

HB 2548

Testimony of Geoff Sugerman

HB 2548 is an effort to update a series of statutes from the early 1970s that allows cities and counties to issue licenses to businesses to provide social games for their customers.

We seek to solve several issues that have arisen over the years:

1. Providing direction on how to determine the dominant use or purpose of the establishment.
2. Allowing the clubs to employ dealers as regular employees of the establishment, something prohibited under current law.
3. Setting up a system to govern the amount of revenue a club can generate similar to that in effect for bingo halls currently operating in Oregon.

This story began in 1971 when the Legislature adopted language that in effect banned card rooms that had been operating in hotels, bars, restaurants and other venues around the state.

In 1973, according to a DOJ opinion issued in 2010:

“ representatives of hotel, restaurant, and bar workers’ unions, as well as representatives of private clubs, asked the legislature to amend the gambling laws to allow social games in business establishments. They informed the legislature that card rooms had been shut down due to the 1971 legislation and those closures had caused unemployment among waitresses, bartenders, card room attendants, and workers who made the food and beverages sold in card rooms... The legislature agreed. It retained the “social game” language in the definition of player, amended the gambling laws to exclude social games from the definition of “gambling,” and provided the following definition of “social games,” which allowed social games in public places.”

Over 40 years later, issuance of the social gaming license still rests in the hands of cities and counties under the current statute. There is no obligation for the local jurisdiction to issue the license. And nothing in this bill changes the ability of cities and counties to decide whether they want this type of social gaming in their community.

HB 2548 seeks to provide legislative direction to cities, counties and the courts stemming from an Oregon Supreme Court Case – Ecumenical Ministries of Oregon versus the Oregon State Lottery from 1994 – in which the court rules that the dominant use or purpose of an establishment must not be for gambling or it would violate the constitutional ban against establishment of a casino. The court did not define what constituted dominant use or purpose.

HB 2548 attempts to do this by setting up a series of factors cities, counties or the courts can consider when determining the dominant use or purpose of the facility. We accomplish this in Section 2 of the -1 amendments using determinants such as:

- The square footage used by the poker game versus other activities in the club,
- Whether the club offers other products, like food or beverages, or other services, like pool tables, darts, cribbage, ping pong or chess,
- The length of time the operation has been in business, and
- What portion of operating expenses comes from the poker game versus other activities,

These factors, we believe, provide the direction necessary to determine dominant use or purpose should cities and counties choose to issue a social gaming license.

The second problem we seek to address is the issue of dealers. Right now, according to the DOJ opinion from 2010, clubs are simply not allowed to hire dealers as regular employees. We think this was due to a belief that if the house was a participant in any of the games, then the dealer could sway the advantage to the house player. Since house players are not allowed, and the true nature of a dealer's duty is to merely ensure that the game operates smoothly and correctly, we believe authorizing the clubs to hire all necessary employees solves a significant potential labor issue and ensures that all employees of the clubs are treated equally and fairly.

The third key component of the bill sets out how much the licensed business can recover from the players' prize pool or the operation of a cash game. We model this language after the current statutory scheme for bingo halls by allowing the club to recover up to 18% of the tournament prize pool. In addition, we allow the club to charge a "seat fee" for traditional cash style games. But in those cash or time-limited real money tournaments, we do not allow the establishment to take a portion of each pot played, or a rake.

Since these statutes were written in the 1970s, we've seen the adoption of the Oregon State Lottery, the establishment of tribal casinos in Oregon, bars and restaurants offering video poker games, on-line gambling, off-track betting, and one more thing...

In 2003, a man named Chris Moneymaker won the World Series of Poker, spurring an explosion of a game called Texas Hold 'Em. Since then, poker clubs have been established in many states across the US.

At licensed establishments like the Encore Poker Club or one of the several dozen clubs in cities across Oregon, players pool their money together to compete in poker tournaments. The entry fees range from \$20 to \$200 on rare occasions. The average entry fee, in my experience, is approximately \$40.

Every one of these players starts on equal footing with the same amount of chips and we play until one person is left or the remaining players decide to split the prize pool.

Unlike games like blackjack, roulette, and other table games where the casino or the house plays against the bettor, where the House has better odds of winning than the player and the house benefits when the player loses, a poker player competes against all the other players. The operator of the facility doesn't care who wins or loses any single hand or an entire tournament.

As a player, I have been participating in tournaments for the past four years. I find the clubs to be fun, safe and challenging venues where I can compete against other players. I've made good friends. I consider this form of entertainment among my very favorite pastimes and activities.

Since the early 1970s, the State has allowed cities and counties to license social gaming activities in Oregon. This bill continues that tradition, but provides some clearer legislative direction how the clubs can operate legally and safely and recognizes that the world has changed since the early 1970s.

We thank you for considering HB 2548.