



**House  
Legislative  
Analysis  
Section**

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**GAMBLING: EXEMPT BOWLING  
GAMES**

**House Bill 6114 as enrolled  
Public Act 539 of 1996  
Second Analysis (1-6-97)**

**Sponsor: Rep. David Jaye  
House Committee: Regulatory Affairs  
Senate Committee: Economic Development,  
International Trade and 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 Cheyboyan 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 Cheyboyan 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

House Bill 6114 (1-6-97)

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, red pin, and certain card games -- 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 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.

In related matter, senior citizen groups and members of senior citizen housing facilities often engage in low stakes card games. As these groups are not liquor licensees, they do not fall within LCC jurisdiction, but could potentially be viewed by local law enforcement personnel as violating gambling prohibitions. It is also proposed that the law be clarified so that certain card games conducted by senior citizen groups, and certain "redemption games", such as skee ball or basketball games found in many arcades, restaurants, and bars, would also be exempt from the regulations banning gambling.

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

The bill would exempt certain bowling games, senior citizens card games, and redemption games from the Michigan Penal Code's prohibition against gambling. The bill would take effect January 1, 1997. Specifically, the bill would do the following:

Bowling games. The exemption from gambling prohibitions for games played at bowling centers would apply only to games sponsored solely by one league, the participants would have to be members of the same league, and the bowling center at which the bowling games were being played could not receive a percentage of the participation fee or prize money from games where a stake or prize was awarded. Further, the total amount of a participation fee per person per game could not exceed \$5.00 and the total prize payout per league per game could not exceed \$1,000.

The bill would define "bowling center" as a bowling alley with at least five lanes, "participation fee" as a fee charged by the league to a person to participate in a game

for which a prize or stake is awarded, and "bowling game" as not more than three sets of ten frames of bowling. Bowling game would not include a mechanical or electronic simulation of a bowling game; roulette, beano, cards, dice, wheels of fortune, video poker, slot machines, or other similar games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player; or a game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player.

Senior citizens and cards. The bill would exempt recreational card playing by members of senior citizens clubs and groups of residents of senior citizen housing facilities that is conducted at senior citizen housing facilities not licensed by the Liquor Control Commission. The clubs or groups would have to have at least fifteen members all of whom were 60 years of age or older. Further, all of the following conditions would have to be met:

\* The card games would have to be conducted solely for amusement and recreation of the members and their guests and could not be conducted for fund-raising. The number of members playing would have to be greater than the number of guests.

\* Only bona fide members and employees of the club or group could participate in the conduct of the card playing activity.

\* Bets would be restricted to no more than a quarter per bet.

\* Card games would have to be played between the hours of 9:00 a.m. and midnight.

\* Winnings could not exceed \$5 per hand.

\* Other than winnings, any revenue generated by the activity would have to be used for reasonable expenses incurred in conducting the card playing, and no one could be compensated for participating in the conduct of the card playing.

Redemption games. The bill would define "redemption game" as a single player or multi-player mechanical, electronic, or manual amusement device that involved a game in which the object was to throw, roll, bowl, shoot, place, propel, or stop a ball or other object into, upon, or against a hole or other target. A redemption game would not include either games such as roulette, beano, cards, dice, wheels of fortune, video poker, slot machines, or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control

of the player or games that include mechanical or physical devices which directly or indirectly impair or thwart the skill of the player.

To be exempt from the ban on gambling, a redemption game would have to meet the following conditions:

- \* The outcome must be determined by a player's skill.
- \* A prize award must be based on the player's score or by achieving the object of the game.
- \* Only noncash prizes, toys, novelties, or coupons that could be redeemed for noncash prizes, etc., are awarded.
- \* The wholesale value of the prizes, toys, or novelties won through the successful single play of a game could not be more than \$3.75.
- \* The redemption value of coupons awarded for a successful single play of a game could not exceed 15 times the amount charged for a single play or \$3.75, whichever was less. Players would be allowed to accumulate coupons and redeem them for noncash prizes, toys, or novelties of a greater value up to, but not to exceed, \$250 wholesale value.

MCL 750.303 et al.

### **FISCAL IMPLICATIONS:**

According to the Senate Fiscal Agency, the bill would result in a decrease in revenue associated with the loss of penalties collected for the elimination of the specified violations. There would be no fiscal impact on local units of government. (12-10-96)

### **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 to 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.

Likewise, games popular at arcades, restaurants, bars, and fairs, in which coupons based on scores can be redeemed for non-cash prizes, could also be viewed as meeting the criteria for a gambling activity. The bill would clarify what types of redemption games would be legal, and that low-stakes card games conducted by groups of senior citizens in senior citizen housing facilities would also be exempt from the ban on gambling.

#### **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 certain practices to be legal if conducted in bowling centers and senior citizen housing facilities, but illegal if conducted elsewhere. Conceivably, other licensees and clubs or members of groups could then

argue that they, too, should be exempted from gambling penalties so that their patrons and members 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.

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■ 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.