

AMENDED IN ASSEMBLY JUNE 28, 2010

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 19805 and 19867 of, and to add 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 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 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 *and during the time for which it was 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:
- 5 (a) "Affiliate" means a person who, directly or indirectly through
- 6 one or more intermediaries, controls, is controlled by, or is under
- 7 common control with, a specified person.
- 8 (b) "Applicant" means any person who has applied for, or is
- 9 about to apply for, a state gambling license, a key employee license,
- 10 a registration, a finding of suitability, a work permit, a

1 manufacturer's or distributor's license, or an approval of any act
2 or transaction for which the approval or authorization of the
3 commission or department is required or permitted under this
4 chapter.

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

18 (d) "Chief" means the head of the entity within the department
19 that is responsible for fulfilling the obligations imposed upon the
20 department by this chapter.

21 (e) "Commission" means the California Gambling Control
22 Commission.

23 (f) "Controlled gambling" means to deal, operate, carry on,
24 conduct, maintain, or expose for play any controlled game.

25 (g) "Controlled game" means any controlled game, as defined
26 by subdivision (e) of Section 337j of the Penal Code.

27 (h) "Department" means the Department of Justice.

28 (i) "Director" means any director of a corporation or any person
29 performing similar functions with respect to any organization.

30 ~~(j) "Financial interest" means to operate, control, or invest in a
31 business or organization and receive a pecuniary gain or sustain a
32 pecuniary loss from the business or organization.~~

33 *(j) "Financial interest," as used in Sections 19858 and 19858.5,*
34 *means to operate or exercise control over the operation of a*
35 *gambling business and receive a pecuniary gain or sustain a*
36 *pecuniary loss from that gambling business. This definition only*
37 *applies to a qualified racing association or to an affiliate of a*
38 *qualified racing association.*

39 (k) "Finding of suitability" means a finding that a person meets
40 the qualification criteria described in subdivisions (a) and (b) of

1 Section 19857, and that the person would not be disqualified from
2 holding a state gambling license on any of the grounds specified
3 in Section 19859.

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

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

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

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

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

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

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

29 (s) “Gross revenue” means the total of all compensation received
30 for conducting any controlled game, and includes interest received
31 in payment for credit extended by an owner licensee to a patron
32 for purposes of gambling, except as provided by regulation.

33 (t) “Hours of operation” means the period during which a
34 gambling establishment is open to conduct the play of controlled
35 games within a 24-hour period. In determining whether there has
36 been expansion of gambling relating to “hours of operation,” the
37 department shall consider the hours in the day when the local
38 ordinance permitted the gambling establishment to be open for
39 business on January 1, 1996, and compare the current ordinance
40 and the hours during which the gambling establishment may be

1 open for business. The fact that the ordinance was amended to
2 permit gambling on a day, when gambling was not permitted on
3 January 1, 1996, shall not be considered in determining whether
4 there has been gambling in excess of that permitted by Section
5 19961.

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

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

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

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

14 (w) “Initial license” means the license first issued to a person
15 authorizing that person to commence the activities authorized by
16 that license.

17 (x) “Institutional investor” means any retirement fund
18 administered by a public agency for the exclusive benefit of federal,
19 state, or local public employees, any investment company
20 registered under the Investment Company Act of 1940 (15 U.S.C.
21 Sec. 80a-1 et seq.), any collective investment trust organized by
22 banks under Part Nine of the Rules of the Comptroller of the
23 Currency, any closed-end investment trust, any chartered or
24 licensed life insurance company or property and casualty insurance
25 company, any banking and other chartered or licensed lending
26 institution, any investment advisor registered under the Investment
27 Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that
28 capacity, and other persons as the commission may determine for
29 reasons consistent with the policies of this chapter.

30 (y) “Key employee” means any natural person employed in the
31 operation of a gambling enterprise in a supervisory capacity or
32 empowered to make discretionary decisions that regulate gambling
33 operations, including, without limitation, pit bosses, shift bosses,
34 credit executives, cashier operations supervisors, gambling
35 operation managers and assistant managers, managers or
36 supervisors of security employees, or any other natural person
37 designated as a key employee by the department for reasons
38 consistent with the policies of this chapter.

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

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

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

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

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

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

12 (A) A share of the revenue.

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

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

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

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

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

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

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

30 (ai) “Publicly traded racing association” means a corporation
31 licensed to conduct horse racing and simulcast wagering pursuant
32 to Chapter 4 (commencing with Section 19400) ~~whose stock is~~
33 ~~publicly traded, as of July 1, 2010.~~

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

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

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

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

13 19843.5. Jackpot funds held by a gambling establishment, to
14 which players have made contributions, following the deduction
15 of any administrative fee approved by the bureau, shall be
16 considered to be trust funds that are held for the benefit of the
17 players. These jackpot funds are not the property of the gambling
18 establishment, but are held solely for the benefit of the players.

19 SEC. 3. Section 19867 of the Business and Professions Code
20 is amended to read:

21 19867. (a) An application for a license or a determination of
22 suitability shall be accompanied by the deposit of a sum of money
23 that, in the judgment of the chief, will be adequate to pay the
24 anticipated costs and charges incurred in the investigation and
25 processing of the application. The chief shall adopt a schedule of
26 costs and charges of investigation for use as guidelines in fixing
27 the amount of any required deposit under this section. The schedule
28 shall distinguish between initial and renewal licenses with respect
29 to costs and charges.

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

33 (c) Any money received from an applicant in excess of the costs
34 and charges incurred in the investigation or the processing of the
35 application shall be refunded pursuant to regulations adopted by
36 the department. At the conclusion of the investigation, the chief
37 shall provide the applicant a written, itemized accounting of the
38 costs and charges thereby incurred.

39 (d) The department shall establish an enhanced fee schedule for
40 applicants who wish to have their applications processed and

1 background investigations conducted in an expedited manner. The
2 payment of those enhanced fees shall entitle the applicant to have
3 their applications processed in a shorter period of time than
4 normally would be the case.

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

7 19943.5. If a gambling establishment conducts play of a
8 controlled game that has been approved by the department pursuant
9 to Section 19826, and the controlled game is subsequently found
10 to be unlawful, so long as the game was played in the manner
11 approved, the approval by the department shall be an absolute
12 defense to any criminal, administrative, or civil action that may
13 be brought, *provided that the game is played during the time for*
14 *which it was approved by the department.*