

AMENDED IN SENATE JUNE 17, 1998
AMENDED IN ASSEMBLY MAY 20, 1997
AMENDED IN ASSEMBLY MAY 5, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 518

Introduced by Assembly Member Brown

February 24, 1997

~~An act to add and repeal Sections 19820.5 and 19820.6 of the Business and Professions Code, and to amend Section 337j of the Penal Code, relating to gaming.~~
An act to amend Section 19801 of the Business and Professions Code, and to amend Section 337j of the Penal Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 518, as amended, Brown. Gaming clubs: ~~ejection of undesirable persons.~~

Existing law, the Gambling Control Act, states various findings and declarations of the Legislature regarding the public policy of the state regarding gambling.

This bill would make technical, nonsubstantive changes to these findings and declarations.

Existing law defines the term "controlled game" as any game of chance, and provides that it is unlawful for any person to collect any fee in connection with a controlled game unless the method of collection conforms with regulations adopted by the Division of Gambling Control of the Department of Justice of the California Gambling Control Commission. Existing law also provides that until these regulations become

operative, an owner licensee may collect fees in the same manner as that establishment collected fees as of January 1, 1997, provided that this method was expressly permitted under existing local regulations, the method meets certain specified requirements, including that the fee is fixed in advance of the game, the fee is the same for all players and is not deducted from the amount wagered, and there is no minimum wager on any game, round, or hand, or the method is otherwise authorized by law.

This bill would expand the definition of “controlled game” to include a “game of skill,” which is defined as a game played with one or more decks of cards where players compete against each other for a sum of money contributed to by the players, and where the winner is determined to some degree by the skill of the players. This bill would also provide that ample notice to be given to the patrons of gambling establishments regarding the assessment of fees, that applicable fees may vary from table to table and may vary with each wager placed, and that fees for all wagers be determined and collected prior to the start of play of any hand or round. The bill would require the California Gambling Control Commission to adopt regulations to implement these provisions, but would allow gambling establishments to collect fees in accordance with these and other existing provisions until such regulations are adopted.

~~Existing law, the Gaming Registration Act, among other things, prohibits any person from owning or operating a gaming club, as defined, without first obtaining a valid registration from the Attorney General. Existing law also permits any city, county, or city and county that permits gaming, by ordinance, to provide for the exclusion or ejection from any gaming club of any individual who has engaged in or been convicted of bookmaking, sale of controlled substances, or illegal gambling activities, or whose presence in or about gaming clubs would be inimical to the interests of legitimate gaming.~~

~~This bill would require the Attorney General to provide for the formulation of a list of persons who are to be excluded or ejected from any gaming club, to distribute the list of persons who are to be excluded or ejected to all registrants, and to~~



~~provide notice to any persons included on the list. The bill would require the Attorney General to assess an annual fee on registrants to offset the cost incurred in formulating, distributing, and enforcing the list. The bill would permit the Attorney General to revoke, limit, condition, or suspend the registration of an owner, or fine a registrant, if that registrant knowingly fails to exclude or eject from the gaming club of that registrant any person included on the list of persons to be excluded or ejected. The bill would also permit a registrant to remove persons from his or her premises who commit specified acts while on the premises.~~

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 19820.5 is added to the Business~~
2 *SECTION 1. Section 19801 of the Business and*
3 *Professions Code is amended to read:*
4 19801. The Legislature hereby finds and declares all
5 of the following:
6 (a) The longstanding public policy of this state
7 disfavors the business of gambling. State law prohibits
8 commercially operated lotteries, banked or percentage
9 games, and gambling machines, and strictly regulates
10 parimutuel wagering on ~~horseracing~~ *horse racing*. To the
11 extent that state law categorically prohibits certain forms
12 of gambling and prohibits gambling devices, nothing
13 herein shall be construed, in any manner, to reflect a
14 legislative intent to relax those prohibitions.
15 (b) Gambling can become addictive and is not an
16 activity to be promoted or legitimized as entertainment
17 for children and families.
18 (c) Unregulated gambling enterprises are inimical to
19 the public health, safety, welfare, and good order.
20 Accordingly, no person in this state has a right to operate
21 a gambling enterprise except as may be expressly
22 permitted by the laws of this state and by the ordinances
23 of local governmental bodies.



1 (d) It is the policy of this state that gambling activities
2 that are not expressly prohibited or regulated by state law
3 may be prohibited or regulated by local government.
4 Moreover, it is the policy of this state that no new
5 cardroom *gambling establishment* may be opened in a
6 city, county, or city and county in which a cardroom
7 *gambling establishment* was not operating on and before
8 January 1, 1984, except upon the affirmative vote of the
9 electors of that city, county, or city and county.

10 (e) It is not the purpose of this chapter to expand
11 opportunities for gambling, or to create any right to
12 operate a gambling enterprise in this state or to have a
13 financial interest in any gambling enterprise. Rather, it is
14 the purpose of this chapter to regulate businesses that
15 offer otherwise lawful forms of gambling games.

16 (f) Public trust that permissible gambling will not
17 endanger public health, safety, or welfare requires that
18 comprehensive measures be enacted to ensure that such
19 gambling is free from criminal and corruptive elements,
20 that it is conducted honestly and competitively, and that
21 it is conducted in suitable locations.

22 (g) Public trust and confidence can only be
23 maintained by strict and comprehensive regulation of all
24 persons, locations, practices, associations, and activities
25 related to the operation of lawful gambling
26 establishments and the manufacture or distribution of
27 permissible gambling equipment.

28 (h) All gambling operations, all persons having a
29 significant involvement in gambling operations, all
30 establishments where gambling is conducted, and all
31 manufacturers, sellers, and distributors of gambling
32 equipment must be licensed and regulated to protect the
33 public health, safety, and general welfare of the residents
34 of this state as an exercise of the police powers of the state.

35 (i) To ensure that gambling is conducted honestly,
36 competitively, and free of criminal and corruptive
37 elements, all licensed gambling establishments in this
38 state must remain open to the general public and the
39 access of the general public to licensed gambling
40 activities must not be restricted in any manner, except as



1 provided by the Legislature. However, subject to state
2 and federal prohibitions against discrimination, nothing
3 herein shall be construed to preclude exclusion of
4 unsuitable persons from licensed gambling
5 establishments in the exercise of reasonable business
6 judgment.

7 (j) In order to effectuate state policy as declared
8 herein, it is necessary that gambling establishments,
9 activities, and equipment be licensed, that persons
10 participating in those activities be licensed or registered,
11 that certain transactions, events, and processes involving
12 gambling establishments and owners of gambling
13 establishments be subject to prior approval or permission,
14 that unsuitable persons not be permitted to associate with
15 gambling activities or gambling establishments, and that
16 gambling activities take place only in suitable locations.
17 Any license or permit issued, or other approval granted
18 pursuant to this chapter, is declared to be a revocable
19 privilege, and no holder acquires any vested right therein
20 or thereunder.

21 (k) The location of lawful gambling premises, the
22 hours of operation of those premises, the number of tables
23 permitted in those premises, and wagering limits in
24 permissible games conducted in those premises are
25 proper subjects for regulation by local governmental
26 bodies. However, consideration of those same subjects by
27 a state regulatory agency, as specified in this chapter, is
28 warranted when local governmental regulation
29 respecting those subjects is inadequate or the regulation
30 fails to safeguard the legitimate interests of residents in
31 other governmental jurisdictions.

32 (l) The exclusion or ejection of certain persons from
33 gambling establishments is necessary to effectuate the
34 policies of this chapter and to maintain effectively the
35 strict regulation of licensed gambling.

36 (m) Records and reports of cash and credit
37 transactions involving gambling establishments may
38 have a high degree of usefulness in criminal and
39 regulatory investigations and, therefore, licensed
40 gambling operators may be required to keep records and



1 make reports concerning significant cash and credit
2 transactions.

3 SEC. 2. Section 337j of the Penal Code is amended to
4 read:

5 337j. (a) It is unlawful for any person, as owner,
6 lessee, or employee, whether for hire or not, either solely
7 or in conjunction with others, to do any of the following
8 without having first procured and thereafter maintained
9 in effect all federal, state, and local licenses required by
10 law:

11 (1) To deal, operate, carry on, conduct, maintain, or
12 expose for play in this state any controlled game.

13 (2) To receive, directly or indirectly, any
14 compensation or reward or any percentage or share of the
15 revenue, for keeping, running, or carrying on any
16 controlled game.

17 (3) To manufacture, distribute, or repair any
18 gambling equipment within the boundaries of this state,
19 or to receive, directly or indirectly, any compensation or
20 reward for the manufacture, distribution, or repair of any
21 gambling equipment within the boundaries of this state.

22 (b) It is unlawful for any person to knowingly permit
23 any controlled game to be conducted, operated, dealt, or
24 carried on in any house or building or other premises that
25 he or she owns or leases, in whole or in part, if that activity
26 is undertaken by a person who is not licensed as required
27 by state law, or by an employee of that person.

28 (c) It is unlawful for any person to knowingly permit
29 any gambling equipment to be manufactured, stored, or
30 repaired in any house or building or other premises that
31 the person owns or leases, in whole or in part, if that
32 activity is undertaken by a person who is not licensed as
33 required by state law, or by an employee of that person.

34 (d) Any person who violates, attempts to violate, or
35 conspires to violate this section shall be punished by
36 imprisonment in a county jail for not more than one year,
37 or by a fine of not more than five thousand dollars
38 (\$5,000), or by both that imprisonment and fine.

39 (e) (1) As used in this section, “controlled game”
40 means any game of chance *or skill*, including any



1 gambling device, played for currency, check, credit, or
2 any other thing of value that is not prohibited and made
3 unlawful by statute or local ordinance.

4 (2) As used in this section, “controlled game” does not
5 include any of the following:

6 (A) The game of bingo conducted pursuant to Section
7 326.5.

8 (B) Parimutuel racing on ~~horseraces~~ *horse races*
9 regulated by the California Horse Racing Board.

10 (C) Any lottery game conducted by the California
11 State Lottery.

12 (D) Games played with cards in private homes or
13 residences, in which no person makes money for
14 operating the game, except as a player.

15 (3) *As used in this section, “game of skill” is a game
16 played with one or more decks of cards, where each
17 player plays against the other players, and competes for
18 a sum or sums of money to which the player has
19 contributed, and the winner is determined to some
20 degree by the skill of the players.*

21 (f) It is unlawful for any person to collect any fee in
22 connection with a controlled game authorized pursuant
23 to Chapter 5 (commencing with Section 19800) of
24 Division 8 of the Business and Professions Code unless the
25 method of fee collection conforms to regulations adopted
26 by the Division of Gambling Control of the Department
27 of Justice or the California Gambling Control
28 Commission. Until those regulations become operative,
29 an owner licensee may continue to collect fees, in
30 accordance with any of the following provisions:

31 (1) In the same manner as fees were collected in the
32 establishment as of January 1, 1997, if the method of fee
33 collection is permitted by ordinance, resolution, letter, or
34 other written authorization of the local governmental
35 entity having regulatory jurisdiction or law enforcement
36 authority over the gambling establishment.

37 (2) In the same manner as fees were collected in the
38 establishment as of January 1, 1997, if all of the following
39 are true:



1 (A) The amount of the fee is fixed in advance of the
2 game.

3 (B) There is no minimum wager in any game, round,
4 or hand.

5 (C) No fee is deducted from the amount wagered.

6 (D) In any game or round, the same fixed fee is
7 collected from all players at the table.

8 (E) The method of fee collection has not been
9 challenged by, and is not prohibited by any ordinance or
10 resolution of, the local governmental entity having
11 regulatory jurisdiction or law enforcement authority over
12 the gambling establishment.

13 (3) Using any method of fee collection that is
14 otherwise authorized by law.

15 *(g) This subdivision and subdivision (f) are intended*
16 *to be dispositive of the law relating to the collection of*
17 *fees in gambling establishments. Ample notice shall be*
18 *provided to the patrons of gambling establishments*
19 *relating to the assessment of fees. Fees applicable to a*
20 *particular type of game may vary from table to table and*
21 *may vary with each wager placed. Fees charged for all*
22 *wagers shall be determined and collected prior to the*
23 *start of play of any hand or round. The California*
24 *Gambling Control Commission shall adopt regulations to*
25 *implement these provisions. Until these regulations are*
26 *adopted, gambling establishments may collect fees as*
27 *provided in this subdivision and subdivision (f).*

28 and Professions Code, to read:

29 ~~19820.5. (a) The Attorney General, by regulation,~~
30 ~~shall provide for the formulation of a list of persons who~~
31 ~~are to be excluded or ejected from any gaming club. The~~
32 ~~list may include any person whose presence in the~~
33 ~~establishment is determined by the Attorney General to~~
34 ~~pose a threat to the interests of this state or to legitimate~~
35 ~~gaming, or both.~~

36 ~~(b) In making the determination described in~~
37 ~~subdivision (a), the Attorney General may consider, but~~
38 ~~is not limited to, any of the following:~~

39 ~~(1) Prior conviction of a crime that is a felony in this~~
40 ~~state or under the laws of the United States, a crime~~



1 ~~involving moral turpitude, or a violation of the gambling~~
2 ~~laws of this or any other state.~~

3 ~~(2) The violation of, or conspiracy to violate, this~~
4 ~~chapter, or the willful evasion of fees.~~

5 ~~(3) A notorious or unsavory reputation that would~~
6 ~~adversely affect the public confidence and trust that the~~
7 ~~gambling industry is free from criminal or corruptive~~
8 ~~elements.~~

9 ~~(4) An order of exclusion or ejection from a racing~~
10 ~~inclosure issued by the California Horse Racing Board.~~

11 ~~(e) The Attorney General shall distribute the list of~~
12 ~~persons who are to be excluded or ejected from any~~
13 ~~gaming club to all registrants and shall provide notice to~~
14 ~~any persons included on the list.~~

15 ~~(d) The Attorney General shall adopt regulations~~
16 ~~establishing procedures for hearing petitions by persons~~
17 ~~who are ejected or excluded from premises pursuant to~~
18 ~~this section or pursuant to Section 19820.6.~~

19 ~~(e) The Attorney General may revoke, limit,~~
20 ~~condition, or suspend the registration of an owner, or fine~~
21 ~~a registrant, if that registrant knowingly fails to exclude~~
22 ~~or eject from the gaming club of that registrant any~~
23 ~~person included on the list of persons to be excluded or~~
24 ~~ejected.~~

25 ~~(f) The Attorney General shall assess an annual fee on~~
26 ~~all registered gaming clubs sufficient to offset the cost of~~
27 ~~formulating, distributing, and enforcing the list of persons~~
28 ~~who are to be excluded or ejected from any gaming club.~~
29 ~~The fee shall be distributed on a pro rata basis, depending~~
30 ~~on the number of tables in the gaming club. The fee~~
31 ~~revenues shall be available, upon appropriation by the~~
32 ~~Legislature, for expenditure by the Attorney General to~~
33 ~~formulate, distribute, and enforce the list.~~

34 ~~(g) This section shall remain in effect only until a~~
35 ~~comprehensive scheme for the regulation of gaming~~
36 ~~under the jurisdiction of a gaming or gambling control~~
37 ~~commission or board is enacted, and as of the date that~~
38 ~~comprehensive scheme becomes operative, this section is~~
39 ~~repealed, unless a later enacted statute, that is enacted~~
40 ~~before that date, deletes or extends that date.~~



1 ~~SEC. 2. Section 19820.6 is added to the Business and~~
2 ~~Professions Code, to read:~~
3 ~~19820.6. (a) A registrant may remove from his or her~~
4 ~~premises any person who, while on the premises:~~
5 ~~(1) Is a disorderly person as defined by Section 647 of~~
6 ~~the Penal Code.~~
7 ~~(2) Interferes with a lawful gambling operation.~~
8 ~~(3) Solicits or engages in any act of prostitution.~~
9 ~~(4) Beggars, is boisterous, or is otherwise offensive to~~
10 ~~other persons.~~
11 ~~(5) Commits any public offense.~~
12 ~~(6) Is intoxicated.~~
13 ~~(7) Is a person who the Attorney General, by~~
14 ~~regulation, has determined should be excluded from~~
15 ~~gaming clubs in the public interest.~~
16 ~~(b) Nothing in this section precludes, expressly or~~
17 ~~impliedly, a registrant from exercising the right to deny~~
18 ~~access to or to remove any person from his or her~~
19 ~~premises or property for any reason the registrant deems~~
20 ~~appropriate.~~
21 ~~(c) This section shall remain in effect only until a~~
22 ~~comprehensive scheme for the regulation of gaming~~
23 ~~under the jurisdiction of a gaming or gambling control~~
24 ~~commission or board is enacted, and as of the date that~~
25 ~~comprehensive scheme becomes operative, this section is~~
26 ~~repealed, unless a later enacted statute, that is enacted~~
27 ~~before that date, deletes or extends that date.~~

