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FISCAL IMPACT STATEMENT

LS 7019

BILL NUMBER: HB 1274

NOTE PREPARED: Jan 2, 2004

BILL AMENDED:

SUBJECT: Electronic Gaming.

FIRST AUTHOR: Rep. Adams

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill authorizes electronic gaming devices in establishments licensed to sell alcoholic beverages for consumption on the licensed premises.

Effective Date: July 1, 2004.

Explanation of State Expenditures: Under the bill, the State Lottery Commission is given the power and duty to administer, regulate, and enforce distribution and operation of electronic gaming devices (EGDs) in alcoholic beverage retail establishments. The bill also requires the State Police to assist the Commission in conducting background investigations of licenses. Under the bill, all administrative costs would be defrayed by license application fees, license fees, and wagering tax revenue. The bill requires the Commission to reimburse the State Police for all costs relating to background investigations.

The bill creates an Establishment License permitting an alcoholic beverage retail establishment, except for a horse racetrack or OTB, to operate up to five EGDs. The Commission is required to conduct background investigations of each license applicant. The State Police Department is required to assist the Commission in conducting background investigations. The bill requires the investigative costs to be paid by license applicants and requires the Commission to reimburse the State Police for its investigative costs.

The bill also establishes the Electronic Gaming Fund and requires receipts from Establishment License fees and an Electronic Gaming Wagering Tax to be deposited in the Fund. Money in the fund does not revert to the state General Fund. The bill provides that money in the Fund is annually appropriated to the Commission to cover the cost of administering electronic gaming.

Penalty Provisions: The bill establishes a Class A misdemeanor for: (1) making false statements on an application for a license; (2) operating electronic gaming in a manner other than required by law; (3) permitting gambling by persons under 21; (4) aiding or inducing a person under 21 to enter a gambling area; and (5) accepting wagers at unlicensed establishments. The bill also establishes a Class D felony for: (1) transactions to influence the outcome of gambling games or to influence a Lottery Commission member; (2) cheating at a gambling game; (3) manufacturing or distributing materials or devices that violate the electronic gaming law; (4) various acts to cheat at, alter the results of, or fraudulently win at electronic gaming.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$26,825 in FY 2002. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Electronic Gaming Wagering Tax:* The bill imposes a Wagering Tax equal to 40% of the adjusted gross wagering receipts (AGR) received by a license holder from EGD wagering. (AGR is the total receipts from EGD wagering minus the amount paid as winnings.) As data and analysis are unavailable at this time indicating the potential receipts that alcoholic beverage retailers may derive from EGD operations, the impact of this tax is indeterminable.

License Fees: This bill creates an Establishment License that allows qualified establishments to operate EGDs on their premises. The table below illustrates the type and estimated number of qualified establishments, the maximum number of devices allowed at each type of establishment, and the maximum number of devices per type of establishment.

Maximum Number of Electronic Gaming Devices.			
Qualified Establishments	Number of Establishments	Number of Devices Permitted	Maximum Number of Devices Per Establishment Type
Retail Permit Holders*	6,006	5	30,030
Club Permit Holders**	1,105	5	5,525
TOTAL	7,111		35,555
*Retail permit holders include beer retailers, wine retailers, liquor retailers, restaurants, and hotels. Civic Centers and Riverboat Casinos are excluded from the totals in this table.			
**Club permit holders include social and fraternal clubs.			

The bill allows the State Lottery Commission to determine the fee for the Establishment License. The maximum fee for this license is \$1,000 per device each year. It is not known how many permit holders would apply for an Establishment License. However, it is important to note that the Lottery Commission estimated in a 1993 study that there were between 10,000 and 15,000 video lottery machines being used illegally in the state. Assuming the license fee is set at \$1,000 and all of the qualified establishments presented in Table A license at least one gaming device, license revenue would equal approximately \$7.1 M annually. If half of the qualified establishments license five gaming devices, license revenue would equal approximately \$17.8 M per year. If all of the qualified establishments license the maximum number of devices authorized in this

bill, permit revenue would equal approximately \$35.6 M per year.

Electronic Gaming Fund: The bill establishes the Electronic Gaming Fund consisting of revenue from the Electronic Gaming Wagering Tax and the Establishment License fees. The bill requires two-thirds of the revenue in the Fund be distributed to the state General Fund. The remaining revenue in the fund must be distributed to the counties in which the revenue was generated. The bill requires the county distribution to be divided between the county, and cities and towns within the county, based on population.

Other Revenue: This bill may increase the number of EGDs sold, increasing Sales Tax revenue. Sales Tax revenue is deposited in the state General Fund, the Property Tax Replacement Fund, and three other dedicated funds. In addition, an increase in the sale of EGDs will increase income tax revenue from any manufacturers and distributors located in Indiana. The use of EGDs by licensees could also increase their income, resulting in increased income tax revenue. Revenue from the Adjusted Gross Income (AGI) Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of EGDs in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Penalty Provisions: The bill establishes a Class A misdemeanor and a Class D felony for various acts. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000, and the maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provisions:* The bill establishes a Class A misdemeanor and a Class D felony for various acts. A Class A misdemeanor is punishable by up to one year in jail. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Local Distribution of Wagering Tax and License Fees:* The bill requires distributions from the state Electronic Gaming Fund to counties in which the revenue was generated. These funds are to be divided between the county, and the cities and towns in the county, based on population (see above under *Explanation of State Revenues*).

Penalty Provisions: The bill establishes a Class A misdemeanor and a Class D felony for various acts. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Lottery Commission, State Police, Treasurer of State, Department of Correction.

Local Agencies Affected: Cities, towns, and counties. Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association. Department of Correction. Don Oaky, Excise Industry Liaison, Alcoholic and Tobacco Commission, (317) 232-2463. Lottery Commission Report on Video Lottery, 1993. Local Government Database.

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