SENATE BILL No. 50

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-7; IC 35-45-5-11.

Synopsis: Electronic gaming devices. Creates a new license under the jurisdiction of the alcoholic beverage commission that permits gambling on electronic gaming devices in establishments that hold liquor, beer, wine, club, restaurant, or hotel permits issued by the alcoholic beverage commission. Provides that the annual license fee for the establishment license is $1,000 per electronic gaming device. Limits the number of gaming devices that an establishment may have. Creates a license under the jurisdiction of the alcoholic beverage commission for operators of electronic gaming devices. Requires operators to pay a $5,000 annual fee. Provides that the fees are deposited in the electronic gaming fund, which is administered by the

(Continued next page)

Effective: Upon passage; July 1, 1999.

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January 6, 1999, read first time and referred to Committee on Public Policy.

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Digest Continued

alcoholic beverage commission, and appropriates amounts sufficient to cover required distributions and administrative costs. Provides that after the amounts have been appropriated for administration, 20% of the money in the fund must be paid to the counties based on population and 20% of the money in the fund must be paid to cities and towns based on population. Provides that the remaining revenue from license fees must be deposited in the property tax replacement fund and used for property tax replacement. Makes it a Class D felony to knowingly or intentionally: (1) tamper with an electronic gaming device; (2) manipulate the outcome, payoff, or operation of an electronic gaming device; or (3) sell, purchase, or lease an electronic gaming device that is not licensed by the alcoholic beverage commission. Requires the alcoholic beverage commission to adopt rules for the operation of the electronic gaming devices.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 50

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]:

ARTICLE 7. ELECTRONIC GAMING

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Commission" refers to the Indiana alcoholic beverage commission established by IC 7.1-2-1-1.

Sec. 3. "Electronic gaming device" means an electromechanical device, an electrical device, or a machine that:

(1) upon payment of consideration is available to play or operate;

(2) makes payoffs in any manner, including delivery of premiums, merchandise, tokens, redeemable game credits, or anything of value to the person playing the game; and

(3) is approved by the commission under this article.

Sec. 4. "Establishment" means a place of business licensed to

sell alcoholic beverages under IC 7.1-3.

Sec. 5. "Gambling operations" means the operation of electronic gaming devices in establishments licensed under this article.

Sec. 6. "Licensee" means a person that holds a license under IC 7.1-7-2.

Sec. 7. "Operator" means an individual or a business entity that is licensed under this article to:

(1) distribute, sell, or lease electronic gaming devices or associated equipment in Indiana; or

(2) own electronic gaming devices and physically place the devices for public gaming operations at an establishment located in Indiana.

Sec. 8. "Person" means an individual, a firm, an association, a joint venture, a partnership, a limited liability company, a corporation, or any other group or combination.

Chapter 2. Licensing

Sec. 1. The commission does not have authority to regulate gaming devices that are operated on riverboats (as defined in IC 4-33-2-17).

Sec. 2. The commission may issue operator and establishment licenses to applicants that satisfy the requirements of this article.

Sec. 3. (a) An applicant seeking to obtain a license under this article must submit the fee required by the commission and apply to the commission in the manner required by the commission. The application must include at least the following:

(1) The name and address of the applicant and any individual holding at least a thirty percent (30%) interest in the applicant.

(2) The applicant's consent to credit investigations and criminal record searches.

(3) Waivers and releases signed by the applicant that the commission believes are necessary to ensure a full and complete review of the application.

(b) An applicant shall furnish all information requested by the commission, including financial data and documents, certifications, consents, waivers, and individual histories.

Sec. 4. Criminal history record information obtained during the investigation of an individual must be maintained by the commission for the term of the license and for any subsequent license term.

Sec. 5. (a) The commission shall conduct or cause to be conducted a background investigation of each applicant for

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licensure.

(b) A background investigation conducted in connection with the issuance of a license under IC 7.1-3-4, IC 7.1-3-9, IC 7.1-3-14, or IC 7.1-3-20 satisfies the requirements of subsection (a).

Sec. 6. (a) Except as provided in subsection (b), the commission may require that an application or other document submitted by an applicant or a licensee must be sworn to or affirmed before a notary public.

(b) A document submitted by an attorney on behalf of an applicant must be signed by the attorney. The attorney's signature constitutes certification that the attorney has read the forms or documents and that, to the best of the attorney's knowledge, information, and belief, the contents of the forms or documents are true.

Sec. 7. (a) The commission shall notify an applicant who is denied a license of the specific reasons for denial. The notification must be:

(1) in writing; and

(2) sent by certified mail.

(b) The applicant has forty-five (45) calendar days after the date the written notice is received by the applicant under subsection (a) to request a hearing on the denial of the license.

Sec. 8. The commission may not issue a license to an applicant who:

(1) has knowingly made a false statement of material fact to the commission;

(2) is found by the commission to lack the necessary financial stability or responsibility for licensure;

(3) if an individual, is less than twenty-one (21) years of age on the date the application is received by the commission;

(4) is on the most recent tax warrant list provided to the commission by the department of state revenue;

(5) if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a felony in the preceding ten (10) years, unless the commission determines that:

(A) the individual has been pardoned or the individual's civil rights have been restored;

(B) after the conviction or entry of the plea, the individual has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the commission; or

(C) the individual has terminated a relationship with a

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person whose actions directly contributed to the conviction or entry of the plea;

(6) if an individual, has been convicted of or entered a plea of guilty or nolo contendere to a violation of a gambling statute in any jurisdiction; or

(7) fails to provide all materials requested by the commission.

However, the commission may determine that a waiver is warranted under the circumstances for an individual described in subdivision (6).

Sec. 9. Credit and security investigation information submitted in connection with an application for a license under this article is confidential and may not be disclosed except for official purposes under this article or under a judicial order.

Chapter 3. Powers and Duties of the Commission

Sec. 1. The commission has the following powers and duties for the purpose of administering, regulating, and enforcing gambling operations:

(1) All powers and duties specified by this article.

(2) All powers necessary and proper to fully and effectively execute and enforce this article, including the power to do the following:

(A) Supervise and exercise jurisdiction over the following:

(i) Electronic gaming device gambling operations within establishments over which the commission has jurisdiction under this article.

(ii) Individuals in establishments over which the commission has jurisdiction under this article.

(B) Investigate and determine the eligibility of applicants for licenses and reinvestigate licensees.

(C) Take appropriate administrative enforcement or disciplinary action against a licensee.

(D) Investigate alleged violations of this article.

(E) Establish fees under IC 7.1-7-6 for licenses issued under this article.

(F) Conduct hearings.

(G) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of relevant documents.

(H) Administer oaths and affirmations to the witnesses and take depositions.

(I) Revoke, suspend, or renew licenses issued under this article.

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(J) Hire employees to gather information, conduct investigations, and carry out other tasks under this article.

Sec. 2. The commission shall adopt rules under IC 4-22-2 and IC 7.1-2-3-6, and may adopt emergency rules under IC 4-22-2-37.1 concerning the following:

(1) Administering this article.

(2) Establishing the conditions under which gambling operations may be conducted under this article.

(3) Preventing practices detrimental to the public interest and promoting the best interests of electronic gaming device gambling.

(4) Imposing penalties for noncriminal violations of this article.

(5) Protecting or enhancing the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(6) Authorizing electronic gaming devices that are approved for gambling operations under this article.

(7) Establishing the payout percentage required of electronic gaming devices authorized under subdivision (6) of not less than eighty percent (80%).

(8) Establishing the minimum amount for one (1) wager in an electronic gaming device under this article of at least five cents ($0.05).

(9) Establishing the maximum amount for one (1) wager in an electronic gaming device under this article of not more than six dollars and forty cents ($6.40).

(10) Establishing the number and size of prizes, with a maximum prize on a game of not more than one thousand five hundred dollars ($1,500).

(11) Establishing the method and procedure for the validation and payment of a winning ticket.

(12) Establishing the maximum number of electronic gaming devices that may be placed in a single establishment of not more than the following:

(A) Five (5) machines per location for on-premises consumption of alcoholic beverages.

(B) Ten (10) machines for clubs (as defined in IC 7.1-1-3-10) and fraternal clubs (as defined in IC 7.1-1-3-17), with an additional machine per one hundred (100) members and a maximum of twenty (20)

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machines per licensed premises.

(C) Twenty (20) machines per licensed establishment for a licensed location for on-premises consumption that holds a race track permit under IC 7.1-3-17.7.

(13) The commission shall adopt rules under IC 4-22-2 concerning other qualifications and procedures for granting operator and establishment licenses under this article.

Sec. 3. The commission may employ or contract for additional investigators to oversee the gambling operations under this article.

Sec. 4. The commission shall require that a licensee's records concerning gambling operations must be maintained in the manner and for the time prescribed by the commission.

Sec. 5. (a) Except as provided in subsection (c), the commission may do any combination of the following to a licensee that violates this article:

(1) Suspend, revoke, or restrict the license of the licensee.

(2) Impose a civil penalty set by the commission against a licensee for each violation of this article.

(b) If a licensee holding an establishment license under IC 7.1-7-5 no longer holds a permit issued by the commission as required under IC 7.1-7-5-2, the commission shall revoke the establishment license.

(c) A license issued under this article is automatically revoked if the commission determines that a licensee has offered, installed, serviced, maintained, possessed, or otherwise made available to the public an electronic gaming device that is not licensed by the commission.

(d) A person whose license is revoked under subsection (c) may not be licensed under this article for three (3) years after the revocation.

Sec. 6. The state police department shall assist the commission in conducting background investigations of applicants. The commission shall reimburse the state police department for the costs incurred as a result of the assistance. The commission shall make the payment from fees collected from applicants.

Chapter 4. Operator License

Sec. 1. A person must possess a license issued under this chapter to:

(1) distribute, sell, or lease electronic gaming devices or associated equipment in Indiana; or

(2) own more than twenty (20) electronic gaming devices and physically place the devices for gambling operations at an

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Indiana establishment.

Sec. 2. To qualify for a license under this chapter, an applicant must:

(1) prove, using tax records and bills of sale, that the applicant has been doing business in Indiana for at least two (2) years before the date of the application; and

(2) maintain a place of business located in Indiana, including at least a warehouse and service facility.

Sec. 3. (a) For each operator license that is issued by the commission, the commission shall create and maintain a list of the following:

(1) The name of the individual who signed the application for the license.

(2) The name, address, and telephone number of the operator who issued the license.

(3) The number of electronic gaming devices owned by each operator.

(4) The serial numbers of each electronic gaming device operated by the licensee.

(b) The lists described in subsection (a) must be made available for public inspection in the offices of the commission.

Sec. 4. An operator may not own, manage, or control an establishment licensed under IC 7.1-7-5.

Sec. 5. An operator may not distribute an electronic gaming device in Indiana unless the device is approved by the commission under this article.

Sec. 6. An operator may not distribute an electronic gaming device to an establishment unless the establishment is licensed under IC 7.1-7-5.

Sec. 7. (a) An operator license issued under this chapter expires one (1) year after the date of its issuance.

(b) An operator license issued under this chapter may be renewed for a fee and in a manner determined by the commission.

Chapter 5. Establishment License

Sec. 1. An establishment license issued under this chapter entitles an establishment described in section 2 of this chapter to have gambling operations on the premises of the establishment.

Sec. 2. To qualify for an establishment license, an establishment must be licensed to sell alcoholic beverages and the applicant must hold:

(1) a beer retailer's permit under IC 7.1-3-4;

(2) a liquor retailer's permit under IC 7.1-3-9;

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(3) a wine retailer's permit under IC 7.1-3-14;
(4) a club, restaurant, or hotel permit under IC 7.1-3-20; or
(5) a race track permit under IC 7.1-3-17.7 that covers the establishment.

Sec. 3. A license issued under this chapter may not be transferred without prior written approval of the commission.

Sec. 4. (a) For each establishment license that is issued by the commission, the commission shall create and maintain a list of the following:

(1) The name of the individual who signed the application for the license.
(2) The name, address, and telephone number of the establishment that issued the license.
(3) The number of electronic gaming devices at each establishment.
(4) The serial numbers of each electronic gaming device.
(5) The sticker numbers required under section 5(c) of this chapter.

(b) The lists described in subsection (a) must be available for public inspection in the offices of the commission.

Sec. 5. (a) An establishment license issued under this chapter authorizes an establishment to have not more than the number of electronic gaming devices determined by the commission in rules adopted under IC 7.1-7-3-2(12).

(b) An establishment must pay an annual fee established under IC 7.1-7-6 for each electronic gaming device located on the premises of the establishment.

(c) The commission shall annually issue a sticker with a number for each licensed electronic gaming device. The establishment must place the sticker on each licensed electronic gaming device in a manner determined by the commission.

Sec. 6. (a) An establishment license issued under this chapter must be conspicuously displayed in the establishment.

(b) Gambling operations may not take place unless the establishment license is conspicuously displayed in the licensed establishment as required by subsection (a).

Sec. 7. (a) An establishment license issued under this chapter expires one (1) year after the date of its issuance.

(b) An establishment license may be renewed for a fee and in the manner determined by the commission.

Chapter 6. Fees

Sec. 1. The commission shall adopt rules under IC 4-22-2 to

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establish fees for licenses issued under this article. The fees may not exceed the following:

(1) Five thousand dollars ($5,000) annually for each operator license.

(2) One thousand dollars ($1,000) annually for an establishment license if the establishment has one (1) electronic gaming device. The licensee shall pay an additional one thousand dollars ($1,000) annually for each additional electronic gaming device that the licensee will operate in the establishment.

Sec. 2. Fees collected under this chapter must be deposited in the electronic gaming fund established by IC 7.1-7-8.

Sec. 3. A local governmental authority may not charge an additional fee or charge for the licensing of operators or establishments under this article.

Chapter 7. Operation of Electronic Gaming Devices

Sec. 1. Electronic gaming devices and equipment associated with electronic gaming devices must be maintained and serviced in the manner and condition required by the commission.

Sec. 2. (a) An establishment licensee is responsible for keeping a written service log in each of the electronic gaming devices. The log shall be located in the main cabinet access area of the device's terminal.

(b) An individual, including an employee or agent of the commission, who gains entry into any internal space of an electronic gaming device shall sign the log and indicate the time, date, and purpose of entry, the electronic and mechanical meter readings, and the parts of the terminal inspected or repaired.

(c) Service log forms must be obtained from the commission and be retained by an establishment during the time that the electronic gaming device is being used for gambling operations and for at least one (1) year after the electronic gaming device is removed from service.

(d) Service logs created under this section must be available for inspection by an employee or agent of the commission upon request.

Sec. 3. The commission may inspect an electronic gaming device terminal before the device or terminal is placed in operation to ensure that the electronic gaming device is in compliance with this article and the rules of the commission.

Sec. 4. An electronic gaming device must prominently display a table listing the available prizes and the odds of winning.

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Sec. 5. An electronic gaming device must dispense to each winning player a ticket indicating the amount won and containing:

(1) information on how to redeem the ticket for cash; and

(2) a notice that the ticket must be redeemed within the time set forth in section 6(c) of this chapter.

Sec. 6. (a) The holder of an establishment license shall immediately pay a winning player the amount won on an electronic gaming device upon presentation of a winning ticket by the player.

(b) An establishment may not pay a player for a winning ticket from another establishment.

(c) A ticket that is not redeemed within seventy-two (72) hours after the ticket is dispensed is void.

Sec. 7. (a) The operator or establishment licensee shall maintain records of the electronic gaming devices the licensee owns that are placed in use. The records shall be made available to the commission upon request and must be sufficient to ensure that the electronic gaming device is operated in compliance with this article and the rules of the commission.

(b) The records required under this section must be held by the licensee during the time that each electronic gaming device is in operation and for at least one (1) year after the device is no longer being used for gambling operations.

Sec. 8. (a) An electronic gaming device may not be operated in a location in an establishment where a person less than twenty-one (21) years of age has access to the device.

(b) An establishment may not allow a person less than twenty-one (21) years of age to wager on an electronic gaming device.

Sec. 9. (a) Except as provided in subsection (b), an establishment licensee may not advertise or promote in any way the presence of electronic gaming devices in an establishment.

(b) An establishment licensee may advertise electronic gaming devices within the establishment if:

(1) the advertising cannot be viewed from outside the establishment; and

(2) the licensee complies with the rules of the commission concerning advertising.

Sec. 10. An establishment licensee may not include within the name of the business the term "casino", "electronic gaming devices", or any related term that may be identified with casino gambling.

Chapter 8. Electronic Gaming Fund and Disbursement of Fund

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Money

Sec. 1. As used in this chapter, "fund" refers to the electronic gaming fund established by section 2 of this chapter.

Sec. 2. The electronic gaming fund is established. The fund shall be administered by the commission.

Sec. 3. (a) Expenses of administering the fund:

(1) may not exceed five percent (5%) of the total amount collected in any fiscal year; and

(2) shall be paid from money in the fund.

(b) Money in the fund is continually appropriated to the commission to carry out the purposes of this article.

Sec. 4. The fund consists of licensing fees deposited into the fund under IC 7.1-7-6-2.

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 6. The commission shall distribute annually, at the end of a state fiscal year, after administrative expenses are paid under section 3 of this chapter, the following:

(1) Twenty percent (20%) of the money in the fund at the end of the state fiscal year shall be disbursed to the counties based on the population of the counties according to the most recent federal special or decennial census, special tabulation, or corrected population count effective under IC 1-1-3.5.

(2) Twenty percent (20%) of the money in the fund at the end of the state fiscal year shall be disbursed to cities and towns based on the population of the cities and towns according to the most recent federal special or decennial census, special tabulation, or corrected population count under IC 1-1-3.5.

Sec. 7. Money in the fund at the end of a state fiscal year after distributions are made under section 6 of this chapter must be transferred to the property tax replacement fund and used to increase the property tax replacement credit percentage under IC 6-1.1-21 and does not revert to the state general fund.

Sec. 8. With respect to any reimbursement that the commission is required to pay to the state or to an agency of the state, the commission may enter into an agreement with the state or the state agency under which the commission pays to the state or the state agency an amount reasonably anticipated to cover reimbursable expenses before these expenses are incurred.

Chapter 9. Crimes and Penalties

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Sec. 1. A person who knowingly or intentionally tampers with an electronic gaming device with intent to interfere with the proper operation of the electronic gaming device commits electronic gaming device tampering, a Class D felony.

Sec. 2. A person who knowingly or intentionally, with intent to manipulate the outcome, payoff, or operation of an electronic gaming device, manipulates or attempts to manipulate the outcome, payoff, or operation of an electronic gaming device commits electronic gaming device manipulation, a Class D felony.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally purchases, sells, leases, or places in an establishment for use by the public a type of machine that is authorized by the commission for play but that is not licensed under this article commits unlicensed electronic gaming device operation, a Class D felony.

(b) Subsection (a) does not apply to a general coin operated machine used for amusement only.

SECTION 2. IC 35-45-5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11. This chapter does not apply to gambling on electronic gaming devices for use in an establishment licensed under IC 7.1-7.**

SECTION 3. [EFFECTIVE UPON PASSAGE] **(a) Before July 1, 1999, the alcoholic beverage commission shall adopt emergency rules to implement IC 7.1-7, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1.**

(b) The emergency rules adopted under this SECTION expire on the earlier of:

(1) the date rules are adopted under IC 7.1-7-3-2, as added by this act; or

(2) July 1, 2000.

(c) This SECTION expires July 2, 2000.

SECTION 4. **An emergency is declared for this act.**

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