January 28, 2011

SENATE BILL No. 429

DIGEST OF SB 429 (Updated January 26, 2011 3:13 pm - DI 110)

Citations Affected: IC 4-36.

Synopsis: Type II gaming. Allows type II gaming retailers to profit from qualified drawings. Includes sales of the tickets in the retailer's gross receipts. Limits the size of a qualified drawing conducted for profit by limiting the amount wagered to $500. Prohibits awarding cash, alcohol, and tobacco as prizes in qualified drawings conducted for profit. Requires retailers to report the amounts retained. Requires retailers to obtain tickets for qualified drawings from licensed distributors. Includes tickets for qualified drawings in the preference for Indiana manufacturers.

Effective: July 1, 2011.

Head, Lanane, Arnold

January 12, 2011, read first time and referred to Committee on Public Policy.
January 27, 2011, amended, reported favorably — Do Pass.

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January 28, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 429

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

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

SECTION 1. IC 4-36-2-9, AS AMENDED BY P.L.108-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. **(a)** "Gross receipts" means the total amount of money exchanged for the purchase of:

(1) pull tabs;

(2) punchboards; ~~and~~

(3) tip boards; **and**

(4) raffle tickets purchased in a qualified drawing in which the retailer retains the profits of the qualified drawing;

by **the patrons of a** type II gaming ~~patrons.~~ **operation.**

(b) The term does not include any amount wagered on ~~winner take all and other~~ qualified drawings conducted by a retailer under IC 4-36-5-1(c) **in which the total amount wagered is returned to the retailer's patrons in the form of prizes.**

SECTION 2. IC 4-36-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 13.5. "Profits" means the difference between:**

(1) the total amount of money exchanged for the purchase of a raffle ticket in a qualified drawing; minus

(2) the total cost of the prizes awarded in the qualified drawing.

SECTION 3. IC 4-36-5-1, AS AMENDED BY P.L.108-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) A retailer may offer the sale of type II gambling games in accordance with this article.

(b) A retailer's endorsement also authorizes a retailer to conduct qualified drawings on the premises of the retailer's tavern. A qualified drawing must be conducted in the manner required by this section.

(c) A qualified drawing is subject to the following rules and limitations:

(1) The purchase price for a chance to win a prize in a qualified drawing may not exceed five dollars ($5).

(2) **This subdivision does not apply to a qualified drawing conducted under subdivision (12).** The total value of all prizes that may be won in a particular qualified drawing may not exceed three hundred dollars ($300) for any of the following:

(A) A daily drawing.

(B) A weekly drawing.

(C) A monthly drawing.

(3) A qualified drawing must be conducted in accordance with the following limitations:

(A) Not more than one (1) daily drawing may be conducted each day.

(B) Not more than one (1) weekly drawing may be conducted each week.

(C) Not more than one (1) monthly drawing may be conducted each month.

(D) Weekly drawings must be held on regular seven (7) day intervals posted in the information required by subdivision ~~(11).~~ **(10).**

(E) Monthly drawings must be held on regular monthly intervals posted in the information required by subdivision ~~(11).~~ **(10).**

A weekly or monthly drawing may be conducted on the same day that a daily drawing is conducted.

(4) Except as otherwise provided in this section, a patron must be present to claim a prize awarded in a qualified drawing.

(5) A retailer may ~~not~~ profit from conducting a qualified drawing.

~~(6) All amounts wagered on qualified drawings must be returned~~

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~~to a retailer's patrons in the form of prizes.~~

~~(7)~~ **(6)** A retailer may not conduct a qualified drawing or any other event in which the winner of the prize is determined, in whole or in part, by a sporting event.

~~(8)~~ **(7)** If no winning ticket is drawn in a qualified drawing, a retailer may:

(A) carry the prize over to a later drawing in accordance with this section; or

(B) continue drawing tickets until a winner is drawn.

~~(9)~~ **(8)** If a patron who purchased a winning ticket is not present to claim a prize at the time of the qualified drawing, a retailer shall hold the prize for the winning patron in accordance with the rules of the retailer.

~~(10)~~ **(9)** In order to comply with subdivision ~~(9),~~ **(8),** a retailer shall obtain the name, address, and telephone number of each patron who purchases a ticket for a qualified drawing.

~~(11)~~ **(10)** A retailer must conspicuously display the following information concerning each qualified drawing conducted by the retailer:

(A) The price of a ticket.

(B) The time of the drawing.

(C) The description and value of the prizes awarded in the drawing.

(D) The manner in which a prize may be claimed.

(E) The rules of the retailer concerning the following:

(i) Qualified drawings in which no winning ticket is drawn.

(ii) The period that the retailer will hold a prize for a winning patron who was not present to claim the prize at the time of the qualified drawing.

(F) Whether:

(i) the retailer will retain the profits realized from conducting the qualified drawing; or

(ii) the amount wagered on the qualified drawing will be returned to the retailer's patrons in the form of prizes.

~~(12)~~ **(11)** Notwithstanding any other provision of this chapter, a retailer must continue drawing tickets in a monthly drawing until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(12) The following rules apply only to a qualified drawing from which the retailer retains the profits:

(A) Cash may not be awarded to the winner of the qualified drawing.

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(B) All prizes must be in the form of merchandise other than alcohol or tobacco.

(C) The maximum amount of wagers that a retailer may accept in the course of conducting the qualified drawing is five hundred dollars ($500).

(d) When the winning patron is not present at the time of the qualified drawing to claim a prize, the retailer shall award the prize in the following manner:

(1) The retailer shall immediately notify the winning patron by telephone that the patron's name was drawn in a qualified drawing and that the patron has the time permitted by the rules of the retailer, which must be at least seventy-two (72) hours, to claim the prize.

(2) The winning patron must appear at the retailer's premises within the time permitted by the rules of the retailer to claim the prize in person.

(3) The retailer shall verify the identity of the winning patron and award the prize.

(e) This subsection applies when the rules of a retailer require the retailer to carry over a prize when no winning ticket is drawn and when a winning patron fails to claim a prize in the manner required by subsection (d). The retailer shall carry the prize over to a later qualified drawing as follows:

(1) An unclaimed prize from a daily drawing must be carried over to the next daily drawing.

(2) Subject to the prize limits set forth in subsection (c)(2), a retailer may carry over a prize under subdivision (1) not more than fourteen (14) times. On the fourteenth calendar day to which a prize has been carried over, the retailer must continue drawing tickets until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(3) An unclaimed prize from a weekly drawing must be carried over to the next weekly drawing.

(4) Subject to the prize limits set forth in subsection (c)(2), a retailer may carry over a prize under subdivision (3) not more than one (1) time. On the day that the retailer conducts a weekly drawing for the carried over prize, the retailer must continue drawing tickets until the retailer draws a ticket purchased by a patron who is present to claim the prize.

(f) The following apply to a retailer that carries over a prize under subsection (e):

(1) A retailer may conduct the daily drawing regularly scheduled

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for a calendar day occurring during the time that the retailer holds a prize for a winning patron who was not present at the time of a qualified drawing.

(2) If an unclaimed prize from a daily drawing is carried over to a particular date, the retailer may not conduct the regular daily drawing that would otherwise be permitted under this section on that date.

(3) If an unclaimed prize from a weekly drawing is carried over to a particular date, the retailer may not conduct the regular weekly drawing that would otherwise be permitted under this section on that date.

(4) Subject to the prize limits set forth in subsection (c)(2), a retailer may accept additional entries to a drawing for a carried over prize.

SECTION 4. IC 4-36-5-2, AS AMENDED BY P.L.108-2009, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

(b) Type II gambling games ~~raffles, and winner take all~~ **and qualified** drawings conducted under section 1(c) of this chapter may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

SECTION 5. IC 4-36-5-3, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A retailer ~~that obtains a type II gambling game~~ must obtain ~~the~~ **a** type II gambling game **or a ticket for a qualified drawing** from a distributor licensed by the commission under this article.

(b) Except as provided in subsection (c), a distributor must obtain at least twenty-five percent (25%) of the type II gambling games **and tickets for qualified drawings** purchased by the distributor from a manufacturer that is domiciled in Indiana.

(c) The commission may excuse a distributor from the requirement set forth in subsection (b) if the commission finds that at least one (1) of the following conditions exists:

(1) No manufacturer domiciled in Indiana is licensed under this article.

(2) No manufacturer domiciled in Indiana is in good standing with the requirements of this article.

(3) All of the licensed manufacturers domiciled in Indiana also hold distributor's licenses.

SECTION 6. IC 4-36-5-4, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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2011]: Sec. 4. (a) A retailer shall maintain accurate records of all financial aspects of the retailer's type II gambling operation. A retailer shall make accurate reports of all financial aspects of the type II gambling operation to the commission within the time established by the commission. The commission shall prescribe forms for this purpose. **The forms prescribed under this subsection must enable a retailer to report the amount of qualified drawing profits retained by the retailer during the reporting period.**

(b) As long as a retailer's receipts from the retailer's type II gambling operation remain on the premises of the retailer's tavern, the receipts may not be commingled with the receipts of the retailer's alcoholic beverage sales, food sales, and other related nongambling activities.

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COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 429, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 3, delete "value" and insert "**cost**".

Page 2, line 16, after "(2)" insert "**This subdivision does not apply to a qualified drawing conducted under subdivision (12).**".

Page 3, line 32, after "on the" insert "**qualified**".

Page 3, between lines 37 and 38, begin a new line block indented and insert:

"**(12) The following rules apply only to a qualified drawing from which the retailer retains the profits:**

(A) Cash may not be awarded to the winner of the qualified drawing.

(B) All prizes must be in the form of merchandise other than alcohol or tobacco.

(C) The maximum amount of wagers that a retailer may accept in the course of conducting the qualified drawing is five hundred dollars ($500).".

Page 5, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 4. IC 4-36-5-2, AS AMENDED BY P.L.108-2009, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A type II gambling game may be sold under this article only on the premises of the retailer's tavern.

(b) Type II gambling games ~~raffles, and winner take all~~ **and qualified** drawings conducted under section 1(c) of this chapter may not be offered in any part of the retailer's licensed premises in which a minor may be present under IC 7.1-5-7-11(a)(16).

SECTION 5. IC 4-36-5-3, AS ADDED BY P.L.95-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A retailer ~~that obtains a type II gambling game~~ must obtain ~~the~~ **a** type II gambling game **or a ticket for a qualified drawing** from a distributor licensed by the commission under this article.

(b) Except as provided in subsection (c), a distributor must obtain at least twenty-five percent (25%) of the type II gambling games **and tickets for qualified drawings** purchased by the distributor from a manufacturer that is domiciled in Indiana.

(c) The commission may excuse a distributor from the requirement set forth in subsection (b) if the commission finds that at least one (1) of the following conditions exists:

(1) No manufacturer domiciled in Indiana is licensed under this

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article.

(2) No manufacturer domiciled in Indiana is in good standing with the requirements of this article.

(3) All of the licensed manufacturers domiciled in Indiana also hold distributor's licenses.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 429 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 8, Nays 0.

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