

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 813

Introduced by Assembly Member Hall

February 26, 2009

An act to amend Section 19827 of the Business and Professions Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 813, as amended, Hall. Gambling Control Act: administration.

Existing law, the Gambling Control Act, provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the investigation and discipline of those activities and establishments by the Division of Gambling Control within the Department of Justice, as specified. Existing law permits the department to seize, remove, impound, photocopy, and audit any equipment, supplies, documents, papers, books, and records on the premises of a licensed gambling establishment for examination and inspection. *A willful violation of any provision of the Gambling Control Act is a crime.*

This bill would require that the examination and inspection of the equipment, supplies, documents, papers, books, and records of a gambling establishment take place during standard business hours. *The bill would require a gambling establishment to submit to the department, on January 1 and July 1 of each year, a schedule of its standard business hours, as specified. Because a willful violation of the Gambling Control Act is a crime, this bill would create a new crime and would thereby impose a state-mandated local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19827 of the Business and Professions
2 Code is amended to read:
3 19827. (a) The department has all powers necessary and proper
4 to enable it to carry out fully and effectually the duties and
5 responsibilities of the department specified in this chapter. The
6 investigatory powers of the department include, but are not limited
7 to, all of the following:
8 (1) Upon approval of the chief, and without notice or warrant,
9 the department may take any of the following actions:
10 (A) Visit, investigate, and place expert accountants, technicians,
11 and any other person, as it may deem necessary, in all areas of the
12 premises wherein controlled gambling is conducted for the purpose
13 of determining compliance with the rules and regulations adopted
14 pursuant to this chapter.
15 (B) Visit, inspect, and examine all premises where gambling
16 equipment is manufactured, sold, or distributed.
17 (C) Inspect all equipment and supplies in any gambling
18 establishment or in any premises where gambling equipment is
19 manufactured, sold, or distributed.
20 (D) Summarily seize, remove, and impound any equipment,
21 supplies, documents, or records from any licensed premises for
22 the purpose of examination and inspection. However, upon
23 reasonable demand by the licensee or the licensee's authorized
24 representative, a copy of all documents and records seized shall
25 be made and left on the premises.
26 (E) Demand access to, and inspect, examine, photocopy, and
27 audit all papers, books, and records of an owner licensee on the
28 gambling premises in the presence of the licensee or his or her
29 agent.

1 (2) (A) The summary examination and inspection of the
2 equipment, supplies, documents, papers, books, and records
3 pursuant to subparagraphs (D) and (E) of this paragraph (1), shall
4 be conducted during standard business hours.

5 (B) *A gambling establishment shall submit to the department,*
6 *on January 1 and July 1 of each year, a schedule of its standard*
7 *business hours for purposes of subparagraph (A). With respect to*
8 *weeks that do not contain a state or national holiday on which the*
9 *gambling establishment will be closed, the schedule shall provide*
10 *for standard business hours of not less than eight hours per day*
11 *and five days per week. With respect to weeks that contain a state*
12 *or national holiday on which the gambling establishment will be*
13 *closed, the schedule shall provide for standard business hours of*
14 *at least 30 hours per week.*

15 (3) Except as provided in paragraph (1), upon obtaining an
16 inspection warrant pursuant to Section 1822.60 of the Code of
17 Civil Procedure, the department may inspect and seize for
18 inspection, examination, or photocopying any property possessed,
19 controlled, bailed, or otherwise held by any applicant, licensee, or
20 any intermediary company, or holding company.

21 (4) The department may investigate, for purposes of prosecution,
22 any suspected criminal violation of this chapter. However, nothing
23 in this paragraph limits the powers conferred by any other law on
24 agents of the department who are peace officers.

25 (5) The department may do both of the following:

26 (A) Issue subpoenas to require the attendance and testimony of
27 witnesses and the production of books, records, documents, and
28 physical materials.

29 (B) Administer oaths, examine witnesses under oath, take
30 evidence, and take depositions and affidavits or declarations.
31 Notwithstanding Section 11189 of the Government Code, the
32 department, without leave of court, may take the deposition of any
33 applicant or any licensee. Sections 11185 and 11191 of the
34 Government Code do not apply to a witness who is an applicant
35 or a licensee.

36 (b) (1) Subdivision (a) shall not be construed to limit
37 warrantless inspections except as required by the California
38 Constitution or the United States Constitution.

(2) Subdivision (a) shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant in the following circumstances:

(A) With the consent of the owner, operator, or agent in charge of the premises.

(B) In situations presenting imminent danger to health and safety.

(C) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant, or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(D) In accordance with this chapter.

(E) In all other situations where a warrant is not constitutionally required.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.