

2003 – 2004 LEGISLATURE
January 2003 Special Session

LRBb0034/1
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ASSEMBLY AMENDMENT 1,
TO SENATE BILL 1

February 20, 2003 – Offered by Representatives BOYLE, SHERMAN, YOUNG,
GRONEMUS, PLALE, BALOW, SINICKI, VRUWINK, TRAVIS, ZEPNICK, SUDER, TURNER,
HUBLER and COLON.

1 At the locations indicated, amend the bill, as shown by senate substitute
2 amendment 1, as follows:

3 **1.** Page 1, line 5: after “prisons;” insert “and licensing and regulation of
4 amusement devices by cities, villages, and towns;”.

5 **2.** Page 1, line 12: before that line insert:

6 “**SECTION 2b.** 66.0424 of the statutes is created to read:

7 **66.0424 Licensing and regulation of amusement devices. (1)** In this
8 section:

9 (a) “Adjusted gross receipts” means the total amount paid by cash or check to
10 a Class “B” licensee or a “Class B” licensee under ch. 125 for the play of amusement
11 devices less the total amount paid by cash or check to the players of the amusement
12 devices for the play of the amusement devices.

1 (b) “Amusement device” means any video device that awards or is capable of
2 awarding a player with one or more redeemable free replays or credits for achieving
3 certain scores or results and does not change the ratio of plays to free replays or
4 credits so awarded.

5 (c) “Set up for the purpose of play” means operated for the purpose of offering
6 a person, for consideration, an opportunity to play an amusement device.

7 **(2)** Any city or village, acting under its power to determine its local affairs
8 under article XI, section 3 (1), of the constitution, or any town that permits
9 amusement devices to be set up for the purpose of play within its jurisdiction shall
10 do all of the following:

11 (a) Require that amusement devices be played only at a premises issued a Class
12 “B” license or a “Class B” license under ch. 125.

13 (b) Charge the owner of the amusement device an annual license fee of \$100
14 for each amusement device set up for the purpose of play.

15 (c) Prohibit more than 5 amusement devices at any one premises operated
16 under a Class “B” license or a “Class B” license issued under ch. 125.

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

22 2. In calculating the percentage of credits awarded to credits played for an
23 amusement device under subd. 1., the city, village, or town shall reduce the
24 percentage by a percentage that produces an amount equal to the amount of any
25 sales or use taxes generated from the play of the amusement device.

1 (e) Require that the adjusted gross receipts, less any amount paid as sales or
2 use taxes from the play of an amusement device, be equally divided between the
3 holder of the Class “B” license or “Class B” license issued under ch. 125 for the
4 premises at which the amusement device is located, and the city, village, or town in
5 which the premises is located.

6 **(3)** Beginning in 2005, any city, village, or town that does not permit
7 amusement devices to be set up for the purpose of play shall have its next scheduled
8 payment under s. 79.03 reduced by an amount equal to \$5,000 multiplied by the
9 number of premises located within its jurisdiction that are issued a Class “B” license
10 or a “Class B” license under ch. 125. The reduction in payment shall continue for each
11 year in which the city, village, or town does not permit amusement devices to be set
12 up for the purpose of play.

13 **SECTION 2c.** 77.51 (4) (c) 1m. of the statutes is created to read:

14 77.51 **(4)** (c) 1m. Adjusted gross receipts, as defined in s. 66.0424 (1) (a).

15 **SECTION 2d.** 77.51 (15) (c) 1m. of the statutes is created to read:

16 77.51 **(15)** (c) 1m. Adjusted gross receipts, as defined in s. 66.0424 (1) (a).

17 **SECTION 2e.** 125.12 (1) (a) of the statutes is amended to read:

18 125.12 **(1)** (a) Except as provided in this subsection and s. 945.041, any
19 municipality or the department may revoke, suspend, or refuse to renew any license
20 or permit under this chapter, as provided in this section.

21 **SECTION 2f.** 125.12 (1) (c) of the statutes is amended to read:

22 125.12 **(1)** (c) Neither a municipality nor the department may consider an
23 arrest or conviction for a violation punishable under s. ~~945.03 (2m), 945.04 (2m) or~~
24 945.05 (1m) in any action to revoke, suspend, or refuse to renew a Class “B” or
25 “Class B” license or permit.

1 **SECTION 2g.** 945.01 (1) (dm) of the statutes is created to read:

2 945.01 (1) (dm) Playing an amusement device, as defined in s. 66.0424 (1) (b),
3 that is licensed as described in s. 66.0424 (2) (b).

4 **SECTION 2h.** 945.01 (3) (a) of the statutes is amended to read:

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

9 **SECTION 2i.** 945.01 (3) (b) 1m. of the statutes is created to read:

10 945.01 (3) (b) 1m. An amusement device, as defined in s. 66.0424 (1) (b), that
11 is licensed as described in s. 66.0424 (2) (b).

12 **SECTION 2k.** 945.01 (4) (am) of the statutes is renumbered 945.01 (4) (am)
13 (intro.) and amended to read:

14 945.01 (4) (am) (intro.) “Gambling place” does not include ~~a~~ any of the
15 following:

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

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

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

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

21 **SECTION 2m.** 945.01 (4) (am) 5. of the statutes is created to read:

22 945.01 (4) (am) 5. A premises on which is located an amusement device, as
23 defined in s. 66.0424 (1) (b), that is licensed as described in s. 66.0424 (2) (b).

24 **SECTION 2n.** 945.01 (5) (am) of the statutes is amended to read:

1 945.01 (5) (am) “Lottery” does not include bingo or a raffle conducted under ch.
2 563; the playing of an amusement device, as defined in s. 66.0424 (1) (b), that is
3 licensed as described in s. 66.0424 (2) (b); pari-mutuel wagering conducted under ch.
4 562; or the state lottery or any multijurisdictional lottery conducted under ch. 565.

5 **SECTION 2p.** 945.03 (1m) of the statutes, as affected by 2001 Wisconsin Act 109,
6 is renumbered 945.03, and 945.03 (intro.), as renumbered, is amended to read:

7 **945.03 Commercial gambling.** (intro.) Whoever intentionally does any of
8 the following is engaged in commercial gambling and, ~~except as provided in sub.~~
9 ~~(2m),~~ is guilty of a Class I felony:

10 **SECTION 2q.** 945.03 (2m) of the statutes is repealed.

11 **SECTION 2r.** 945.04 (1m) of the statutes is renumbered 945.04, and 945.04
12 (intro.), as renumbered, is amended to read:

13 **945.04 Permitting premises to be used for commercial gambling.**
14 (intro.) ~~Except as provided in sub. (2m), whoever~~ Whoever intentionally does any of
15 the following is guilty of a Class A misdemeanor:

16 **SECTION 2s.** 945.04 (2m) of the statutes is repealed.

17 **SECTION 2t.** 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. 66.0424 (1) (b), that is not licensed as
22 described under s. 66.0424 (2) (b), 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
25 therewith upon premises controlled directly or indirectly by the person, shall be

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

7 **SECTION 2u.** 945.041 (2) of the statutes is amended to read:

8 945.041 (2) Any sheriff, undersheriff, deputy sheriff, constable, or other
9 municipal police officer or any person authorized to enforce the gambling laws under
10 s. 165.60 shall within 10 days after acquiring such information report to the district
11 attorney of the county the name and address of any licensee or permittee under ch.
12 125 who to his or her knowledge has knowingly suffered or permitted any gambling
13 device in sub. (1), any amusement device, as defined in s. 66.0424 (1) (b), that is not
14 licensed as described under s. 66.0424 (2) (b), or any horse race betting to be set up,
15 kept, managed, used, or conducted upon the licensed premises or in connection
16 therewith upon premises controlled directly or indirectly by such licensee or
17 permittee. Such officer or person shall also report to the district attorney knowledge
18 of the circumstances and the name of the municipality or officer by whom the license
19 or permit has been issued. Any other person may in writing and signed by that
20 person report any such name, address, and other information to the district attorney.
21 Within 10 days after any report the district attorney shall institute a proceeding as
22 hereinafter provided before the circuit court of the county or shall within such time
23 report to the attorney general the reasons why such a proceeding has not been
24 instituted. The attorney general may direct the department of justice or the district
25 attorney to institute such proceeding within a reasonable time.

1 **SECTION 2v.** 945.041 (3) of the statutes is amended to read:

2 945.041 (3) Such proceeding shall be in the name of the state and the issues
3 may be determined by a jury. It shall be instituted by the filing of a petition and
4 service of a notice as herein provided. The petition shall be directed to the circuit
5 court and shall set forth a clear and concise statement of the grounds that are alleged
6 to exist justifying a revocation of the license or permit under sub. (1), and shall
7 request an order revoking such license or permit. It shall also request an injunction
8 restraining the defendant from thereafter knowingly suffering or permitting any
9 such gambling devices, any amusement device, as defined in s. 66.0424 (1) (b), that
10 is not licensed as described under s. 66.0424 (2) (b), or any horse race betting to be
11 set up, kept, managed, used, or conducted upon premises directly or indirectly
12 controlled by the defendant. Upon the filing of such petition the court shall fix a time
13 for hearing not to exceed 30 days from the date of filing at a place within the judicial
14 circuit, and a copy of the petition and a notice of the time and place of hearing shall
15 be served upon the defendant not less than 20 days prior to the date of hearing. Such
16 service shall be made in the same manner as a summons is served in a civil action,
17 except that it may also be made by leaving a copy of said petition and notice with any
18 person charged with the operation of the licensed premises under s. 125.68 (2). The
19 allegations of the petition shall be deemed controverted and shall be at issue without
20 further pleading by the defendant. No hearing shall be adjourned except for cause.
21 If upon such hearing the court finds that the allegations of the petition are true, it
22 shall issue a written order revoking the license or permit and shall likewise enjoin
23 the defendant from thereafter knowingly suffering or permitting any gambling
24 devices referred to in sub. (1), any amusement device, as defined in s. 66.0424 (1) (b),
25 that is not licensed as described under s. 66.0424 (2) (b), or any horse race betting to

1 be set up, kept, managed, used, or conducted upon premises directly or indirectly
2 controlled by the defendant. The district attorney shall forthwith cause a copy of the
3 order to be filed with the issuing authority of the license or permit and shall cause
4 a copy to be served upon the defendant as above provided or the defendant's attorney.
5 The revocation and injunction shall become effective upon such service. In cases
6 where a license is issued by a town, city, or village, a copy of the order shall also be
7 filed with the department of revenue as provided under s. 125.13.

8 **SECTION 2w.** 945.041 (11) of the statutes is repealed.

9 **SECTION 2x.** 946.82 (4) of the statutes, as affected by 2001 Wisconsin Act 109,
10 is amended to read:

11 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
12 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
13 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
14 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
15 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
16 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
17 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g),
18 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)
19 (bf) to (e), 943.201, 943.23 (1g), (2), and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30,
20 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c),
21 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 944.21 (5) (c) and (e), 944.32,
22 944.33 (2), 944.34, ~~945.03 (1m), 945.04 (1m), 945.05 (1), 945.08,~~ 946.10, 946.11,
23 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72,
24 946.76, 947.015, 948.05, 948.08, 948.12, and 948.30."

