

Testimony of Geoff Sugerman
HB 3518
Representing Save Oregon Poker

Chair Garrett and members of the House Rules Committee:

The social gaming statutes around these poker rooms and a number of other issues are simply a muddled mess.

This 40-year-old set of social gaming statutes is antiquated and is truly not reflective of the reality of gaming in our state today. The 2010 Department of Justice opinion, points out a number of serious flaws in the statute.

The statute lacks definitions for some critical terms. For example, house bank. Quoting from the opinion, "In sum, the Legislature never discussed what it intended "house" or any of the house prohibitions to mean."

The section on legislative history in the DOJ reveals the story of a Legislature over four years that fought over these statues, changing them several times in short order, before abandoning them.

The final change in the statute in 1974 was the inclusion of ORS 167.121 that allowed cities and counties to issue business licenses to private clubs and businesses for the purposes of social gaming:

***167.121 Local authorization of social games.** Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized. [1974 c.7 §3]*

It is this section of law HB 3518 seeks to amend.

From a construction standpoint, this bill is flawed.

Two sections above (167.118) is the statute for the charitable, religious and fraternal organizations engaging in fundraising charity social gaming events. By amending 167.121 and replacing the words "private clubs" and "private businesses," with fraternal, charitable and religious organizations, HB 3518 is really just setting up a new layer of bureaucracy that allows cities and counties to regulate and license charities while shutting down the private businesses authorized under 167.121.

ORS 167.121 makes it clear the Legislature was willing to allow cities and counties to allow private businesses or clubs to operate social gaming on some level. And even to have some say in how they are regulated.

Since this statute was written in the early 70s we've seen a lot of changes in our society:

- In Oregon we have seen the establishment of casinos that provide gambling and are clearly huge profit making centers for those who run them.
- We have seen the establishment of a state run lottery system that has exploded into bars, taverns, restaurants and even little storefronts that claim to be food establishments.
- We have seen poker explode both in the US and internationally as a skill-based game where every player who sits down at a table has an equal chance to win. And most importantly, a game where the house has no say in the outcome, no vested interest in who wins and in the case of these small poker clubs, gives every penny of the entry fee back as the prize pool players share.

That there is no house advantage or house "take" in these poker tournaments alone makes them very different from every other game offered in a casino. It points to yet another serious flaw in our social gaming statute where poker is considered no different than blackjack or other games where the house clearly benefits and profits just by the game itself.

So the truth is we allow casinos and their owners to profit by gambling in Oregon. We allow the state, and the thousands of businesses that operate lottery terminals to profit from gambling in Oregon. But this bill says these small business owners, who started and own thriving clubs where people come to play on a regular basis; these small club owners who employ wait staff, floor staff, tournament directors, bookkeepers, janitorial services, security, advertisers and others should somehow not be allowed to operate at a profit to offer low-cost poker tournaments to a willing and growing customer base.

These clubs pay taxes, both on their income and on their employees. They follow the rules as they believe they are established and they are nothing if no smart business people who saw a market opportunity and went to work.

We should be applauding and helping their entrepreneurial spirit; not trying to shut them down.

That said, there do need to be changes in the statutes and in how these clubs are allowed to operate. But these clubs are caught between what cities require them to do, what the state asks of them, and these antiquated and muddled statutes.

One of the big issues that should be addressed is how to compensate and employ dealers. The clubs in Portland and in other cities, for example, have been told by the cities that dealers cannot be hired as employees. Because of the current state employment law, dealers cannot serve as volunteers in a for-profit business. So

while wait staff, tournament directors and other employees can legally be hired at these clubs, dealers cannot. It's silly, but it illustrates again the shortcomings of our current social gaming statutes. And it needs to be fixed.

After much work and negotiation with the Oregon Employment Department and the City of Portland, dealers who work at several of these clubs have formed non profit "Member Benefit Associations" which allow them to deal at the clubs. (See attached Secretary of State filing of one of these organizations). Today it is true that dealers work for tips, tips most players gladly and voluntarily pay, and these rules need to be changed. But again, this is the system that seems to satisfy the cities and the employment department at present and that's why dealers are not employees of these clubs. It should not be a reason to shut down these clubs; it should be reason to amend the statutes to allow these clubs the chance to operate.

The economic impact of these clubs cannot be understated. These clubs are employers. These clubs are purchasers of food, beverages and other services. These clubs occupy rental space in our commercial and retail areas. From cities including Millersburg, Dallas, Lebanon, Ashland, Irrigon, Enterprise, Portland, Eugene, Junction City and more, these clubs are offering entertainment at a fair price and a good value.

Save Oregon Poker urges this committee to reject this bill. In its stead we propose to come back to this legislature- after consulting and working with the Department of Justice and the affected cities - to provide a workable model that will fix the identified problems, but allow these growing small businesses the opportunity to continue operating for the benefit of our communities and our state and the tens of thousands of poker players who really love to shuffle up and deal.

We urge the committee to reject HB 3518.
Thank you.