



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0035/1
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**ASSEMBLY SUBSTITUTE AMENDMENT 3,
TO 2003 ASSEMBLY BILL 144**

March 12, 2003 - Offered by Representatives HUBLER and BOYLE.

1 **AN ACT** *to repeal* 565.01 (6m) (b) and (c) and 565.015; *to renumber* 565.01 (1);
2 *to renumber and amend* 14.035, 565.01 (6m) (a) (intro.) and 945.01 (4) (am);
3 *to amend* 25.75 (1) (b), 79.035 (1), 125.12 (1) (a), 565.01 (4g), 565.01 (4r) (intro.),
4 565.02 (7), 565.27 (1) (intro.), 565.30 (title), 945.01 (3) (a), 945.01 (5) (am),
5 945.041 (1), 945.041 (2) and 945.041 (3); and *to create* 14.035 (2), 14.035 (3),
6 14.035 (4), 14.035 (5), 20.566 (8) (g), 20.566 (8) (t), 77.51 (4) (c) 1m., 77.51 (15)
7 (c) 1m., 79.037, 565.01 (1c), 565.01 (1g), 565.01 (6c), 565.01 (6m) (bm), 565.08,
8 565.30 (8), 945.01 (1) (dm), 945.01 (3) (b) 1m. and 945.01 (4) (am) 5. of the
9 statutes; **relating to:** Indian gaming compacts and licensing and regulating
10 amusement devices under the state lottery and making appropriations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

11 **SECTION 1.** 14.035 of the statutes is renumbered 14.035 (1) and amended to
12 read:

1 14.035 (1) ~~The Subject to subs. (2) to (5), the~~ governor may, on behalf of this
2 state, enter into any compact that has been negotiated under 25 USC 2710 (d).

3 **SECTION 2.** 14.035 (2) of the statutes is created to read:

4 14.035 (2) The governor may not enter into, amend, extend, or renew any
5 compact negotiated under sub. (1) that authorizes a gaming establishment on lands
6 acquired by the U.S. secretary of the interior in trust for the benefit of an Indian tribe
7 after October 17, 1988, until the governor submits the compact to the legislature and
8 the legislature approves the proposed compact by joint resolution. If the legislature
9 does not approve without change the proposed compact, the compact shall be
10 returned to the governor for renegotiation.

11 **SECTION 3.** 14.035 (3) of the statutes is created to read:

12 14.035 (3) The governor may not enter into, amend, extend, or renew any
13 compact negotiated under sub. (1) that is for a period longer than 15 years until the
14 governor submits the compact to the legislature and the legislature approves the
15 proposed compact by joint resolution. If the legislature does not approve without
16 change the proposed compact, the compact shall be returned to the governor for
17 renegotiation.

18 **SECTION 4.** 14.035 (4) of the statutes is created to read:

19 14.035 (4) The governor may not enter into, amend, extend, or renew any
20 compact negotiated under sub. (1) containing terms that in any way condition which
21 gaming activities may be conducted under the compact based on gaming activities
22 that are conducted in Canada.

23 **SECTION 5.** 14.035 (5) of the statutes is created to read:

24 14.035 (5) The governor may not enter into, amend, extend, or renew any
25 compact negotiated under sub. (1) unless that compact or its amendment requires

1 the American Indian tribe or band to make a good faith effort to enter into an
2 agreement with each local unit of government that provides services relating to the
3 operation of gaming establishments authorized under the compact and that
4 agreement specifies that the tribe or band shall reimburse the local unit of
5 government for costs incurred by the local unit of government in providing such
6 services.

7 **SECTION 6.** 20.566 (8) (g) of the statutes is created to read:

8 20.566 (8) (g) *Licensing and regulation of amusement devices.* All moneys
9 received under s. 565.08 (1) (c), to pay the costs incurred by the department of
10 revenue in issuing licenses and regulating the operation of amusement devices
11 under s. 565.08.

12 **SECTION 7.** 20.566 (8) (t) of the statutes is created to read:

13 20.566 (8) (t) *Payment to municipalities.* From the lottery fund, a sum
14 sufficient to make the payments under s. 79.037.

15 **SECTION 8.** 25.75 (1) (b) of the statutes is amended to read:

16 25.75 (1) (b) "Gross lottery revenues" means gross revenues from the sale of
17 lottery tickets and lottery shares under ch. 565, adjusted gross revenues received by
18 the state under s. 565.08 (1) (g), and revenues from the imposition of fees, if any,
19 under s. 565.10 (8) and includes compensation, including bonuses, if any, paid to
20 retailers under s. 565.10 (14), regardless of whether the compensation is deducted
21 by the retailer prior to transmitting lottery ticket and lottery share revenues to the
22 commission.

23 **SECTION 9.** 77.51 (4) (c) 1m. of the statutes is created to read:

24 77.51 (4) (c) 1m. Adjusted gross receipts, as defined in s. 565.01 (1c).

25 **SECTION 10.** 77.51 (15) (c) 1m. of the statutes is created to read:

1 77.51 (15) (c) 1m. Adjusted gross receipts, as defined in s. 565.01 (1c).

2 **SECTION 11.** 79.035 (1) of the statutes is amended to read:

3 79.035 (1) Subject to ~~reductions under s. ss. 79.036 (3) and 79.037~~, in 2004 and
4 subsequent years, each county and municipality shall receive a payment from the
5 county and municipal aid account in an amount determined under sub. (2).

6 **SECTION 12.** 79.037 of the statutes is created to read:

7 **79.037 Adjusted gross receipts.** Beginning with the distribution in 2004,
8 the department of revenue shall reduce the payment from the county and municipal
9 aid account under s. 79.035 to each municipality in which the state collects adjusted
10 gross receipts, as defined in s. 565.01 (1c), by an amount equal to the adjusted gross
11 receipts, as defined in s. 565.01 (1c), that the state collected in the municipality in
12 the fiscal year preceding the fiscal year of the payment under s. 79.035 and shall pay
13 each such municipality from the appropriation under s. 20.566 (8) (t) an amount, to
14 be used solely for the purpose of reducing the property tax levy in the municipality,
15 equal to the adjusted gross receipts, as defined in s. 565.01 (1c), that the state
16 collected in the municipality in the fiscal year preceding the fiscal year of the
17 payment under s. 79.035.

18 **SECTION 13.** 125.12 (1) (a) of the statutes is amended to read:

19 125.12 (1) (a) Except as provided in this subsection and s. 945.041, any
20 municipality or the department may revoke, suspend or refuse to renew any license
21 or permit under this chapter, as provided in this section.

22 **SECTION 14.** 565.01 (1) of the statutes is renumbered 565.01 (1dm).

23 **SECTION 15.** 565.01 (1c) of the statutes is created to read:

24 565.01 (1c) “Adjusted gross receipts” means the total amount paid by cash or
25 check to a person licensed under s. 565.08 (1) (a) for the play of amusement devices

1 licensed under s. 565.08 less the total amount paid by cash or check to the players
2 of the amusement devices for the play of the amusement devices.

3 **SECTION 16.** 565.01 (1g) of the statutes is created to read:

4 565.01 (1g) "Amusement device" means, before July 1, 2005, any video device
5 that awards or is capable of awarding a player with one or more redeemable free
6 replays or credits for achieving certain scores or results and does not change the ratio
7 of plays to free replays or credits so awarded. Beginning on July 1, 2005, "amusement
8 device" means any on-line video device that awards or is capable of awarding a
9 player with one or more redeemable free replays or credits for achieving certain
10 scores or results and does not change the ratio of plays to free replays or credits so
11 awarded.

12 **SECTION 17.** 565.01 (4g) of the statutes is amended to read:

13 565.01 (4g) "On-line services and supplies" means those lottery products and
14 associated services, including computerized transaction processing equipment,
15 computerized retailer vending terminals, and those technologies necessary to
16 maximize lottery revenues and minimize the lottery's total operating costs. The term
17 does not include services related to instant lottery ticket services or the playing of
18 amusement devices licensed under s. 565.08.

19 **SECTION 18.** 565.01 (4r) (intro.) of the statutes is amended to read:

20 565.01 (4r) (intro.) "Promotional advertising" means advertising which is for
21 the purpose of inducing persons to purchase lottery tickets or lottery shares or play
22 amusement devices licensed under s. 565.08. "Promotional advertising" does not
23 mean advertising which is designed to provide the public with information on any
24 of the following:

25 **SECTION 19.** 565.01 (6c) of the statutes is created to read:

1 565.01 (6c) “Set up for the purpose of play” means operated for the purpose of
2 offering a person, for consideration, an opportunity to play an amusement device
3 licensed under s. 565.08.

4 **SECTION 20.** 565.01 (6m) (a) (intro.) of the statutes is renumbered 565.01 (6m)
5 (intro.) and amended to read:

6 565.01 (6m) (intro.) “The state lottery” means ~~an~~ all of the following:

7 (a) An enterprise, including a multijurisdictional lottery in which the state
8 participates, in which the player, by purchasing a ticket, is entitled to participate in
9 a game of chance in which any of the following applies:

10 **SECTION 21.** 565.01 (6m) (b) and (c) of the statutes are repealed.

11 **SECTION 22.** 565.01 (6m) (bm) of the statutes is created to read:

12 565.01 (6m) (bm) The play and operation of an amusement device licensed
13 under s. 565.08.

14 **SECTION 23.** 565.015 of the statutes is repealed.

15 **SECTION 24.** 565.02 (7) of the statutes is amended to read:

16 565.02 (7) Not later than March 1 of each year, the department shall submit
17 to the joint committee on finance a report that includes an estimate for that fiscal
18 year and for the subsequent fiscal year of the gross revenues from the sale of lottery
19 tickets and lottery shares, the total amount paid as lottery ticket and share prizes
20 and the lottery ticket and share prize payout ratio for each type of lottery game
21 offered, and an evaluation of the effect of lottery ticket and share prize payout ratios
22 of lottery games on lottery sales, lottery operating costs and on maximizing the
23 revenue available for the lottery and gaming property tax credit. If, within 14
24 working days after the date on which the committee receives the report, the
25 cochairpersons of the committee notify the department that the committee has

1 scheduled a meeting for the purpose of reviewing the department's proposed lottery
2 ticket and share prize payouts, the department may proceed with its plans for the
3 lottery ticket and share prize payouts for the subsequent fiscal year only upon
4 approval of the plans by the committee. If the cochairpersons of the committee do
5 not notify the department within 14 working days after the date on which the
6 committee receives the report that the committee has scheduled a meeting for the
7 purpose of reviewing the department's proposed lottery ticket and share prize
8 payouts, the department's plans for the lottery ticket and share prize payouts for the
9 subsequent fiscal year are considered approved by the committee.

10 **SECTION 25.** 565.08 of the statutes is created to read:

11 **565.08 Licensing and regulation of amusement devices.** (1) The
12 department shall license all amusement devices that are set up for the purpose of
13 play in this state, subject to all of the following conditions:

14 (a) An amusement device license may be issued only to the following:

15 1. A person who has a Class "B" license under ch. 125 on the effective date of
16 this subdivision [revisor inserts date], or a person to whom such a Class "B" license
17 has been transferred under s. 125.04 (12) (b).

18 2. A person who has a "Class B" license under ch. 125.

19 3. A person who held a license on January 1, 2003, that was issued under s.
20 562.05 (1).

21 (b) An amusement device that is set up for the purpose of play may be played
22 only at a racetrack at which pari-mutuel wagering was conducted on January 1,
23 2003, or at a premises issued a Class "B" or "Class B" license under ch. 125.

24 (c) The owner of the amusement device shall be charged an annual license fee
25 of \$100 for each amusement device that is set up for the purpose of play.

1 (d) 1. No more than 5 amusement devices may be set up for the purpose of play
2 at any one premises operated under a Class “B” license or a “Class B” license issued
3 under ch. 125.

4 2. No more than 5 amusement devices per 1,000 square feet of space may be
5 set up for the purpose of play at any racetrack at which pari-mutuel wagering was
6 conducted on January 1, 2003, as such space existed on January 1, 2003.

7 (e) No one person may manufacture or distribute all of the amusement devices
8 that are set up for the purpose of play.

9 (f) 1. Except as provided in subd. 2., any amusement device set up for the
10 purpose of play shall have a percentage of credits awarded to credits played that is
11 not less than the average percentage required under all unexpired Indian gaming
12 compacts entered into under s. 14.035. In this subdivision, “average” means the
13 arithmetic mean.

14 2. In calculating the percentage of credits awarded to credits played for an
15 amusement device under subd. 1., the department shall reduce the percentage by a
16 percentage that produces an amount equal to the amount of any sales or use taxes
17 generated from the play of the amusement device.

18 (g) The adjusted gross receipts, less any amount paid as sales or use taxes from
19 the play of an amusement device, shall be equally divided between the state, for
20 deposit in the lottery fund, and the holder of the license under par. (a) for the
21 premises or racetrack at which the amusement device is located.

22 (2) If the department attempts to verify the percentage of credits awarded to
23 credits played of an amusement device under sub. (1) (f) and the owner of the
24 premises or racetrack at which the amusement device is located fails, or is unable,
25 to assist the department, with the result that the department cannot verify the

1 percentage of credits awarded to credits played, the department shall do the
2 following:

3 (a) For the first offense, issue a warning to the owner, and the owner shall
4 immediately assist the department in verifying the percentage of credits awarded to
5 credits played of the amusement device.

6 (b) For the 2nd offense, suspend for 30 days the license issued under sub. (1)
7 (a) for that premises or racetrack.

8 (c) For the 3rd offense, permanently revoke the license issued under sub. (1)
9 (a) for that premises or racetrack.

10 **SECTION 26.** 565.27 (1) (intro.) of the statutes is amended to read:

11 565.27 (1) GAME FEATURES AND PROCEDURES. (intro.) Subject to this section, the
12 rules promulgated under s. 565.02 (3) (d) and (4) (a) and approval by the secretary
13 of revenue, the administrator shall determine the particular features of and
14 procedures for each lottery game offered other than games played on amusement
15 devices licensed under s. 565.08. The features and procedures shall be in writing,
16 shall be accessible to the public and shall include all of the following:

17 **SECTION 27.** 565.30 (title) of the statutes is amended to read:

18 **565.30 (title) Lottery ticket and share prizes.**

19 **SECTION 28.** 565.30 (8) of the statutes is created to read:

20 565.30 (8) APPLICABILITY. This section applies only to prizes paid to the holder
21 of a winning lottery ticket or share and not to prizes paid from an amusement device
22 licensed under s. 565.08.

23 **SECTION 29.** 945.01 (1) (dm) of the statutes is created to read:

24 945.01 (1) (dm) Playing an amusement device, as defined in s. 565.01 (1g), that
25 is licensed as described in s. 565.08.

1 **SECTION 30.** 945.01 (3) (a) of the statutes is amended to read:

2 945.01 (3) (a) ~~A Subject to par. (b),~~ a gambling machine is a contrivance which
3 for a consideration affords the player an opportunity to obtain something of value,
4 the award of which is determined by chance, even though accompanied by some skill
5 and whether or not the prize is automatically paid by the machine.

6 **SECTION 31.** 945.01 (3) (b) 1m. of the statutes is created to read:

7 945.01 (3) (b) 1m. An amusement device, as defined in s. 565.01 (1g), that is
8 licensed as described in s. 565.08.

9 **SECTION 32.** 945.01 (4) (am) of the statutes is renumbered 945.01 (4) (am)
10 (intro.) and amended to read:

11 945.01 (4) (am) (intro.) “Gambling place” does not include ~~a~~ any of the
12 following:

13 1. A place where bingo or a raffle is conducted under ch. 563;

14 2. A place where a lottery is conducted under ch. 565 or;

15 3. A place where a race is conducted under ch. 562 and does not include a.

16 4. A gambling vessel that is in the process of construction, delivery, conversion
17 or repair by a shipbuilding business that complies with s. 945.095.

18 **SECTION 33.** 945.01 (4) (am) 5. of the statutes is created to read:

19 945.01 (4) (am) 5. A premises on which is located an amusement device, as
20 defined in s. 565.01 (1g), that is licensed as described in s. 565.08.

21 **SECTION 34.** 945.01 (5) (am) of the statutes is amended to read:

22 945.01 (5) (am) “Lottery” does not include bingo or a raffle conducted under ch.
23 563; the playing of an amusement device, as defined in s. 565.01 (1g), that is licensed
24 as described in s. 565.08; pari-mutuel wagering conducted under ch. 562; or the state
25 lottery or any multijurisdictional lottery conducted under ch. 565.

1 **SECTION 35.** 945.041 (1) of the statutes is amended to read:

2 945.041 (1) A license or permit issued under ch. 125 to any person who
3 knowingly permits any slot machine, roulette wheel, other similar mechanical
4 gambling device, or number jar or other device designed for like form of gambling,
5 or any amusement device, as defined in s. 565.01 (1g), that is not licensed as
6 described under s. 565.08, or any horse race betting or other bookmaking as defined
7 in s. 945.01, or solicitation of drinks from customers under s. 944.36 to be set up, kept,
8 managed, used or conducted upon the licensed premises or in connection therewith
9 upon premises controlled directly or indirectly by the person, shall be revoked by the
10 circuit courts by a special proceeding as provided in this section. If a license or permit
11 has been revoked, no other license or permit of any character provided for by ch. 125
12 may be issued to the person who held the license or permit, prior to the expiration
13 of one year from the effective date of the revocation. If any appeal is taken from the
14 revocation, any period during which the order is stayed shall be added to the one year.

15 **SECTION 36.** 945.041 (2) of the statutes is amended to read:

16 945.041 (2) Any sheriff, undersheriff, deputy sheriff, constable or other
17 municipal police officer or any person authorized to enforce the gambling laws under
18 s. 165.60 shall within 10 days after acquiring such information report to the district
19 attorney of the county the name and address of any licensee or permittee under ch.
20 125 who to his or her knowledge has knowingly suffered or permitted any gambling
21 device in sub. (1), any amusement device, as defined in s. 565.01 (1g), that is not
22 licensed as described under s. 565.08, or any horse race betting to be set up, kept,
23 managed, used or conducted upon the licensed premises or in connection therewith
24 upon premises controlled directly or indirectly by such licensee or permittee. Such
25 officer or person shall also report to the district attorney knowledge of the

1 circumstances and the name of the municipality or officer by whom the license or
2 permit has been issued. Any other person may in writing and signed by that person
3 report any such name, address and other information to the district attorney. Within
4 10 days after any report the district attorney shall institute a proceeding as
5 hereinafter provided before the circuit court of the county or shall within such time
6 report to the attorney general the reasons why such a proceeding has not been
7 instituted. The attorney general may direct the department of justice or the district
8 attorney to institute such proceeding within a reasonable time.

9 **SECTION 37.** 945.041 (3) of the statutes is amended to read:

10 945.041 (3) Such proceeding shall be in the name of the state and the issues
11 may be determined by a jury. It shall be instituted by the filing of a petition and
12 service of a notice as herein provided. The petition shall be directed to the circuit
13 court and shall set forth a clear and concise statement of the grounds that are alleged
14 to exist justifying a revocation of the license or permit under sub. (1), and shall
15 request an order revoking such license or permit. It shall also request an injunction
16 restraining the defendant from thereafter knowingly suffering or permitting any
17 such gambling devices, any amusement device, as defined in s. 565.01 (1g), that is
18 not licensed as described under s. 565.08, or any horse race betting to be set up, kept,
19 managed, used or conducted upon premises directly or indirectly controlled by the
20 defendant. Upon the filing of such petition the court shall fix a time for hearing not
21 to exceed 30 days from the date of filing at a place within the judicial circuit, and a
22 copy of the petition and a notice of the time and place of hearing shall be served upon
23 the defendant not less than 20 days prior to the date of hearing. Such service shall
24 be made in the same manner as a summons is served in a civil action, except that it
25 may also be made by leaving a copy of said petition and notice with any person

1 charged with the operation of the licensed premises under s. 125.68 (2). The
2 allegations of the petition shall be deemed controverted and shall be at issue without
3 further pleading by the defendant. No hearing shall be adjourned except for cause.
4 If upon such hearing the court finds that the allegations of the petition are true, it
5 shall issue a written order revoking the license or permit and shall likewise enjoin
6 the defendant from thereafter knowingly suffering or permitting any gambling
7 devices referred to in sub. (1), any amusement device, as defined in s. 565.01 (1g),
8 that is not licensed as described under s. 565.08, or any horse race betting to be set
9 up, kept, managed, used or conducted upon premises directly or indirectly controlled
10 by the defendant. The district attorney shall forthwith cause a copy of the order to
11 be filed with the issuing authority of the license or permit and shall cause a copy to
12 be served upon the defendant as above provided or the defendant's attorney. The
13 revocation and injunction shall become effective upon such service. In cases where
14 a license is issued by a town, city or village, a copy of the order shall also be filed with
15 the department of revenue as provided under s. 125.13.

16 **SECTION 38. Nonstatutory provisions.**

17 (1) ADVISORY REFERENDUM. Section 565.015, 2001 stats., does not apply to the
18 action of the legislature in enacting this act.

19 **SECTION 39. Effective dates.** This act takes effect on July 1, 2003, or on the
20 day after publication, whichever is later, except as follows:

21 (1) The treatment of section 14.035 (2), (3), (4), and (5) of the statutes and the
22 renumbering and amendment of section 14.035 of the statutes take effect on the day
23 after publication.

24 (END)