



State of Wisconsin
2001 - 2002 LEGISLATURE

January 2002 Special Session

LRBb2669/1
RAC&JK:hmh:rs

**ASSEMBLY AMENDMENT 33,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

March 14, 2002 – Offered by Representative BOYLE.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 19, line 20: after that line insert:

3 “SECTION **52k.** 20.505 (8) (j) of the statutes is amended to read:

4 20.505 (8) (j) *General program operations; raffles ~~and~~, crane games, and*
5 *amusement devices.* The amounts in the schedule for general program operations
6 relating to raffles under subchs. II and VIII of ch. 563 and relating to crane games
7 and amusement devices under ch. 564. All moneys received by the department of
8 administration under ss. 563.92 (2), and 563.98 (1g) and ~~564.02 (2)~~ ch. 564 shall be
9 credited to this appropriation account.”.

10 **2.** Page 139, line 16: after that line insert:

11 “SECTION **232po.** 77.51 (4) (b) 8. of the statutes is created to read:

1 (b) "Set up for the purpose of play" means operated for the purpose of offering
2 a person, for consideration, an opportunity to play an amusement device.

3 **(2) DEPARTMENT AUTHORITY; LOCAL OPTION.** (a) Subject to pars. (b) and (c),
4 beginning on April 2, 2003, the department, on behalf of all cities and villages, shall
5 license and regulate amusement devices in the manner provided in this section.

6 (b) The governing body of a city or village may adopt a resolution calling for a
7 referendum, to be held at the 2003 spring election, on whether the play and
8 possession of amusement devices shall be prohibited in that city or village. The
9 governing body shall adopt such a resolution no later than February 17, 2003. The
10 referendum question shall be substantially as follows: "Shall the play and
11 possession of amusement devices be prohibited in [name of city or village]?" If a
12 majority of the electors who vote in the referendum vote "Yes," the department may
13 not license any amusement device for the purpose of play or possession in the city or
14 village. The clerk of the city or village shall report the results of any referendum held
15 under this paragraph to the department as soon as the deadline for filing a petition
16 for a recount has passed. If a valid petition for a recount is filed, the clerk shall report
17 the results as soon as the recount is completed and the time allowed for filing an
18 appeal has passed or, if appealed, as soon as the appeal is decided.

19 (c) The department may license any amusement device for the purpose of play
20 or possession in a city or village that enacted an ordinance on April 1, 2003, that
21 prohibited in the city or village the play and possession of any amusement device, if
22 that city or village enacts a subsequent ordinance authorizing the play and
23 possession of any amusement device in the city or village.

24 **(3) REGISTRATION AND LICENSING; FEES.** (a) No person may market, lease, service,
25 repair, warehouse, transport, or set up for the purpose of play in this state any

1 amusement device or collect the proceeds from an amusement device set up for the
2 purpose of play in this state unless the person has been a resident of this state during
3 the year immediately prior to applying for a certificate of registration under this
4 subsection, the person registers with the department under this subsection, and a
5 license with an identification number issued by the department is affixed to the
6 amusement device.

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

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

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

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

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

23 (c) A nonrefundable fee, set by the department to cover all costs of processing
24 the application filed under par. (b), and the first year's license fees shall accompany

1 the application under par. (b). If the department does not approve the application
2 under par. (b), the department shall refund the license fees to the person.

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

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

12 (f) The department may not issue a license with an identification number for
13 an amusement device that is set up for the purpose of play at a location in a city or
14 village other than a premises issued a Class "B" license or a "Class B" license under
15 ch. 125.

16 (g) Notwithstanding ss. 111.321, 111.322, and 111.335, the department may not
17 issue a certificate of registration under this subsection to any person to whom any
18 of the following applies:

- 19 1. The person has been convicted of a misdemeanor, not involving chs. 340 to
20 349, at least 3 times.
- 21 2. The person has been convicted of a felony, unless pardoned.
- 22 3. The person has been convicted of an offense under ch. 961.
- 23 4. The person has been convicted of 2 or more gambling offenses.
- 24 5. The person has been convicted of crimes relating to prostitution.

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

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

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

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

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

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

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

24 (j) The certificate of registration issued under par. (d) shall remain in effect
25 unless it is canceled by the department, 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 (k) Every person registered under this section shall notify the department of
4 any change in the information provided under par. (b) by the 10th day of the first
5 month following the change in information.

6 (L) The department shall deposit all moneys received by the department under
7 this subsection in the appropriation account under s. 20.505 (8) (j).

8 (4) 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 or a "Class B" license under ch. 125.

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., 3m.,
15 or 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 department. 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. (3) may purchase an amusement device
2 from a person other than a person registered under sub. (3) or a distributor registered
3 under sub. (5) (c).

4 (f) No person registered under sub. (3) may set up for the purpose of play any
5 amusement device that has a percentage of credits awarded to credits played of not
6 less than 83%.

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

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

14 2. Sell an amusement device to any person other than a distributor of
15 amusement devices with a valid distributor's license issued by the department under
16 par. (c).

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

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

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

22 1. Sell, repair, distribute, warehouse, transport, display, or market an
23 amusement device unless the person submits an application for registration with the
24 department under par. (c), pays the first year's annual license fee and the

1 nonrefundable fee set by the department to cover all costs of processing the
2 application, and is issued a distributor's license.

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

4 3. Sell an amusement device to any person other than a person registered with
5 the department under sub. (3).

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

8 (c) The department shall do all of the following:

9 1. Upon receipt of an application of registration from a person under par. (a)
10 or (b), submission of the first year's license fee, and payment of a nonrefundable fee
11 set by the department to cover all costs of processing the application, issue a
12 manufacturer's license to each applicant under par. (a) and a distributor's license to
13 each applicant under par. (b) who has met the requirements specified under sub. (3)
14 (b) 1. and (g) for a person applying for a certificate of registration under sub. (3) and
15 the requirements of this subsection. The license shall remain in effect unless it is
16 canceled by the department, after consulting with the department of justice, or
17 unless it is withdrawn by the person who is issued the license.

18 2. Charge an annual fee for a manufacturer's license and distributor's license
19 in the amount of \$10,000, payable directly to the department. The license shall
20 remain in effect for one year.

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

24 4. Deposit all moneys received by the department under this subsection in the
25 appropriation account under s. 20.505 (8) (j).

1 **(6) RULE MAKING.** The department shall promulgate all rules necessary to
2 administer this section.

3 **(7) CONFLICTS OF INTEREST.** No employee of the department and no member of
4 the employee's immediate family, as defined in s. 19.42 (7), may, while that employee
5 is employed by the department or for 2 years following the termination of
6 employment, do any of the following:

7 (a) Have any direct or indirect interest in any person who is registered or
8 required to be registered under sub. (3) or (5).

9 (b) Accept or agree to accept money or any thing of value from any person who
10 is registered or required to be registered under sub. (3) or (5).

11 (c) Directly or indirectly own or operate any amusement device licensed under
12 sub. (3).

13 **(8) INVESTIGATION AND ENFORCEMENT.** (a) In response to a written complaint,
14 the department shall conduct an investigation of any person registered under sub.
15 (3) or (5). The department may, at any time, conduct an inspection of a person
16 registered under sub. (3) or (5), of the amusement device licensed to the person, or
17 of the premises on which the amusement device is played.

18 (b) The department may conduct an investigation to determine if a person
19 markets, leases, services, repairs, warehouses, transports, or sets up for the
20 purposes of play an amusement device or collects the proceeds of an amusement
21 device which is set up for the purposes of play without being registered under sub.
22 (3) or if a person sells, repairs, distributes, warehouses, displays, or markets an
23 amusement device without being registered under sub. (5).

24 (c) An action for violation of this section may be prosecuted in any circuit court
25 of this state by the department in the name of the state and, in any such action, the

1 department shall exercise all of the powers and perform all duties that the district
2 attorney would otherwise be authorized to exercise or perform.

3 (9) SEIZURE AND SALE. The department may seize any amusement device owned
4 by a person who is convicted under sub. (10) and may sell the amusement device in
5 the name of the state. The department and its agents are exempt from all liability
6 to the owner of the amusement device for the seizure or sale of the amusement device.

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

11 5. Page 272, line 24: after that line insert:

12 “SECTION 821e. 945.01 (1) (dm) of the statutes is created to read:

13 945.01 (1) (dm) Playing an amusement device, as defined in s. 564.03 (1) (a),
14 that is licensed as described in s. 564.03 (3).

15 SECTION 821i. 945.01 (3) (a) of the statutes is amended to read:

16 945.01 (3) (a) ~~A Subject to par. (b), a gambling machine is a contrivance which~~
17 that for a consideration affords the player an opportunity to obtain something of
18 value, the award of which is determined by chance, even though accompanied by
19 some skill and whether or not the prize is automatically paid by the machine.

20 SECTION 821m. 945.01 (3) (b) 1m. of the statutes is created to read:

21 945.01 (3) (b) 1m. An amusement device, as defined in s. 564.03 (1) (a), that is
22 licensed as described in s. 564.03 (3).

23 SECTION 821r. 945.01 (4) (am) of the statutes is renumbered 945.01 (4) (am)
24 (intro.) and amended to read:

1 945.01 (4) (am) (intro.) “Gambling place” does not include ~~a~~ any of the
2 following:

3 1. A place where bingo or a raffle is conducted under ch. 563,

4 2. A place where a lottery is conducted under ch. 565 or,

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

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

8 **SECTION 821v.** 945.01 (4) (am) 5. of the statutes is created to read:

9 945.01 (4) (am) 5. A premises on which is located an amusement device, as
10 defined in s. 564.03 (1) (a), that is licensed as described in s. 564.03 (3).

11 **SECTION 821y.** 945.01 (5) (am) of the statutes is amended to read:

12 945.01 (5) (am) “Lottery” does not include bingo or a raffle conducted under ch.
13 563; the playing of an amusement device, as defined in s. 564.03 (1) (a), that is
14 licensed as described in s. 564.03 (3); pari-mutuel wagering conducted under ch. 562;
15 or the state lottery or any multijurisdictional lottery conducted under ch. 565.”.

16 **6.** Page 273, line 3: after that line insert:

17 **“SECTION 822g.** 945.041 (1) of the statutes is amended to read:

18 945.041 (1) A license or permit issued under ch. 125 to any person who
19 knowingly permits any slot machine, roulette wheel, other similar mechanical
20 gambling device, or number jar or other device designed for like form of gambling,
21 or any amusement device, as defined in s. 564.03 (1) (a), that is not licensed as
22 described under s. 564.03 (3), or any horse race betting or other bookmaking as
23 defined in s. 945.01, or solicitation of drinks from customers under s. 944.36 to be set
24 up, kept, managed, used, or conducted upon the licensed premises or in connection

1 therewith upon premises controlled directly or indirectly by the person, shall be
2 revoked by the circuit courts by a special proceeding as provided in this section. If
3 a license or permit has been revoked no other license or permit of any character
4 provided for by ch. 125 may be issued to the person who held the license or permit,
5 prior to the expiration of one year from the effective date of the revocation. If any
6 appeal is taken from the revocation, any period during which the order is stayed shall
7 be added to the one year.

8 **SECTION 822n.** 945.041 (2) of the statutes is amended to read:

9 945.041 (2) Any sheriff, undersheriff, deputy sheriff, constable, or other
10 municipal police officer or any person authorized to enforce the gambling laws under
11 s. 165.60 shall within 10 days after acquiring such information report to the district
12 attorney of the county the name and address of any licensee or permittee under ch.
13 125 who to his or her knowledge has knowingly suffered or permitted any gambling
14 device in sub. (1), any amusement device, as defined in s. 564.03 (1) (a), that is not
15 licensed as described under s. 564.03 (3), or any horse race betting to be set up, kept,
16 managed, used, or conducted upon the licensed premises or in connection therewith
17 upon premises controlled directly or indirectly by such licensee or permittee. Such
18 The officer or person shall also report to the district attorney knowledge of the
19 circumstances and the name of the municipality or officer by whom the license or
20 permit has been issued. Any other person may in writing and signed by that person
21 report any such name, address, and other information to the district attorney.
22 Within 10 days after any report the district attorney shall institute a proceeding as
23 hereinafter provided before the circuit court of the county or shall within such that
24 time report to the attorney general the reasons why such a proceeding has not been

1 instituted. The attorney general may direct the department of justice or the district
2 attorney to institute ~~such~~ the proceeding within a reasonable time.

3 **SECTION 822r.** 945.041 (3) of the statutes is amended to read:

4 945.041 (3) Such proceeding shall be in the name of the state and the issues
5 may be determined by a jury. It shall be instituted by the filing of a petition and
6 service of a notice as herein provided. The petition shall be directed to the circuit
7 court and shall set forth a clear and concise statement of the grounds that are alleged
8 to exist justifying a revocation of the license or permit under sub. (1), and shall
9 request an order revoking ~~such~~ the license or permit. It shall also request an
10 injunction restraining the defendant from thereafter knowingly suffering or
11 permitting any such gambling devices, any amusement device, as defined in s.
12 564.03 (1) (a), that is not licensed as described under s. 564.03 (3), or any horse race
13 betting to be set up, kept, managed, used, or conducted upon premises directly or
14 indirectly controlled by the defendant. Upon the filing of ~~such~~ the petition the court
15 shall fix a time for hearing not to exceed 30 days from the date of filing at a place
16 within the judicial circuit, and a copy of the petition and a notice of the time and place
17 of hearing shall be served upon the defendant not less than 20 days prior to the date
18 of hearing. ~~Such~~ The service shall be made in the same manner as a summons is
19 served in a civil action, except that it may also be made by leaving a copy of said
20 petition and notice with any person charged with the operation of the licensed
21 premises under s. 125.68 (2). The allegations of the petition shall be deemed
22 considered controverted and shall be at issue without further pleading by the
23 defendant. No hearing shall be adjourned except for cause. If upon ~~such~~ the hearing
24 the court finds that the allegations of the petition are true, it shall issue a written
25 order revoking the license or permit and shall likewise enjoin the defendant from

1 thereafter knowingly suffering or permitting any gambling devices referred to in
2 sub. (1), any amusement device, as defined in s. 564.03 (1) (a), that is not licensed as
3 described under s. 564.03 (3), or any horse race betting to be set up, kept, managed,
4 used, or conducted upon premises directly or indirectly controlled by the defendant.
5 The district attorney shall forthwith cause a copy of the order to be filed with the
6 issuing authority of the license or permit and shall cause a copy to be served upon
7 the defendant as above provided or the defendant’s attorney. The revocation and
8 injunction shall become effective upon such service. In cases where a license is issued
9 by a town, city, or village, a copy of the order shall also be filed with the department
10 of revenue as provided under s. 125.13.

11 **SECTION 822v.** 945.041 (11) of the statutes is repealed.”.

12 **7.** Page 352, line 12: after that line insert:

13 “(8zf) ADVISORY REFERENDUM. Section 565.015 of the statutes does not apply to
14 the action of the legislature in enacting this act.

15 (8zg) SUBMISSION OF AMUSEMENT DEVICE RULES TO LEGISLATIVE COUNCIL STAFF. The
16 department of administration shall submit the proposed rules under section 564.03
17 (6) of the statutes, as created by this act, to the legislative council staff under section
18 227.15 (1) of the statutes no later than January 1, 2003.

19 (8zh) REGULATION OF AMUSEMENT DEVICES. The department of administration
20 shall administer section 564.03 of the statutes, as created by this act, on a
21 case-by-case basis prior to the effective date of the rules promulgated under section
22 564.03 (6) of the statutes, as created by this act.”.

23 **8.** Page 445, line 1: before that line insert:

