LRBa0325

2003 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB144)

Received: **03/12/2003**

Received By: **rchampag**

Wanted: **Today**

Identical to LRB:

For: **Frank Boyle (608) 266-0640**

By/Representing: **Marylou**

This file may be shown to any legislator: **NO**

Drafter: **rchampag**

May Contact:

Addl. Drafters:

Subject: **Gambling - lottery**
Gambling - miscellaneous

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Boyle@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Regulation and licensing of video amusement devices

Instructions:

Same as a0307

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	rchampag 03/12/2003	kgilfoy 03/12/2003		_____ _____			
/1			pgreensl 03/12/2003	_____ _____	sbasford 03/12/2003	sbasford 03/12/2003	

FE Sent For:

<END>

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/?	rchampag	/1 - 3/12 Kmg	3/12 PS	3/12 [illegible]			

FE Sent For:

<END>

D-Note

2003 – 2004 LEGISLATURE

LRBa0307/1
RAC:kmg:pg

NOW

LRBa0325/1
RAC:kmg

TO ASA1

ASSEMBLY AMENDMENT ,
TO 2003 ASSEMBLY BILL 144

substitute amendment

At the locations indicated, amend the bill as follows:

1. Page 1, line ~~2~~ 3: after "compacts" insert "and licensing and regulating amusement devices under the state lottery and making appropriations".

2. Page 2, line ~~24~~ 10: after that line insert:

"**SECTION 5m.** 20.566 (8) (g) of the statutes is created to read:

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

SECTION 6m. 20.566 (8) (t) of the statutes is created to read:

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

SECTION 7m. 25.75 (1) (b) of the statutes is amended to read:

Leave SEC. #'s as they are

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

SECTION 8m. 77.51 (4) (c) 1m. of the statutes is created to read:

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

SECTION 9m. 77.51 (15) (c) 1m. of the statutes is created to read:

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

SECTION 10m. 79.035 (1) of the statutes is amended to read:

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

SECTION 11m. 79.037 of the statutes is created to read:

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

1 collected in the municipality in the fiscal year preceding the fiscal year of the
2 payment under s. 79.035.

3 **SECTION 12m.** 125.12 (1) (a) of the statutes is amended to read:

4 125.12 **(1)** (a) Except as provided in this subsection and s. 945.041, any
5 municipality or the department may revoke, suspend or refuse to renew any license
6 or permit under this chapter, as provided in this section.

7 **SECTION 13m.** 565.01 (1) of the statutes is renumbered 565.01 (1dm).

8 **SECTION 14m.** 565.01 (1c) of the statutes is created to read:

9 565.01 **(1c)** "Adjusted gross receipts" means the total amount paid by cash or
10 check to a person licensed under s. 565.08 (1) (a) for the play of amusement devices
11 licensed under s. 565.08 less the total amount paid by cash or check to the players
12 of the amusement devices for the play of the amusement devices.

13 **SECTION 15m.** 565.01 (1g) of the statutes is created to read:

14 565.01 **(1g)** "Amusement device" means, before July 1, 2005, any video device
15 that awards or is capable of awarding a player with one or more redeemable free
16 replays or credits for achieving certain scores or results and does not change the ratio
17 of plays to free replays or credits so awarded. Beginning on July 1, 2005, "amusement
18 device" means any on–line video device that awards or is capable of awarding a
19 player with one or more redeemable free replays or credits for achieving certain
20 scores or results and does not change the ratio of plays to free replays or credits so
21 awarded.

22 **SECTION 16m.** 565.01 (4g) of the statutes is amended to read:

23 565.01 **(4g)** "On–line services and supplies" means those lottery products and
24 associated services, including computerized transaction processing equipment,
25 computerized retailer vending terminals, and those technologies necessary to

maximize lottery revenues and minimize the lottery's total operating costs. The term does not include services related to instant lottery ticket services or the playing of amusement devices licensed under s. 565.08.

SECTION 17m. 565.01 (4r) (intro.) of the statutes is amended to read:

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

SECTION 18m. 565.01 (6c) of the statutes is created to read:

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

SECTION 19m. 565.01 (6m) (a) (intro.) of the statutes is renumbered 565.01 (6m) (intro.) and amended to read:

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

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

SECTION 20m. 565.01 (6m) (b) and (c) of the statutes are repealed.

SECTION 21m. 565.01 (6m) (bm) of the statutes is created to read:

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

SECTION 22m. 565.015 of the statutes is repealed.

SECTION 23m. 565.02 (7) of the statutes is amended to read:

1 565.02 **(7)** Not later than March 1 of each year, the department shall submit
2 to the joint committee on finance a report that includes an estimate for that fiscal
3 year and for the subsequent fiscal year of the gross revenues from the sale of lottery
4 tickets and lottery shares, the total amount paid as lottery ticket and share prizes
5 and the lottery ticket and share prize payout ratio for each type of lottery game
6 offered, and an evaluation of the effect of lottery ticket and share prize payout ratios
7 of lottery games on lottery sales, lottery operating costs and on maximizing the
8 revenue available for the lottery and gaming property tax credit. If, within 14
9 working days after the date on which the committee receives the report, the
10 cochairpersons of the committee notify the department that the committee has
11 scheduled a meeting for the purpose of reviewing the department's proposed lottery
12 ticket and share prize payouts, the department may proceed with its plans for the
13 lottery ticket and share prize payouts for the subsequent fiscal year only upon
14 approval of the plans by the committee. If the cochairpersons of the committee do
15 not notify the department within 14 working days after the date on which the
16 committee receives the report that the committee has scheduled a meeting for the
17 purpose of reviewing the department's proposed lottery ticket and share prize
18 payouts, the department's plans for the lottery ticket and share prize payouts for the
19 subsequent fiscal year are considered approved by the committee.

20 **SECTION 24m.** 565.08 of the statutes is created to read:

21 **565.08 Licensing and regulation of amusement devices. (1)** The
22 department shall license all amusement devices that are set up for the purpose of
23 play in this state, subject to all of the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

9 **(2)** If the department attempts to verify the percentage of credits awarded to
10 credits played of an amusement device under sub. (1) (f) and the owner of the
11 premises or racetrack at which the amusement device is located fails, or is unable,
12 to assist the department, with the result that the department cannot verify the
13 percentage of credits awarded to credits played, the department shall do the
14 following:

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

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

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

22 **SECTION 25m.** 565.27 (1) (intro.) of the statutes is amended to read:

23 565.27 **(1)** GAME FEATURES AND PROCEDURES. (intro.) Subject to this section, the
24 rules promulgated under s. 565.02 (3) (d) and (4) (a) and approval by the secretary
25 of revenue, the administrator shall determine the particular features of and

procedures for each lottery game offered other than games played on amusement devices licensed under s. 565.08. The features and procedures shall be in writing, shall be accessible to the public and shall include all of the following:

SECTION 26m. 565.30 (title) of the statutes is amended to read:

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

SECTION 27m. 565.30 (8) of the statutes is created to read:

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

SECTION 28m. 945.01 (1) (dm) of the statutes is created to read:

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

SECTION 29m. 945.01 (3) (a) of the statutes is amended to read:

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

SECTION 30m. 945.01 (3) (b) 1m. of the statutes is created to read:

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

SECTION 31m. 945.01 (4) (am) of the statutes is renumbered 945.01 (4) (am) (intro.) and amended to read:

945.01 **(4)** (am) (intro.) "Gambling place" does not include ~~a~~ any of the following:

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

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

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

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

SECTION 32m. 945.01 (4) (am) 5. of the statutes is created to read:

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

SECTION 33m. 945.01 (5) (am) of the statutes is amended to read:

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

SECTION 34m. 945.041 (1) of the statutes is amended to read:

945.041 **(1)** A license or permit issued under ch. 125 to any person who knowingly permits any slot machine, roulette wheel, other similar mechanical gambling device, or number jar or other device designed for like form of gambling, or any amusement device, as defined in s. 565.01 (1g), that is not licensed as described under s. 565.08, or any horse race betting or other bookmaking as defined in s. 945.01, or solicitation of drinks from customers under s. 944.36 to be set up, kept, managed, used or conducted upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by the person, shall be revoked by the circuit courts by a special proceeding as provided in this section. If a license or permit has been revoked, no other license or permit of any character provided for by ch. 125 may be issued to the person who held the license or permit, prior to the expiration

of one year from the effective date of the revocation. If any appeal is taken from the revocation, any period during which the order is stayed shall be added to the one year.

SECTION 35m. 945.041 (2) of the statutes is amended to read:

945.041 **(2)** Any sheriff, undersheriff, deputy sheriff, constable or other municipal police officer or any person authorized to enforce the gambling laws under s. 165.60 shall within 10 days after acquiring such information report to the district attorney of the county the name and address of any licensee or permittee under ch. 125 who to his or her knowledge has knowingly suffered or permitted any gambling device in sub. (1), any amusement device, as defined in s. 565.01 (1g), that is not licensed as described under s. 565.08, or any horse race betting to be set up, kept, managed, used or conducted upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by such licensee or permittee. Such officer or person shall also report to the district attorney knowledge of the circumstances and the name of the municipality or officer by whom the license or permit has been issued. Any other person may in writing and signed by that person report any such name, address and other information to the district attorney. Within 10 days after any report the district attorney shall institute a proceeding as hereinafter provided before the circuit court of the county or shall within such time report to the attorney general the reasons why such a proceeding has not been instituted. The attorney general may direct the department of justice or the district attorney to institute such proceeding within a reasonable time.

SECTION 36m. 945.041 (3) of the statutes is amended to read:

945.041 **(3)** Such proceeding shall be in the name of the state and the issues may be determined by a jury. It shall be instituted by the filing of a petition and service of a notice as herein provided. The petition shall be directed to the circuit

1 court and shall set forth a clear and concise statement of the grounds that are alleged
2 to exist justifying a revocation of the license or permit under sub. (1), and shall
3 request an order revoking such license or permit. It shall also request an injunction
4 restraining the defendant from thereafter knowingly suffering or permitting any
5 such gambling devices, any amusement device, as defined in s. 565.01 (1g), that is
6 not licensed as described under s. 565.08, or any horse race betting to be set up, kept,
7 managed, used or conducted upon premises directly or indirectly controlled by the
8 defendant. Upon the filing of such petition the court shall fix a time for hearing not
9 to exceed 30 days from the date of filing at a place within the judicial circuit, and a
10 copy of the petition and a notice of the time and place of hearing shall be served upon
11 the defendant not less than 20 days prior to the date of hearing. Such service shall
12 be made in the same manner as a summons is served in a civil action, except that it
13 may also be made by leaving a copy of said petition and notice with any person
14 charged with the operation of the licensed premises under s. 125.68 (2). The
15 allegations of the petition shall be deemed controverted and shall be at issue without
16 further pleading by the defendant. No hearing shall be adjourned except for cause.
17 If upon such hearing the court finds that the allegations of the petition are true, it
18 shall issue a written order revoking the license or permit and shall likewise enjoin
19 the defendant from thereafter knowingly suffering or permitting any gambling
20 devices referred to in sub. (1), any amusement device, as defined in s. 565.01 (1g),
21 that is not licensed as described under s. 565.08, or any horse race betting to be set
22 up, kept, managed, used or conducted upon premises directly or indirectly controlled
23 by the defendant. The district attorney shall forthwith cause a copy of the order to
24 be filed with the issuing authority of the license or permit and shall cause a copy to
25 be served upon the defendant as above provided or the defendant's attorney. The

revocation and injunction shall become effective upon such service. In cases where a license is issued by a town, city or village, a copy of the order shall also be filed with the department of revenue as provided under s. 125.13.

SECTION 37m. Nonstatutory provisions.

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

SECTION 38m. Effective dates. This act takes effect on July 1, 2003, or on the day after publication, whichever is later, except as follows:

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

(END)

25

LRBa03[redacted]/1dn
RAC:kmg:pg

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

March 11, 2003

Article IV, section 24 (6) (c), of the Wisconsin Constitution specifically provides that "the following games, or games simulating any of the following games, may not be conducted by the state as a lottery: 1) any game in which winners are selected based on the results of a race or sporting event; 2) any banking card game, including blackjack, baccarat or chemin de fer; 3) poker; 4) roulette; 5) craps or any other game that involves rolling dice; 6) keno; 7) bingo 21, bingo jack, bingolet or bingo craps; 8) any game of chance that is placed on a slot machine or any mechanical, electromechanical or electronic device that is generally available to be played at a gambling casino; 9) any game or device that is commonly known as a video game of chance or a video gaming machine or that is commonly considered to be a video gambling machine...."

Please note that if any of the amusement device games are included in this list they would be prohibited under the Wisconsin Constitution.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0325/1dn
RAC:kmg:pg

March 12, 2003

Article IV, section 24 (6) (c), of the Wisconsin Constitution specifically provides that "the following games, or games simulating any of the following games, may not be conducted by the state as a lottery: 1) any game in which winners are selected based on the results of a race or sporting event; 2) any banking card game, including blackjack, baccarat or chemin de fer; 3) poker; 4) roulette; 5) craps or any other game that involves rolling dice; 6) keno; 7) bingo 21, bingo jack, bingolet or bingo craps; 8) any game of chance that is placed on a slot machine or any mechanical, electromechanical or electronic device that is generally available to be played at a gambling casino; 9) any game or device that is commonly known as a video game of chance or a video gaming machine or that is commonly considered to be a video gambling machine...."

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