



1995 ASSEMBLY BILL 633

October 26, 1995 - Introduced by Representatives HANDRICK, LINTON, MUSSER, OURADA, SKINDRUD, HAHN, GUNDERSON, RYBA, VANDER LOOP, REYNOLDS, LORGE, SERATTI, PORTER, DOBYNS, KREUSER, HASENOHRL, ZUKOWSKI, KREIBICH, F. LASEE and PLOMBON, cosponsored by Senators ANDREA, A. LASEE, SHIBILSKI and BRESKE. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to amend** 20.197 (1) (j), 561.02, 561.12 (title), 561.12 (1), chapter 564
2 (title), 945.01 (3) (a), 945.01 (4) (am) and 945.01 (5) (am); **to repeal and**
3 **recreate** 20.197 (1) (j) and 561.02 (1); and **to create** 77.51 (4) (b) 7., 564.03,
4 564.04, 945.01 (1) (dm) and 945.01 (3) (b) 1m. of the statutes; **relating to:** the
5 regulation and licensing of certain video amusement devices by the gaming
6 commission, granting rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, the gaming commission regulates pari-mutuel wagering, bingo, raffle and crane games and the state lottery. This bill requires the gaming commission, on behalf of all cities and villages, to license and regulate certain video amusement devices that award or are capable of awarding to players free replays or redeemable credits. These devices may not change the ratio of plays to free replays or credits and are required to have a percentage of credits awarded to credits played of not less than 83%.

All cities and villages are required under the bill to permit the gaming commission to license and regulate these video amusement devices in their jurisdictions unless a city or village does either of the following: permits an election to be held on the first Tuesday in April to determine whether such video amusement devices shall be prohibited in the city or village and a majority of the electors in the city or village votes to prohibit the play or possession of video amusement devices or the city or village or enacts an ordinance before January 1, 1996 or the day after publication, whichever is later, that prohibits the play or possession of any video amusement device. If a city or village does not enact such an ordinance before January 1, 1996 or the day after publication, whichever is later, or hold such an election, a city or village may not prohibit the play or the possession of any video amusement device licensed by the gaming commission.

Under the bill, no person may market, lease, service, repair, warehouse, transport or set up for the purpose of play any amusement device or collect the proceeds from an amusement device unless the person has been a resident of this state during the year immediately prior to applying for registration, the person registers with the gaming commission and a license with an identification number issued by the gaming commission is affixed to the amusement device. In addition, no manufacturer of video amusement devices may do business in this state related to such devices unless the person is issued a manufacturer's license by the gaming commission. Finally, no distributor may sell, repair, distribute, warehouse, transport, display or market any video amusement device unless the person is issued a distributor's license by the gaming commission.

The bill provides that the gaming commission may not permit the play of these video amusement devices at any location other than in a city or village on a premises issued a Class "B" or "Class B" alcohol beverage license. Under the bill, no more than 5 video amusement devices may be kept at any one premises issued a Class "B" or "Class B" license and the play of these amusement devices is prohibited during hours in which the premises is closed. The owner of a premises issued a Class "B" or "Class B" license, who permits the play of video amusement devices at his or her premises, is required to enter into a contract with the owner of the amusement devices and this contract must be kept on the premises at all times, available for inspection by persons authorized by the gaming commission. In addition, the bill prohibits the advertising of video amusement devices and the offering of any special inducement for playing such a device.

Under the bill, the gaming commission, on behalf of cities and villages, must charge an annual license fee of \$1,000 for each amusement device that is set up for the purpose of play. The person charged this fee is required to pay the fee directly to the city or village in which the amusement device will be set up for the purpose of play. In addition, the gaming commission is required to charge an additional annual license fee of \$500 for each amusement device to defray the costs incurred by the gaming commission in regulating video amusement devices, but the bill provides that no person may be charged more than a total of \$10,000 in any one year. The gaming commission is also required to charge a manufacturer or distributor of amusement devices an annual license fee of \$10,000 and each manufacturer and distributor is also required to pay the gaming commission a nonrefundable fee set by the commission to cover all costs of processing the person's application for a license. Finally, under the bill, an exemption from the sales tax is allowed for the value of the redeemable credits awarded by each video amusement device, other than credits used for free replays.

Under current law, it is unlawful to make a bet, set up for the purpose of play any gambling machine, permit the operation of a gambling place or conduct an illegal lottery. This bill provides that playing an amusement device that awards or is capable of awarding any redeemable credits is not a bet; that an amusement device that awards or is capable of awarding any redeemable credits or that is possessed by a person licensed by the gaming commission is not a gambling machine; that a lottery does not include the playing of an amusement device licensed by the gaming

commission; and, that the premises on which an amusement device licensed by the gaming commission is located is not a gambling place.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.197 (1) (j) of the statutes, as created by 1995 Wisconsin Act 27,
2 is amended to read:

3 20.197 (1) (j) (title) *General program operations; charitable and crane games*
4 *and amusement devices.* The amounts in the schedule for general program
5 operations under chs. 563 and 564. All moneys received by the gaming commission
6 under ch. 563, except s. 563.80, and under ~~s. 564.02 (2)~~ ch. 564 shall be credited to
7 this appropriation account.

8 **SECTION 2.** 20.197 (1) (j) of the statutes, as affected by 1995 Wisconsin Acts 27,
9 section 545m, and (this act), is repealed and recreated to read:

10 20.197 (1) (j) (title) *General program operations; charitable and crane games*
11 *and amusement devices.* The amounts in the schedule for general program
12 operations under chs. 563 and 564. All moneys received by the gaming board under
13 ch. 563, except s. 563.80, and under ch. 564 shall be credited to this appropriation
14 account.

15 **SECTION 3.** 77.51 (4) (b) 7. of the statutes is created to read:

16 77.51 (4) (b) 7. The value of redeemable credits, except credits for replay, issued
17 by an amusement device, as defined in s. 564.03 (1) (a).

18 **SECTION 4.** 561.02 of the statutes is amended to read:

1 **564.03 Offering amusement devices for play; registration and**
2 **licensing. (1) DEFINITIONS.** In this section:

3 (a) "Amusement device" means any video amusement device if it awards or is
4 capable of awarding the player with one or more redeemable free replays or credits
5 for achieving certain scores or results and does not change the ratio of plays to free
6 replays or credits so awarded. An amusement device set up for the purpose of play
7 shall have a percentage of credits awarded to credits played of not less than 83%.

8 (b) "Set up for the purpose of play" means offer a person, for consideration, an
9 opportunity to play an amusement device.

10 **(1m) GAMING COMMISSION AUTHORITY; LOCAL OPTION.** (a) Subject to pars. (b) and
11 (c), the gaming commission, on behalf of all cities and villages, shall license and
12 regulate amusement devices in the manner provided in this section.

13 (b) Electors of any city or village may determine, by ballot at the election held
14 on the first Tuesday in April, the question of whether amusement devices shall be
15 prohibited in the city or village. If the electors of any city or village determine that
16 amusement devices shall be prohibited in the city or village, the gaming commission
17 may not license any amusement device for the purpose of play or possession in the
18 city or village.

19 (c) The gaming commission may not license any amusement device for the
20 purpose of play or possession in a city or village that, before the effective date of this
21 paragraph [revisor inserts date], enacted an ordinance that prohibited in the city
22 or village the play and possession of any amusement device, unless that city or
23 village, on or after the effective date of this paragraph [revisor inserts date],
24 enacts a subsequent ordinance authorizing the play and possession of any
25 amusement device in the city or village.

1 **(2) REGISTRATION AND LICENSING; FEES.** (a) No person may market, lease, service,
2 repair, warehouse, transport or set up for the purpose of play in this state any
3 amusement device or collect the proceeds from an amusement device set up for the
4 purpose of play in this state unless the person has been a resident of this state during
5 the year immediately prior to applying for a certificate of registration under this
6 subsection, the person registers with the commission under this subsection and a
7 license with an identification number issued by the commission is affixed to the
8 amusement device.

9 (b) Any person who wishes to market, lease, service, repair, warehouse,
10 transport or set up for the purpose of play in this state any amusement device or
11 collect the proceeds from an amusement device set up for the purpose of play in this
12 state shall file with the commission, on application forms prescribed by the
13 commission, a signed application that includes all of the following information:

14 1. The name and address of the person. If the person is a corporation or other
15 entity, the person shall also file with the commission the name and address of all
16 officers, directors, agents and stockholders or other persons holding or controlling,
17 either directly or indirectly, 5% or more of the ownership of the corporation or other
18 entity.

19 2. The person's place or places of residence in this state, if any, during the year
20 immediately prior to applying for a certificate of registration under this subsection.

21 3. The serial number and manufacturer of each amusement device that the
22 person intends to set up for the purpose of play in this state.

23 4. The location of the premises at which the amusement devices shall be set up
24 for the purpose of play.

1 (c) A nonrefundable fee, set by the commission to cover all costs of processing
2 the application filed under par. (b), and the first year's license fees shall accompany
3 the application under par. (b). If the commission does not approve the application
4 under par. (b), the commission shall refund the license fees to the person.

5 (d) Upon receipt of the application under par. (b) and the fees specified under
6 par. (c), but subject to pars. (e) to (f), the commission shall issue a certificate of
7 registration to each applicant who has met the requirements of this subsection and
8 a license with an identification number for each amusement device.

9 (e) The commission may not issue a certificate of registration under this
10 subsection to any person who is a corporation or other entity unless at least 51% of
11 the ownership in that corporation or other entity is held by one or more persons who
12 have been residents of this state during the year immediately prior to applying for
13 a certificate of registration.

14 (em) The commission may not issue a license with an identification number for
15 an amusement device that is set up for the purpose of play at a location in a city or
16 village other than a premises issued a Class "B" license under s. 125.26 or a "Class
17 B" license under s. 125.51.

18 (f) Notwithstanding ss. 111.321, 111.322 and 111.335, the commission may not
19 issue a certificate of registration under this subsection to any person to whom any
20 of the following applies:

- 21 1. The person has been convicted of a misdemeanor, not involving chs. 340 to
22 349, at least 3 times.
- 23 2. The person has been convicted of a felony, unless pardoned.
- 24 3. The person is addicted to the use of a controlled substance under ch. 161.
- 25 4. The person has been convicted of 2 or more gambling offenses.

1 5. The person has been convicted of crimes relating to prostitution.

2 6. The person has been convicted of crimes relating to loaning money or
3 anything of value to persons holding licenses or permits pursuant to ch. 125.

4 7. The person does not hold a permit under s. 77.52 (7), if the person is a retailer.

5 8. The person has been finally adjudged to be delinquent in the payment of
6 taxes under ch. 71, 72, 76, 77, 78 or 139 or the person has been found delinquent in
7 the payment of contributions to the unemployment reserve fund under s. 108.16 in
8 a proceeding under s. 108.10 and the person remains so delinquent at the time of
9 filing an application under par. (b).

10 (g) Upon denial of an application under par. (b), the commission shall
11 immediately notify the person in writing and shall state the reasons for the denial.
12 A denial of an application under par. (b) shall be subject to judicial review under ch.
13 227.

14 (h) 1. The commission shall charge, on behalf of a city or village, an annual
15 license fee of \$1,000 for each amusement device set up for the purpose of play. The
16 person shall pay this fee directly to the city or village.

17 2. The commission shall charge an additional annual license fee of \$500 for each
18 amusement device set up for the purpose of play to defray the costs incurred by the
19 commission in enforcing this subsection, but the commission may not charge any one
20 person under this subdivision more than a total of \$10,000 in license fees in any one
21 year, regardless of the number of amusement devices that the person intends to set
22 up for the purpose of play in this state.

23 3. Any license issued under this subsection shall remain in effect for one year.

24 (i) The certificate of registration issued under par. (d) shall remain in effect
25 unless it is canceled by the commission, after consulting with the department of

1 justice, or unless it is withdrawn by the person who is issued the certificate of
2 registration.

3 (j) Every person registered under this section shall notify the commission of any
4 change in the information provided under par. (b) by the 10th day of the first month
5 following the change in information.

6 (k) The commission shall deposit all moneys received under this subsection in
7 the appropriation account under s. 20.197 (1) (j).

8 **(3) PROHIBITED PRACTICES RELATING TO AMUSEMENT DEVICES.** (a) No person may
9 keep more than 5 amusement devices at any one premises operated under a Class
10 "B" license under s. 125.26 or a "Class B" license under s. 125.51.

11 (b) No person may play, or permit another person to play, an amusement device
12 at a premises operated under a Class "B" or "Class B" license in a city or village
13 during hours in which the premises is closed or the sale of fermented malt beverages
14 or intoxicating liquor is prohibited under s. 125.32 (3) (a) or (c) or 125.68 (4) (c) 1. or
15 4.

16 (c) No owner of a premises may set up for the purpose of play an amusement
17 device at his or her premises unless he or she has entered into a written agreement
18 with a person who owns the amusement device for the use of that amusement device
19 at his or her premises and a copy of the agreement is kept on the premises and made
20 available for inspection to any person authorized by the commission. This paragraph
21 shall not apply to an owner of a premises who is also the owner of every amusement
22 device kept at his or her premises.

23 (d) No person may engage in the advertising of any amusement device set up
24 for the purpose of play or offer, or allow to be offered, to any other person any special
25 inducement for playing an amusement device.

1 (e) No person registered under sub. (2) may purchase an amusement device
2 from a person other than a person registered under sub. (2) or a distributor registered
3 under sub. (4) (c).

4 **(4) MANUFACTURERS AND DISTRIBUTORS OF AMUSEMENT DEVICES; REGISTRATION AND**
5 **FEEES.** (a) No person who is a manufacturer of amusement devices may do any of the
6 following:

7 1. Do any business in this state related to amusement devices unless the person
8 submits an application for registration with the commission under par. (c), pays the
9 first year's annual license fee and the nonrefundable fee set by the commission to
10 cover all costs of processing the application and is issued a manufacturer's license.

11 2. Sell an amusement device to any person other than a distributor of
12 amusement devices with a valid distributor's license issued by the commission under
13 par. (c).

14 3. Hold or control, either directly or indirectly, any ownership interest of a
15 distributor with a valid distributor's license issued by the commission under par. (c).

16 4. Set up for the purpose of play any amusement device.

17 (b) No person who is a distributor of amusement devices may do any of the
18 following:

19 1. Sell, repair, distribute, warehouse, transport, display or market an
20 amusement device unless the person submits an application for registration with the
21 commission under par. (c), pays the first year's annual license fee and the
22 nonrefundable fee set by the commission to cover all costs of processing the
23 application and is issued a distributor's license.

24 2. Set up for the purpose of play any amusement device.

1 3. Sell an amusement device to any person other than a person registered with
2 the commission under sub. (2).

3 4. Hold or control, either directly or indirectly, any ownership interest of a
4 person registered under sub. (2).

5 (c) The commission shall do all of the following:

6 1. Upon receipt of an application of registration from a person under par. (a)
7 or (b), submission of the first year's license fee and payment of a nonrefundable fee
8 set by the commission to cover all costs of processing the application, issue a
9 manufacturer's license to each applicant under par. (a) and a distributor's license to
10 each applicant under par. (b) who has met the requirements specified under sub. (2)
11 (b) 1. and (f) for a person applying for a certificate of registration under sub. (2) and
12 the requirements of this subsection. The license shall remain in effect unless it is
13 canceled by the commission, after consulting with the department of justice, or
14 unless it is withdrawn by the person who is issued the license.

15 2. Charge an annual fee for a manufacturer's license and distributor's license
16 in the amount of \$10,000. The license shall remain in effect for one year.

17 3. Upon denial of an application under subd. 1., immediately notify the person
18 in writing and state the reasons for the denial. A denial of an application under subd.
19 1. shall be subject to review under ch. 227.

20 4. Deposit all moneys received under this subsection in the appropriation
21 account under s. 20.197 (1) (j).

22 **(4m)** RULE MAKING. The commission shall promulgate all rules necessary to
23 administer this section.

24 **(5)** CONFLICTS OF INTEREST. No commission member or employe and no member
25 of a commission member's or employe's immediate family, as defined in s. 19.42 (7),

1 may, while that commission member or employe is serving as a commission member
2 or employe or for 2 years following the termination of the membership or employment
3 of that commission member or employe, do any of the following:

4 (a) Have any direct or indirect interest in any person who is registered or
5 required to be registered under sub. (2) or (4).

6 (b) Accept or agree to accept money or any thing of value from any person who
7 is registered or required to be registered under sub. (2) or (4).

8 (c) Directly or indirectly own or operate any amusement device licensed under
9 sub. (2).

10 **(6) INVESTIGATION AND ENFORCEMENT.** (a) In response to a written complaint,
11 the commission shall conduct an investigation of any person registered under sub.
12 (2) or (4). The commission may conduct an inspection of a person registered under
13 sub. (2) or (4), of the amusement device licensed to the person or of the premises on
14 which the amusement device is played, at any time.

15 (am) The commission may conduct an investigation to determine if a person
16 markets, leases, services, repairs, warehouses, transports or sets up for the purposes
17 of play an amusement device or collects the proceeds of an amusement device which
18 is set up for the purposes of play without being registered under sub. (2) or if a person
19 sells, repairs, distributes, warehouses, displays or markets an amusement device
20 without being registered under sub. (4).

21 (b) An action for violation of this section may be prosecuted in any circuit court
22 of this state by the commission in the name of the state and, in any such action, the
23 commission shall exercise all of the powers and perform all duties which the district
24 attorney would otherwise be authorized to exercise or perform.

1 **(7) SEIZURE AND SALE.** The commission may seize any amusement device owned
2 by a person who is convicted under sub. (8) and may sell the amusement device in
3 the name of the state. The commission and its agents are exempt from all liability
4 to the owner of the amusement device for the seizure or sale of the amusement device.

5 **(8) PENALTY.** Any person who violates this section may be required to forfeit not
6 less than \$500 nor more than \$5,000 for each offense. Each day of continued violation
7 constitutes a separate offense. The period shall be measured by using the dates of
8 the offenses which resulted in convictions.

9 **SECTION 10.** 564.04 of the statutes is created to read:

10 **564.04 Applicability.** The requirements of ch. 565 do not apply to this chapter.

11 **SECTION 11.** 945.01 (1) (dm) of the statutes is created to read:

12 **945.01 (1) (dm)** Playing an amusement device that awards or is capable of
13 awarding any redeemable credits.

14 **SECTION 12.** 945.01 (3) (a) of the statutes is amended to read:

15 **945.01 (3) (a)** A gambling machine is a contrivance which for a consideration
16 affords the player an opportunity to obtain something of value, the award of which
17 is determined by chance, even though accompanied by some skill and whether or not
18 the prize is automatically paid by the machine. A gambling machine includes a slot
19 machine that dispenses coins or tokens and that is activated by a lever, button, coin,
20 token or debit or credit card.

21 **SECTION 13.** 945.01 (3) (b) 1m. of the statutes is created to read:

22 **945.01 (3) (b) 1m.** An amusement device that awards or is capable of awarding
23 any redeemable credits or an amusement device possessed by a person who is
24 registered under s. 564.03 (2) or (4).

1 **SECTION 14.** 945.01 (4) (am) of the statutes, as affected by 1995 Wisconsin Act
2 11, is amended to read:

3 945.01 (4) (am) "Gambling place" does not include a place where bingo or a
4 raffle is conducted under ch. 563, where an amusement device licensed under ch. 564
5 is played or stored, where a lottery is conducted under ch. 565 or where a race is
6 conducted under ch. 562 and does not include a gambling vessel that is in the process
7 of construction, delivery, conversion or repair by a shipbuilding business that
8 complies with s. 945.095.

9 **SECTION 15.** 945.01 (5) (am) of the statutes is amended to read:

10 945.01 (5) (am) "Lottery" does not include bingo or a raffle conducted under ch.
11 563, the playing of an amusement device licensed under ch. 564, pari-mutuel
12 wagering conducted under ch. 562 or the state lottery or any multistate lottery
13 conducted under ch. 565.

14 **SECTION 16. Nonstatutory provisions.**

15 (1) SUBMISSION OF AMUSEMENT DEVICE RULES TO LEGISLATIVE COUNCIL STAFF. The
16 gaming commission shall submit the proposed rules under section 564.03 (4m) of the
17 statutes, as created by this act, to the legislative council staff under section 227.15
18 (1) of the statutes no later than September 1, 1996.

19 (2) REGULATION OF AMUSEMENT DEVICES. The gaming commission shall
20 administer section 564.03 of the statutes, as created by this act, on a case-by-case
21 basis prior to the effective date of the rules promulgated under section 564.03 (4m)
22 of the statutes, as created by this act.

23 **SECTION 17. Effective dates.** This act takes effect on January 1, 1996, or on
24 the day after publication, whichever is later, except as follows:

