



TO: The Honorable Representative Paul Holvey
House Committee On Business and Labor

FROM: Jeff Marotta, Ph.D., NCGC-II

DATE: April 5, 2017

SUBJECT: HB 2971 – Increases number of video lottery game terminals allowed on premises of race meet licensee to 50 terminals.

Chair Paul Holvey and members of the committee, my name is Jeff Marotta. I am here in opposition of HB 2971. I submit to you this proposal is unconstitutional in Oregon. The Constitution of Oregon states; “The Legislative Assembly has no power to authorize, and shall prohibit, casinos from operation in the State of Oregon”. HB 2971 increases the number of video lottery game terminals allowed at Portland Meadows from 10 to 50 terminals.

In 1995, a similar measure was proposed (Enrolled House Bill 3411). The Attorney General’s Opinion on this bill stated; “There is a high probability that a court, if presented with the question, would hold that HB 3411 violates Article XV, section 4[12], of the Oregon Constitution due to the concentration and operation of 75 video lottery terminals that would be permitted at a single racing facility.” (p.8)¹

In reaching this conclusion, “Attorney General Kulongoski relied in large part on the Oregon Supreme Court’s decision in Ecumenical Ministries. He noted that the Oregon Supreme Court had concluded in that decision that, in adopting subsection 4(12), the voters intended to prohibit the operation of establishments whose dominant use or dominant purpose, or both, is for gambling.” (p.8)¹

In conclusion, as suggested by past General Attorney opinions, the State Lottery’s operation of 50 video lottery terminals in combination with pari-mutuel racing activities at Portland Meadows as authorized by HB 2971 would constitute a casino prohibited by the Oregon Constitution.

Thank you for the opportunity to testify before you today. I would be happy to answer any questions.

¹ Department of Justice. Opinion Request OP-2010-6. October 21, 2010. Downloaded April 3, 2017 at <http://www.doj.state.or.us/agoffice/agopinions/op2010-6.pdf>