

AMENDED IN ASSEMBLY JUNE 22, 2010

AMENDED IN SENATE MAY 27, 2010

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1125

Introduced by Senator Florez

February 18, 2010

An act to amend Sections ~~19867, 19911, and 19921~~ *19805 and 19867* of, and to add ~~Section 19843.5~~ *Sections 19843.5 and 19943.5* to, the Business and Professions Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

SB 1125, as amended, Florez. Gambling Control Act.

(1) The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. Existing law provides for the enforcement of those activities by the Department of Justice. Existing law requires that an application for a license or a determination of suitability be accompanied by a deposit that, in the judgment of the head of the entity within the Department of Justice that is responsible for fulfilling the obligations imposed by the act, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application. Existing law requires the head of that entity to adopt a schedule of costs and charges of investigation for use as guidelines in fixing the amount of any required deposit under these provisions.

This bill would require the department ~~and commission~~ to establish an enhanced fee schedule to provide for additional fees to be charged

to applicants who wish to have their applications processed and background investigations conducted in an expedited manner.

(2) Existing law permits the commission to adopt regulations related to the operation of a gambling establishment, as provided.

This bill would provide that jackpot funds, to which players have made contributions, are considered trust funds that are held for the benefit of the players and are not the property of the gambling establishment.

~~(3) Existing law prohibits a person under 21 years of age from being eligible for a work permit in a gambling establishment. Existing law also prohibits a person under 21 years of age from entering the premises of a licensed gambling establishment, except as provided.~~

~~This bill would permit a person between 18 and 21 years of age to work in a gambling establishment in a classification that entails providing services on and off the gaming floor that are not involved in play of any controlled game, as provided.~~

~~(3) Existing law requires the department to approve the play of any controlled game, including, but not limited to, placing restrictions and limitations on how a controlled game is played.~~

~~This bill would provide that a gambling establishment that conducts play of a controlled game that has been approved by the department, but is later found to be unlawful, has an absolute defense to any criminal, administrative, or civil action, so long as the game was being played in the manner approved.~~

~~(4) Existing law provides that a person is unsuitable to hold a state gambling license if the person has any financial interest in any business or organization that is engaged in any form of gambling, as provided. However, existing law authorizes the commission to deem an applicant suitable if the person has a 1% interest, or less, in a business that conducts lawful gambling outside the state.~~

~~This bill would define financial interest for those purposes.~~

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

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

- 1 SECTION 1. Section 19805 of the Business and Professions
- 2 Code is amended to read:
- 3 19805. As used in this chapter, the following definitions shall
- 4 apply:

1 (a) “Affiliate” means a person who, directly or indirectly through
2 one or more intermediaries, controls, is controlled by, or is under
3 common control with, a specified person.

4 (b) “Applicant” means any person who has applied for, or is
5 about to apply for, a state gambling license, a key employee license,
6 a registration, a finding of suitability, a work permit, a
7 manufacturer’s or distributor’s license, or an approval of any act
8 or transaction for which the approval or authorization of the
9 commission or department is required or permitted under this
10 chapter.

11 (c) “Banking game” or “banked game” does not include a
12 controlled game if the published rules of the game feature a
13 player-dealer position and provide that this position must be
14 continuously and systematically rotated amongst each of the
15 participants during the play of the game, ensure that the
16 player-dealer is able to win or lose only a fixed and limited wager
17 during the play of the game, and preclude the house, another entity,
18 a player, or an observer from maintaining or operating as a bank
19 during the course of the game. For purposes of this section, it is
20 not the intent of the Legislature to mandate acceptance of the deal
21 by every player if the department finds that the rules of the game
22 render the maintenance of or operation of a bank impossible by
23 other means. The house shall not occupy the player-dealer position.

24 (d) “Chief” means the head of the entity within the department
25 that is responsible for fulfilling the obligations imposed upon the
26 department by this chapter.

27 (e) “Commission” means the California Gambling Control
28 Commission.

29 (f) “Controlled gambling” means to deal, operate, carry on,
30 conduct, maintain, or expose for play any controlled game.

31 (g) “Controlled game” means any controlled game, as defined
32 by subdivision (e) of Section 337j of the Penal Code.

33 (h) “Department” means the Department of Justice.

34 (i) “Director” means any director of a corporation or any person
35 performing similar functions with respect to any organization.

36 (j) “*Financial interest*” means to operate, control, or invest in
37 a business or organization and receive a pecuniary gain or sustain
38 a pecuniary loss from the business or organization.

39 (j)

1 (k) “Finding of suitability” means a finding that a person meets
2 the qualification criteria described in subdivisions (a) and (b) of
3 Section 19857, and that the person would not be disqualified from
4 holding a state gambling license on any of the grounds specified
5 in Section 19859.

6 ~~(k)~~

7 (l) “Game” and “gambling game” means any controlled game.

8 ~~(l)~~

9 (m) “Gambling” means to deal, operate, carry on, conduct,
10 maintain, or expose for play any controlled game.

11 ~~(m)~~

12 (n) “Gambling enterprise” means a natural person or an entity,
13 whether individual, corporate, or otherwise, that conducts a
14 gambling operation and that by virtue thereof is required to hold
15 a state gambling license under this chapter.

16 ~~(n)~~

17 (o) “Gambling enterprise employee” means any natural person
18 employed in the operation of a gambling enterprise, including,
19 without limitation, dealers, floor personnel, security employees,
20 countroom personnel, cage personnel, collection personnel,
21 surveillance personnel, data-processing personnel, appropriate
22 maintenance personnel, waiters and waitresses, and secretaries, or
23 any other natural person whose employment duties require or
24 authorize access to restricted gambling establishment areas.

25 ~~(o)~~

26 (p) “Gambling establishment,” “establishment,” or “licensed
27 premises,” except as otherwise defined in Section 19812, means
28 one or more rooms where any controlled gambling or activity
29 directly related thereto occurs.

30 ~~(p)~~

31 (q) “Gambling license” or “state gambling license” means any
32 license issued by the state that authorizes the person named therein
33 to conduct a gambling operation.

34 ~~(q)~~

35 (r) “Gambling operation” means exposing for play one or more
36 controlled games that are dealt, operated, carried on, conducted,
37 or maintained for commercial gain.

38 ~~(r)~~

39 (s) “Gross revenue” means the total of all compensation received
40 for conducting any controlled game, and includes interest received

1 in payment for credit extended by an owner licensee to a patron
2 for purposes of gambling, except as provided by regulation.

3 ~~(s)~~

4 (t) “Hours of operation” means the period during which a
5 gambling establishment is open to conduct the play of controlled
6 games within a 24-hour period. In determining whether there has
7 been expansion of gambling relating to “hours of operation,” the
8 department shall consider the hours in the day when the local
9 ordinance permitted the gambling establishment to be open for
10 business on January 1, 1996, and compare the current ordinance
11 and the hours during which the gambling establishment may be
12 open for business. The fact that the ordinance was amended to
13 permit gambling on a day, when gambling was not permitted on
14 January 1, 1996, shall not be considered in determining whether
15 there has been gambling in excess of that permitted by Section
16 19961.

17 ~~(t)~~

18 (u) “House” means the gambling enterprise, and any owner,
19 shareholder, partner, key employee, or landlord thereof.

20 ~~(u)~~

21 (v) “Independent agent,” except as provided by regulation,
22 means any person who does either of the following:

23 (1) Collects debt evidenced by a credit instrument.

24 (2) Contracts with an owner licensee, or an affiliate thereof, to
25 provide services consisting of arranging transportation or lodging
26 for guests at a gambling establishment.

27 ~~(v)~~

28 (w) “Initial license” means the license first issued to a person
29 authorizing that person to commence the activities authorized by
30 that license.

31 ~~(w)~~

32 (x) “Institutional investor” means any retirement fund
33 administered by a public agency for the exclusive benefit of federal,
34 state, or local public employees, any investment company
35 registered under the Investment Company Act of 1940 (15 U.S.C.
36 Sec. 80a-1 et seq.), any collective investment trust organized by
37 banks under Part Nine of the Rules of the Comptroller of the
38 Currency, any closed-end investment trust, any chartered or
39 licensed life insurance company or property and casualty insurance
40 company, any banking and other chartered or licensed lending

1 institution, any investment advisor registered under the Investment
2 Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that
3 capacity, and other persons as the commission may determine for
4 reasons consistent with the policies of this chapter.

5 ~~(x)~~

6 (y) “Key employee” means any natural person employed in the
7 operation of a gambling enterprise in a supervisory capacity or
8 empowered to make discretionary decisions that regulate gambling
9 operations, including, without limitation, pit bosses, shift bosses,
10 credit executives, cashier operations supervisors, gambling
11 operation managers and assistant managers, managers or
12 supervisors of security employees, or any other natural person
13 designated as a key employee by the department for reasons
14 consistent with the policies of this chapter.

15 ~~(y)~~

16 (z) “Key employee license” means a state license authorizing
17 the holder to be employed as a key employee.

18 ~~(z)~~

19 (aa) “License” means a gambling license, key employee license,
20 or any other license issued by the commission pursuant to this
21 chapter or regulations adopted pursuant to this chapter.

22 ~~(aa)~~

23 (ab) “Licensed gambling establishment” means the gambling
24 premises encompassed by a state gambling license.

25 ~~(ab)~~

26 (ac) “Limited partnership” means a partnership formed by two
27 or more persons having as members one or more general partners
28 and one or more limited partners.

29 ~~(ac)~~

30 (ad) “Limited partnership interest” means the right of a general
31 or limited partner to any of the following:

32 (1) To receive from a limited partnership any of the following:

33 (A) A share of the revenue.

34 (B) Any other compensation by way of income.

35 (C) A return of any or all of his or her contribution to capital of
36 the limited partnership.

37 (2) To exercise any of the rights provided under state law.

38 ~~(ad)~~

39 (ae) “Owner licensee” means an owner of a gambling enterprise
40 who holds a state gambling license.

~~(ae)~~

~~(af)~~ “Person,” unless otherwise indicated, includes a natural person, corporation, partnership, limited partnership, trust, joint venture, association, or any other business organization.

~~(af)~~

~~(ag)~~ “Player” means a patron of a gambling establishment who participates in a controlled game.

~~(ag)~~

~~(ah)~~ “Player-dealer” and “controlled game featuring a player-dealer position” refer to a position in a controlled game, as defined by the approved rules for that game, in which seated player participants are afforded the temporary opportunity to wager against multiple players at the same table, provided that this position is rotated amongst the other seated players in the game.

~~(ah)~~

~~(ai)~~ “Publicly traded racing association” means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) whose stock is publicly traded.

~~(ai)~~

~~(aj)~~ “Qualified racing association” means a corporation licensed to conduct horse racing and simulcast wagering pursuant to Chapter 4 (commencing with Section 19400) that is a wholly owned subsidiary of a corporation whose stock is publicly traded.

~~(aj)~~

~~(ak)~~ “Renewal license” means the license issued to the holder of an initial license that authorizes the license to continue beyond the expiration date of the initial license.

~~(ak)~~

~~(al)~~ “Work permit” means any card, certificate, or permit issued by the commission, or by a county, city, or city and county, whether denominated as a work permit, registration card, or otherwise, authorizing the holder to be employed as a gambling enterprise employee or to serve as an independent agent. A document issued by any governmental authority for any employment other than gambling is not a valid work permit for the purposes of this chapter.

SECTION 1.

SEC. 2. Section 19843.5 is added to the Business and Professions Code, to read:

1 19843.5. Jackpot funds held by a gambling establishment, to
2 which players have made contributions, following the deduction
3 of any administrative fee approved by the bureau, shall be
4 considered to be trust funds that are held for the benefit of the
5 players. These jackpot funds are not the property of the gambling
6 establishment, but are held solely for the benefit of the players.

7 ~~SEC. 2.~~

8 *SEC. 3.* Section 19867 of the Business and Professions Code
9 is amended to read:

10 19867. (a) An application for a license or a determination of
11 suitability shall be accompanied by the deposit of a sum of money
12 that, in the judgment of the chief, will be adequate to pay the
13 anticipated costs and charges incurred in the investigation and
14 processing of the application. The chief shall adopt a schedule of
15 costs and charges of investigation for use as guidelines in fixing
16 the amount of any required deposit under this section. The schedule
17 shall distinguish between initial and renewal licenses with respect
18 to costs and charges.

19 (b) During an investigation, the chief may require an applicant
20 to deposit any additional sums as are required by the department
21 to pay final costs and charges of the investigation.

22 (c) Any money received from an applicant in excess of the costs
23 and charges incurred in the investigation or the processing of the
24 application shall be refunded pursuant to regulations adopted by
25 the department. At the conclusion of the investigation, the chief
26 shall provide the applicant a written, itemized accounting of the
27 costs and charges thereby incurred.

28 (d) The department ~~and the commission~~ shall establish an
29 enhanced fee schedule for applicants who wish to have their
30 applications processed and background investigations conducted
31 in an expedited manner. The payment of those enhanced fees shall
32 entitle the applicant to have their applications processed in a shorter
33 period of time than normally would be the case.

34 ~~SEC. 3.~~ Section 19911 of the Business and Professions Code
35 is amended to read:

36 ~~19911. (a) No person under 21 years of age shall be eligible~~
37 ~~for a work permit and no permit shall be issued to a person under~~
38 ~~21 years of age.~~

39 ~~(b) A person between 18 and 21 years of age may be employed~~
40 ~~to work in a gambling establishment, provided that they may not~~

1 work as dealers, floor men, or any other employment classification
2 that exclusively involves working on the floor of the gambling
3 establishment. A person between 18 and 21 years of age may be
4 employed in job classifications that entail providing services on
5 and off the gaming floor that are not involved in play of any
6 controlled game.

7 SEC. 4. Section 19921 of the Business and Professions Code
8 is amended to read:

9 19921. (a) No person under 21 years of age shall be permitted
10 to enter upon the premises of a licensed gambling establishment,
11 or any part thereof, except the following:

12 (1) An area, physically separated from any gambling area, for
13 the exclusive purpose of dining. For purposes of this subdivision,
14 any place wherein food or beverages are dispensed primarily by
15 vending machines shall not constitute a place for dining.

16 (2) Restrooms.

17 (3) A supervised room that is physically separated from any
18 gambling area and used primarily for the purpose of entertainment
19 or recreation.

20 (4) A designated pathway to reach any of the areas described
21 in paragraphs (1) to (3), inclusive. To the extent that the designated
22 pathway requires an individual to enter upon or pass through the
23 gaming floor, all persons under 21 years of age shall be
24 accompanied by a person over 21 years of age or be in the presence
25 of a gambling establishment employee over 21 years of age.

26 (5) In accordance with the provisions of subdivision (b) of
27 Section 19911.

28 (b) No person under 21 years of age shall be permitted to loiter
29 in a gaming area.

30 SEC. 4. Section 19943.5 is added to the Business and
31 Professions Code, to read:

32 19943.5. If a gambling establishment conducts play of a
33 controlled game that has been approved by the department
34 pursuant to Section 19826, and the controlled game is subsequently
35 found to be unlawful, so long as the game was played in the manner
36 approved, the approval by the department shall be an absolute
37 defense to any criminal, administrative, or civil action that may
38 be brought.