

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 517

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO GAMING; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW
2 CHAPTER 92, TITLE 67, IDAHO CODE, TO CREATE THE IDAHO GAMING AGENCY, TO
3 DEFINE TERMS, TO CREATE THE IDAHO GAMING AGENCY COMMISSION, TO PROVIDE
4 FOR APPOINTMENT, TERMS AND REMOVAL OF MEMBERS, TO PROVIDE FOR POWERS AND
5 DUTIES OF THE COMMISSION, TO PROVIDE FOR APPOINTMENT OF A DIRECTOR, TO
6 PROVIDE POWERS AND DUTIES OF THE DIRECTOR, TO PROVIDE FOR CONFLICT OF
7 INTEREST AND TO PROVIDE FOR A DUTY TO REVIEW GAMING DEVICES IN OPERATION
8 IN THE STATE; AMENDING SECTION 67-7409, IDAHO CODE, TO REMOVE THE LOT-
9 TERY COMMISSION AND ITS DIRECTOR'S AUTHORITY FOR MONITORING CLASS III
10 GAMING ON INDIAN RESERVATIONS; AND DECLARING AN EMERGENCY.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended
14 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
15 ter 92, Title 67, Idaho Code, and to read as follows:

16 CHAPTER 92
17 IDAHO GAMING AGENCY

18 67-9201. IDAHO GAMING AGENCY CREATED. There is hereby created in the
19 department of self-governing agencies an agency to be known as the Idaho gam-
20 ing agency to provide oversight and to oversee and certify compliance with
21 section 20, article III, of the constitution of the state of Idaho, and ap-
22 propriate sections of Idaho Code, including Indian gaming pursuant to the
23 various compacts and sections 67-429A, 67-429B and 67-429C, Idaho Code; in-
24 cluding Idaho state lottery gaming devices pursuant to section 67-7401, et
25 seq., Idaho Code; and including pari-mutuel gaming devices pursuant to sec-
26 tion 54-2501, et seq., Idaho Code.

27 67-9202. DEFINITIONS. As used in this chapter:

28 (1) "Commission" means the Idaho gaming agency commission.

29 (2) "Gaming device" means a device that accepts a wager from a player
30 in exchange for an opportunity to win something of value, including lottery
31 terminals that electronically reveal wager outcomes, electronic gambling
32 devices operated by a player on tribal lands or similar devices only as au-
33 thorized by the commission.

34 (3) "Indian gaming" means gaming that is authorized pursuant to a com-
35 pact by and between the governor and an Idaho tribe, and as further defined
36 under sections 67-429A, 67-429B and 67-429C, Idaho Code.

37 (4) "Licensee" means any gaming device provider authorized by the
38 agency to operate or provide gaming devices.

39 (5) "Pari-mutuel" means any system whereby wagers are placed with, or
40 in, a wagering pool conducted by a person licensed or otherwise permitted to

1 do so under state law, and in which the participants are wagering with each
2 other and not against the operator.

3 67-9203. GAMING AGENCY COMMISSION CREATED -- APPOINTMENT -- RE-
4 MOVAL. There is hereby created the Idaho gaming agency commission. The
5 commission shall consist of three (3) members. Except for the initial stag-
6 gered terms described in this section, the term of a member is six (6) years.

7 (1) Members on the commission shall be appointed by and serve at the
8 pleasure of the governor following the advice and consent of the senate, one
9 (1) for a six (6) year term, one (1) for a four (4) year term, and one (1) for
10 a two (2) year term, and thereafter each for six (6) year terms. The gover-
11 nor shall also be responsible for appointment of a commission chairman from
12 among the appointed members.

13 (2) Each member shall hold office until his successor is appointed and
14 qualified. Vacancies on the commission shall be filled by appointment to be
15 made by the governor for the unexpired term.

16 (3) Any member may be removed from office for cause.

17 67-9204. POWERS AND DUTIES OF THE COMMISSION. The commission shall be
18 responsible for establishing the goals and objectives of the Idaho gaming
19 agency and shall have the following duties, powers and responsibilities in
20 addition to others herein granted:

21 (1) The commission shall adopt, upon recommendation of the director,
22 such rules governing the review and approval, or rejection, of gaming de-
23 vices for use in the state of Idaho. Such rules shall generally address, but
24 not be limited to:

25 (a) The different types of gaming devices allowed to be possessed and
26 operated;

27 (b) The terms and conditions of gaming device testing contracts;

28 (c) Establishing license fees for testing of gaming devices and licens-
29 ing of gaming device providers; and

30 (d) Other matters necessary or appropriate for the efficient operation
31 and administration of the Idaho gaming agency and to carry out the pro-
32 visions of this chapter. Every rule promulgated within the authority
33 conferred by this chapter shall be of temporary effect and must be rati-
34 fied by the legislature at the regular session first following its adop-
35 tion by adoption of a concurrent resolution. Rules not approved in the
36 manner specified in this paragraph shall be rejected, null, void and of
37 no force and effect on July 1, following their submission to the legis-
38 lature.

39 (2) The commission shall approve major procurements.

40 (3) The commission shall approve the transfer of net license income in
41 the event of a surplus.

42 (4) The commission shall perform all other acts necessary to carry out
43 the purposes and provisions of this chapter.

44 (5) No member of the commission shall have a direct or indirect pecu-
45 niary interest in any contract or agreement entered into by the agency relat-
46 ing to the licensing and compliance review of any gaming device operated in
47 the state. A commission member or employee may operate a gaming device for
48 purposes of testing, licensing or ensuring compliance with this chapter.

1 67-9205. DIRECTOR. With the advice and consent of the senate, the gov-
2 ernor shall appoint a director of the Idaho gaming agency. The compensation
3 of the director, including bonuses, if any, shall be established by the com-
4 mission. The director shall serve at the pleasure of the governor.

5 67-9206. POWERS AND DUTIES OF THE DIRECTOR. The director shall be re-
6 sponsible for the daily operations of the Idaho gaming agency and shall have
7 the following duties, powers and responsibilities in addition to the others
8 herein granted:

9 (1) The director shall:

10 (a) Test gaming devices to ensure compliance with Idaho Code and sec-
11 tion 20, article III, of the constitution of the state of Idaho;

12 (b) License gaming device providers;

13 (c) Monitor class III gaming on Indian lands for compliance with state-
14 tribal compacts;

15 (d) Operate and administer the Idaho gaming agency in accordance with
16 the provisions of this chapter and the policies and rules of the Idaho
17 gaming agency commission;

18 (e) Hire professional, technical and other employees as may be neces-
19 sary to perform the duties of his office subject to the provisions of
20 chapter 53, title 67, Idaho Code.

21 (2) The director shall:

22 (a) Confer regularly with the commission on the operation and adminis-
23 tration of the Idaho gaming agency;

24 (b) Make available for inspection by the commission, on request, all
25 books, records, files and other information and documents of the Idaho
26 gaming agency; and

27 (c) Advise the commission and make such recommendations as the director
28 considers necessary and advisable to improve the operation and adminis-
29 tration of the Idaho gaming agency.

30 (3) The director may enter into contracts for testing, research and
31 studies for gaming devices and for effectuating the purposes of this chap-
32 ter; however, contracts for major procurements must be approved by the
33 commission.

34 (4) The director shall:

35 (a) Report to the governor and the legislature any matters that require
36 immediate changes in the laws of this state in order to prevent abuses
37 and evasions of this chapter or the rules of the Idaho gaming agency or
38 to rectify undesirable conditions in connection with administration or
39 operation of gaming devices in the state;

40 (b) Carry on a continuous study and investigation of the Idaho gaming
41 agency to:

42 (i) Identify any defects in the provisions of this chapter or in
43 the rules and regulations of the commission leading to an abuse in
44 the administration or operation of the Idaho gaming agency or an
45 evasion of this chapter or the rules of the Idaho gaming agency;

46 (ii) Make recommendations for changes in this chapter or the rules
47 of the Idaho gaming agency to prevent abuses or evasions or to im-
48 prove the efficiency of the Idaho gaming agency;

- 1 (iii) Ensure that the provisions of this chapter and the rules of
2 the Idaho gaming agency are administered and formulated to serve
3 the purposes of this chapter;
- 4 (c) Make a continuous study and investigation of:
- 5 (i) The operation and administration of similar laws and gaming
6 agencies in other states and countries;
- 7 (ii) The available information on the subject of gaming device
8 regulation and related subjects;
- 9 (iii) Any federal laws that may affect the operation of the gaming
10 devices.
- 11 (5) The director shall provide for secure Idaho gaming agency facili-
12 ties.

13 67-9207. CONFLICT OF INTEREST. Neither the director nor any gaming
14 agency employees shall have a direct or indirect pecuniary interest in any
15 contract or agreement entered into by the agency relating to the licensing
16 and compliance review of any gaming device operated in the state. A commis-
17 sion member or employee may operate a gaming device for purposes of testing,
18 licensing or ensuring compliance with this chapter.

19 67-9208. DUTY TO REVIEW. The agency shall conduct a review of all gam-
20 ing devices currently in operation in the state, or proposed to be operated
21 in the state, to determine their compliance with the requirements of this
22 chapter and to license those that are compliant following payment of a li-
23 cense fee. Thereafter, each license for a gaming device shall be renewed an-
24 nually to ensure continuing compliance. Any gaming device found not to be
25 in compliance shall be denied a license and shall be required to be removed
26 by the gaming device operator. The foregoing does not provide safe harbor
27 from criminal prosecution for possession and operation prior to review by
28 the agency. It shall be a violation of this chapter and a crime under sec-
29 tion 18-3801, et. seq., Idaho Code, for any new gaming device to be placed in
30 operation prior to receiving a license from the commission. The duty to re-
31 view gaming devices shall be a continuing duty of the agency and shall be con-
32 ducted at such other times as the agency deems necessary and appropriate.

33 SECTION 2. That Section 67-7409, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 67-7409. POWERS AND DUTIES OF THE DIRECTOR. The director shall be
36 responsible for the daily operations of the lottery, and shall have the
37 following duties, powers and responsibilities in addition to others herein
38 granted:

- 39 (1) The director shall:
- 40 (a) Operate and administer the lottery in accordance with the provi-
41 sions of this chapter and the policies and rules of the lottery;
- 42 (b) Appoint deputy directors, sales personnel and security staff, who
43 shall be exempt from the provisions of chapter 53, title 67, Idaho Code,
44 as may be required to carry out the functions and duties of his office;
45 and

1 (c) Hire professional, technical and other employees as may be neces-
2 sary to perform the duties of his office subject to the provisions of
3 chapter 53, title 67, Idaho Code.

4 (2) The director shall:

5 (a) Confer regularly with the commission on the operation and adminis-
6 tration of the lottery;

7 (b) Make available for inspection by the commission, on request, all
8 books, records, files, and other information and documents of the lot-
9 tery; and

10 (c) Advise the commission and make such recommendations as the director
11 considers necessary and advisable to improve the operation and adminis-
12 tration of the lottery.

13 (3) The director may enter into contracts for marketing, advertising,
14 promotion, research and studies for the lottery and for products and ser-
15 vices for effectuating the purposes of this chapter, however, contracts for
16 major procurements must be approved by the commission. The director may not
17 enter into contracts for the administration of the lottery.

18 (4) The director shall:

19 (a) Submit quarterly financial statements to the commission, the gov-
20 ernor, the state treasurer, and the legislature. Such financial state-
21 ments shall be prepared in accordance with generally accepted account-
22 ing principles and shall include a balance sheet, a statement of opera-
23 tions, a statement of changes in financial position, and related foot-
24 notes. Such financial statements are to be provided within forty-five
25 (45) days of the last day of each quarter;

26 (b) Submit annual financial statements to the commission, the gov-
27 ernor, the state treasurer, and each member of the legislature. Such
28 financial statements shall be prepared in accordance with generally
29 accepted accounting principles and shall include a balance sheet, a
30 statement of operations, a statement of changes in financial position,
31 and related footnotes. Such financial statements shall have been ex-
32 amined by the legislative services office or a firm of independent
33 certified public accountants in accordance with generally accepted
34 auditing standards and shall be provided within ninety (90) days of the
35 last day of the lottery's fiscal year;

36 (c) Report to the governor and the legislature any matters which re-
37 quire immediate changes in the laws of this state in order to prevent
38 abuses and evasions of this chapter or the rules of the lottery or to
39 rectify undesirable conditions in connection with administration or
40 operation of the lottery;

41 (d) Carry on a continuous study and investigation of the lottery to:

42 (i) Identify any defects in the provisions of this chapter or in
43 the rules and regulations of the commission leading to an abuse
44 in the administration or operation of the lottery or an evasion of
45 this act or the rules of the lottery;

46 (ii) Make recommendations for changes in this chapter or the rules
47 of the lottery to prevent abuses or evasions or to improve the ef-
48 ficiency of the lottery;

- 1 (iii) Ensure that the provisions of this chapter and the rules of
2 the lottery are administered and formulated to serve the purposes
3 of this chapter;
- 4 (iv) Prevent the use of the lottery, the provisions of this chap-
5 ter, or the rules of the lottery from fostering professional gam-
6 bling or crime;
- 7 (e) Make a continuous study and investigation of:
- 8 (i) The operation and administration of similar laws and lotter-
9 ies in other states and countries;
- 10 (ii) The available information on the subject of lotteries and re-
11 lated subjects;
- 12 (iii) Any federal laws which may affect the operation of the lot-
13 tery; and
- 14 (iv) The reaction of citizens of this state to existing and poten-
15 tial features of the lottery with a view to recommending or effect-
16 ing changes that will tend to serve the purposes of this chapter.
- 17 (5) The director shall provide for secure lottery facilities and lot-
18 tery systems, including data processing facilities and systems.
- 19 (6) ~~The director shall be responsible for monitoring class III gaming~~
20 ~~on Indian reservations as may be required by compacts entered into by the~~
21 ~~state in accordance with state statutory law and pursuant to the Indian Gam-~~
22 ~~ing Regulatory Act, 25 U.S.C. section 2701 et seq. and 18 U.S.C. sections~~
23 ~~1166-1168.~~
- 24 ~~(7)~~ The director shall perform all other acts necessary to carry out the
25 purposes and provisions of this chapter.
- 26 SECTION 3. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after its
28 passage and approval.