



**House  
Legislative  
Analysis  
Section**

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**GAMBLING: EXEMPT BOWLING  
GAMES**

**House Bill 6114 as introduced  
First Analysis (11-12-96)**

**Sponsor: Rep. David Jaye  
Committee: Regulatory Affairs**

***THE APPARENT PROBLEM:***

Under administrative rules promulgated by the Liquor Control Commission (LCC), liquor licensees are prohibited from allowing unlawful gambling or gambling devices on licensed premises (R 436.1013, Michigan Administrative Code). Licensees in violation of Liquor Control Act provisions or rules can face fines or license suspension or revocation. Though gambling is not defined in statute, the LCC, as well as Michigan case law, has historically interpreted any activity involving consideration (something paid to participate), chance (a random chance associated with winning), and a prize (something of value) as gambling. Gambling of any kind is prohibited unless exempted by law.

Early in 1995, the LCC received a complaint that a Cheyboygan bowling center was allowing illegal gambling. According to representatives of the LCC, an investigation must be made each time a complaint is received. Apparently, when LCC enforcement division officers conducted an on-site investigation, members of a senior citizens bowling league were found to be playing mystery game and strike ball, and some individual team members were playing a card game -- all traditional bowling games that are considered by the LCC as fitting the criteria for gambling.

Bowling games such as mystery game, strike ball and red pin have been played by bowlers participating in league games or tournaments for over four decades. These games all include a mixture of skill, chance, and a minimal wager, typically 25 cents to \$1. In mystery game, bowlers typically put in between 25 cents and \$1 to participate. At the end of one of the scheduled games, a number representing a score between 100 and 300 is drawn. Any participants who had bowled that score win or split the pot. In strike ball, participants pay anywhere from 25 cents a ticket to 10 tickets for \$5, 25 tickets for \$10, and so on. Sometime during the scheduled games, a ticket is drawn. Play stops, and the bowler with that ticket number has to bowl one or more strikes to win the pot. If no strikes are bowled, the pot is carried over to another night. Mystery game and strike ball are run by bowling leagues. Red pin is typically a promotion run by a bowling center and consists of red pins or pins with a

red head that rotate randomly through the pin setters. If a red pin comes up in the number one pin position (the head pin), and the bowler gets a strike, the center awards the bowler with a free game or merchandise of a minimal value. Another popular "bowling game" played between members of a team is to have each member ante up a small amount, again typically 25 cents to \$1 per game. When a member bowls a strike and/or spare, the member draws a card. At the end of the game, the team member with the best poker hand wins the pot. Though the wagers for all these and other games are low stakes and the pots typically about \$10 to \$30, occasionally a pot for one of these games (usually strike ball played during "moonlight bowling", where only the pins are lighted and bowlers play in the dark late at night) has reached into the thousands of dollars.

In the case of the Cheboygan bowling center, a pot of \$2.25 for a card game, \$7.50 for a mystery game, and \$151 for strike ball were seized, and the proprietor was cited for being in violation of LCC rules with a total of six charges -- one for each of the games and one for each set of gambling devices used for the games (the cards, chips with numbers, and tickets). Though no fines were levied, the center owner did have to pay court costs. After another bowling center, this time in Warren, was cited twice earlier this year when a complaint was received that leagues were conducting similar games, industry representatives met with LCC enforcement division personnel to clarify the LCC's position on various bowling games. Bowling centers across the state have since been informed that if they allow leagues to engage in certain games considered by the LCC to constitute unlawful gambling -- primarily mystery game, strike ball, and red pin -- they could face fines or license sanctions. As centers have prohibited leagues from conducting games of cards, mystery games, and strike ball, and eliminated red pin, many complaints have been raised by bowling enthusiasts, as these low-stakes games are viewed by bowlers as enhancing the entertainment value of their sport. In addition, many leagues, by withholding a portion of the money wagered, use these and other games to raise money for charities or to offset the costs of running the league. In response to requests

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by bowling centers, bowling leagues, and individual bowlers, legislation has been proposed to exempt certain bowling games from the Penal Code's prohibition against gambling if the wagers and prizes were kept under a specified amount.

### **THE CONTENT OF THE BILL:**

The bill would amend the Michigan Penal Code to exempt certain bowling games played at bowling centers from the code's prohibition on gambling. The bill would exempt bowling games played at bowling centers if the prizes awarded were not more than \$1,000 and if a wager did not exceed \$5. The list of allowable games would include "mystery game", "strike ball", and "red pin". The bill would also allow the prize and wager limit on these games to be adjusted annually with the rate of inflation based on the Detroit consumer price index.

MCL 750.301 et al.

### **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bill would not result in increased costs to the state but could result in decreased revenue to the extent that penalties would no longer be collected for violations at that level. There would be no fiscal impact on local units of government. (11-4-96)

### **ARGUMENTS:**

#### **For:**

The bowling games that have recently resulted in some bowling center proprietors being cited by the LCC have been played for close to 50 years if not longer. Many bowlers view these games, with their element of uncertainty -- "will I be the lucky one tonight?" -- as enhancing the overall enjoyment of the sport, and especially so because players of all abilities can participate equally, not just the highest scorers. In addition, the prizes are typically small, usually between \$10 and \$30. Because strike ball pots are often carried over from night to night until someone bowls the required strikes, those pots may be bigger but typically run less than \$200. Only a few (approximately 15) of the many bowling centers across the state have pots that reach into the thousands of dollars, and the bill will adequately address that by requiring pots be no more than \$1,000. In addition, many leagues use a portion of the money wagered to donate to charities or to offset league expenses. The bill would not be expanding gambling per se, but would give an exemption to some established forms of bowling games so that the centers would not face penalties under the gambling prohibitions of the Penal Code and LCC.

Further, apparently activities held at many other sporting events (such as a person holding a certain ticket number or number of a program being chosen to shoot a puck through a hole in a piece of cardboard at a hockey game or to make a basket from half-court at a basketball game) contain the same elements of consideration, chance, and a prize that these bowling games do. However, the liquor licensees at those sporting events do not appear to be facing the same license sanctions and fines by the LCC that the bowling centers have been threatened with. It isn't fair that a game in one arena would constitute gambling but a game with the same components in another arena would not.

#### **Response:**

Although the bill's concept makes sense, its language could be improved by tightening its definitions and refining some other provisions. First, the term "bowling game" is not defined. Some have suggested that a bowling game should not include any mechanical games or ones that electronically simulate a bowling game. The LCC has expressed concerns that if the term is not adequately defined, the possibility exists for almost anything to be linked to bowling, such as football pools or bets on horse races, as a way to enjoy the exemption from gambling that the bill would afford. Second, the phrase "'bowling game' includes, but is not limited to, the following:" is also problematic as there would be no limit to the number of activities currently prohibited that could be exempted from penalties under the Penal Code and LCC regulations. Third, the three games listed -- mystery game, strike ball, and red pin -- would be exempted from being unlawful gambling based on name and not on an activity associated with the games. Therefore, the possibility exists of the "name" of an exempted game being attached to any form of activity, whether or not it even remotely resembled current regional variations of the games, thereby getting around gambling prohibitions once again. Last, the provision requiring the wager amount and prize cap to be adjusted annually according to changes in the Detroit consumer price index is unnecessary and problematic in its own right. For example, this year someone could wager \$5, next year \$5.02, and so on. The point in setting a cap on wagers and prizes of \$5 and \$1,000, respectively, was to keep the amounts in line with what is generally accepted to be low stakes. Keeping the caps at \$5 and \$1,000 would be adequate.

#### **Against:**

According to the LCC, the main priorities of the enforcement division officers are to ensure that licensees are not serving to minors and to stop any high stakes gambling operations, as well as to enforce various provisions of the code and departmental regulations, not to be raiding bowling centers looking for these low wager violations as some have portrayed. However, if a

complaint is received, it must be investigated. If, during the on-site investigation, an officer finds games consisting of the three elements of gambling -- consideration, chance, and a prize -- in operation, then he or she must seize any money wagered and any paraphernalia, and then file a report. After being reviewed by the attorney general's office, a formal complaint may be sent to the licensee. The licensee can either acknowledge the complaint or have a formal administrative hearing. The LCC commissioner has the discretion to fine up to \$300 per charge or to issue a license suspension or revocation, or to issue a warning. The bill in essence would be allowing practices to be legal if conducted in bowling centers but illegal if conducted elsewhere. Conceivably, other licensees could then argue that they, too, should be exempted from gambling penalties so that their patrons could also participate in low stakes betting games such as card games and betting pools. Thus, the bill could inadvertently lead to a loosening of gambling prohibitions, and therefore expand gambling.

### ***POSITIONS:***

The Bowling Centers Association of Michigan supports the bill. (11-7-96)

The Greater Detroit Bowling Association supports the bill. (11-7-96)

The Greater Flint Bowling Proprietors Association supports the bill. (11-7-96)

The Livingston Valley Women's Bowling Association supports the bill. (11-7-96)

The Liquor Control Commission does not have a formal position on the bill. (11-6-96)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.