth-
7 erwise unrelated to the particular scheme.

8 (15) "Operating expenses" means those expenses incurred in the operation of a bingo, lotto or
9 raffle game, including only the following:

10 (a) Salaries, employee benefits, workers' compensation coverage and state and federal employee
11 taxes;

12 (b) Security services;

13 (c) Legal and accounting services;

14 (d) Supplies and inventory;

15 (e) Rent, repairs, utilities, water, sewer and garbage;

16 (f) Insurance;

17 (g) Equipment;

18 (h) Printing and promotions;

19 (i) Postage and shipping;

20 (j) Janitorial services and supplies; and

21 (k) Leasehold improvements.

22 (16) "Player" means a person who engages in any form of gambling solely as a contestant or
23 bettor, without receiving or becoming entitled to receive any profit therefrom other than personal
24 gambling winnings, and without otherwise rendering any material assistance to the establishment,
25 conduct or operation of the particular gambling activity. A person who gambles at a social game
26 of chance on equal terms with the other participants therein is a person who does not otherwise
27 render material assistance to the establishment, conduct or operation thereof by performing, without
28 fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as in-
29 viting persons to play, permitting the use of premises therefor and supplying cards or other equip-
30 ment used therein. A person who engages in bookmaking is not a player.

31 (17) "Profits from unlawful gambling" means that a person, acting other than solely as a player,
32 accepts or receives money or other property pursuant to an agreement or understanding with an-
33 other person whereby the person participates or is to participate in the proceeds of unlawful gam-
34 bling.

35 (18) "Promotes unlawful gambling" means that a person, acting other than solely as a player,
36 engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature in-
37 cludes, but is not limited to, conduct directed toward the creation or establishment of the particular
38 game, contest, scheme, device or activity involved, toward the acquisition or maintenance of prem-
39 ises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of per-
40 sons to participate therein, toward the conduct of the playing phases thereof, toward the
41 arrangement of any of its financial or recording phases or toward any other phase of its operation.
42 A person promotes unlawful gambling if, having control or right of control over premises being used
43 with the knowledge of the person for purposes of unlawful gambling, the person permits the unlawful
44 gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

45 (19) "Raffle" means a lottery operated by a charitable, fraternal or religious organization

1 wherein the players pay something of value for chances, represented by numbers or combinations
2 thereof or by some other medium, one or more of which chances are to be designated the winning
3 ones or determined by a drawing and the player holding the winning chance is to receive something
4 of value.

5 (20)(a) "Slot machine" means a gambling device that as a result of the insertion of a coin or
6 other object operates, either completely automatically, or with the aid of some physical act by the
7 player, in such a manner that, depending upon elements of chance, it may eject something of value
8 or otherwise entitle the player to something of value. A device so constructed or readily adaptable
9 or convertible to such use is no less a slot machine because it is not in working order or because
10 some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion
11 or workability. Nor is it any less a slot machine because apart from its use or adaptability as such
12 it may also sell or deliver something of value on the basis other than chance.

13 (b) "Slot machine" does not include any device authorized by the Oregon State Lottery Com-
14 mission for:

15 (A) Display and demonstration purposes only at trade shows; or

16 (B) Training and testing purposes by the Department of State Police.

17 (21) "Social game" means:

18 (a) A game, other than a lottery, between players in a private home where no house player,
19 house bank or house odds exist and there is no house income from the operation of the social game;
20 and

21 (b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a
22 private business, private club or place of public accommodation where no house player, house bank
23 or house odds exist and there is no house income from the operation of the social game.

24 (22) "Something of value" means any money or property, any token, object or article
25 exchangeable for money or property, or any form of credit or promise directly or indirectly con-
26 templating transfer of money or property or of any interest therein.

27 (23) "Trade show" means an exhibit of products and services that is:

28 (a) Not open to the public; and

29 (b) Of limited duration.

30 (24) "Unlawful" means not specifically authorized by law.

31 **SECTION 3. This 2005 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
33 **on its passage.**

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