

ORDINANCE NO. 103

AN ORDINANCE enacting a new chapter entitled "Gambling Tax" imposing penalties for violation as authorized by RCW 9.46.192 and to provide for use of revenue collected to be used primarily for enforcement of the provisions of State law and this ordinance.

BE IT ORDAINED BY PACIFIC COUNTY, WASHINGTON, as follows:

Section 1. Definitions: For the purposes of this ordinance the words and terms used shall have the same meaning as each has under Chapter 218, Laws of 1973, 1st Ex. Sess. and Chapter 9.46 RCW, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 WAC, unless otherwise specifically provided or the context in which they are used herein clearly indicates that they be given some other meaning.

Section 2. Taxes Imposed - Amounts: There is hereby levied a tax upon all persons, associations, and organizations who conduct or operate gambling activities within the County of Pacific and who have been duly licensed by the Washington State Gambling Commission to conduct or operate such gambling activities, which tax shall be paid on the following gambling activities in the following respective amounts:

A. BINGO AND RAFFLE GAMES: Any bingo or raffle activity, a tax computed upon the basis of the gross receipts received each calendar year less the amount paid for as prizes at the following rate:

	Rate
0-\$12,000.00 .....	0%
Over \$12,000.00.....	10%

PROVIDED, however, that no tax shall be imposed under the authority of this ordinance on bingo or raffles when such activity or any combination thereof is conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.020(3), which organization has no paid operating or management personnel and has gross income from bingo or raffles, or any combination thereof, not exceeding \$5,000 per year less the amount paid for as prizes; and PROVIDED FURTHER that activities carried out by

public or private schools, including parent organizations and student body organizations, shall be exempt from the provisions of this chapter when the proceeds of such activities are applied for the benefit of any such school, or school sponsored or school related organization; and PROVIDED FURTHER, that any deviation from exemption restrictions enumerated herein shall subject such organization to the requirements of this chapter to the same extent if such exemption had not been granted, including required payment within ten (10) days after written demand of Pacific County of any taxes formerly granted exemption hereunder.

- B. AMUSEMENT GAMES: Any amusement game, a tax computed at zero percent (0%) of the gross receipts less the amount paid for as prizes PROVIDED however, that no tax shall be imposed under the authority of this Chapter on Amusement Games when such activity is conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.020(3), which organization has no paid operating or management personnel and has gross income from amusement games not exceeding \$5,000 per year less the amount paid for as prizes; and PROVIDED FURTHER that activities carried out by public or private schools, including parent organizations and student body organizations, shall be exempt from the provisions of this chapter when the proceeds of such activities are applied for the benefit of any such school, or school sponsored or school related organization; and PROVIDED FURTHER, that any deviation from exemption restrictions enumerated herein shall subject same organization to the requirements of this chapter to the same extent as if such exemption had not been granted, including required payment within ten (10) days after written demand of Pacific County of any taxes formerly granted exemption hereunder.

- C. PUNCH BOARD OR PULL-TAB: Any punch board or pull-tab, a tax computed at the rate of five percent (5%) of the gross receipts from the conduct of such activity.

- D. CARD GAMES: Any card game, a tax computed at the rate of zero percent (0%) of the gross

receipts received from the conduct of such activity.

Section 3. Tax To Be Computed and Paid Quarterly - Exceptions:

Each of the various taxes imposed by this ordinance shall be computed on the basis of activity during each calendar year. They shall be due and payable in quarterly installments and the remittance, together with return forms, shall be made to Pacific County. This shall be done on or before the last day of the month next succeeding the quarterly period in which the tax is accrued; that is on January 31, April 30, July 31 and October 31 of each year. The following exceptions to this payment schedule shall be allowed or required;

- A. Whenever any person, association or organization taxable hereunder, conducting or operating a taxable activity on a regular basis discontinues operation for a period of more than four (4) consecutive weeks, or quits business, sells out or otherwise disposes of the business, or terminates the business, any tax due shall become payable, and such taxpayer shall within ten (10) days make a return and pay the tax.
- B. Whenever it appears to Pacific County that the collection of taxes from any person, association, or organization may be in jeopardy, Pacific County, after not less than fifteen (15) days notice to the taxpayer, may require the taxpayer to remit taxes and returns at whatever intervals Pacific County shall deem appropriate under the circumstances.
- C. Whenever reports required by the State Gambling Commission under the provisions of RCW 9.46 are required on less than a quarterly basis any person, association, or organization taxable hereunder shall report to the County on the same basis.

Section 4. Administration and Collection of Tax:  
Administration and collection of the various taxes imposed herein shall be the responsibility of Pacific County. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the County. The taxpayer shall be required to swear and affirm that the information given in the return is true, accurate and complete. Pacific County is authorized, but not required, to mail to taxpayers the necessary forms. Failure of the taxpayers to receive such a form shall not excuse them from making the return and timely paying all taxes

due. Pacific County shall make forms available to the public in reasonable numbers at the Treasurer's Office in the Pacific County Courthouse in South Bend, Washington during regular business hours.

In addition to the return form, a copy of the taxpayers quarterly report to the Washington State Gambling Commission required by WAC 230-08 for the period in which the tax accrued shall accompany remittance of the tax.

Section 5. Method of Payment: Taxes payable shall be remitted to Pacific County on or before the time required by bank draft, certified check, cashier's check, personal check, money order, or in cash. If payment is made by draft or check the tax shall not be deemed paid until the draft or check is honored in the usual course of business, nor shall the acceptance of any sum by Pacific County be an acquittance or discharge of the tax unless the taxes are paid in full. The return and a copy of the quarterly report to the Washington State Gambling Commission shall be filed in the office of the Treasurer of Pacific County after notation by that office upon the return of the amount actually received from the taxpayer.

Section 6. Failure to Make Timely Payments of Tax or Fee: If full payment of any tax or fee due is not received by Pacific County on or before the date due, there shall be added to the amount due a penalty fee as follows;

- |                       |                |
|-----------------------|----------------|
| A. 1 - 10 days late:  | 6% of tax due  |
| B. 11 - 20 days late: | 8% of tax due  |
| C. 21 - 31 days late; | 10% of tax due |
| D. 32 - 60 days late; | 11% of tax due |

but in no event shall the penalty amount be less than Five Dollars (\$5.00). In addition to this penalty, Pacific County may charge the taxpayer interest of one percent (1%) of all taxes and fees due for each thirty-day (30) period, or portion thereof, that said amounts are past due.

Failure to make payment in full of all tax amounts, and penalties, within sixty (60) days following the day the tax amount initially became due shall be both a civil and criminal penalty of this ordinance.

Section 7. Notice of Intention to Engage in Activity to be Filed: In order that Pacific County may identify those persons who are subject to taxation under these provisions, each

person, association, or organization shall file with Pacific County a form "Declaration of Intent" to conduct an activity taxable as herein provided. The Declaration of Intent shall be a form to be prescribed by Pacific County and shall be submitted with a copy of the license issued by the Washington State Gambling Commission. The filing shall be made not later than ten (10) days prior to conducting or operating a taxable activity or twenty (20) days after the effective date of this ordinance if the activity is being conducted prior to its adoption. No fee shall be charged for such filing, which is not for the purpose of regulation of this activity. Failure to timely file shall not excuse any person, association, or organization from any tax liability.

Section 8. Records Required: Each person, association or organization engaging in an activity taxable under these provisions shall maintain records respecting that activity which truly, completely and accurately disclose all information necessary to determine the tax liability during each base tax period. Such records shall be kept and maintained for a period of not less than three (3) years. In addition, all information and items required by the Washington State Gambling Commission under WAC 230-08, and the United States Internal Revenue Service respecting taxation, shall be kept and maintained for the periods required by those agencies.

All books, records and other items required to be kept and maintained under this section shall be subject to and immediately available for inspection and audit at any reasonable time with reasonable notice. Inspection shall be made upon demand by Pacific County or its designee, at the place where such records are kept, for the purpose of enforcing these provisions.

Where the taxpayer does not keep all of the books, records, or items required in this jurisdiction, the taxpayer shall either;

- A. Produce all the required books, records, or items within Pacific County for such inspection within seven (7) days following a request of Pacific County; or
- B. Bear the actual cost of the inspection by Pacific County or its designee, at the location at which such books, records or items are located, provided that a taxpayer choosing to bear these costs shall pay in advance to Pacific County the estimated cost thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals,

and incidental expenses. The actual amount due, or to be refunded, for expenses shall be determined following said examination of the records.

Section 9. Overpayment or Underpayment of Tax: If, upon application by a taxpayer for a refund or an audit of his records, or upon any examination of the returns or records by Pacific County, it is determined that within the immediate past three (3) years:

- A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the County within such period shall be credited to the taxpayers account or shall be credited to the taxpayer at the taxpayer's option. No refund or credit shall be allowed with respect to any excess paid more than three (3) years before the date of such application or examination.
- B. A tax or other fee has been paid which is less than properly due, or no tax or other fee has been paid, the County shall mail a statement to the taxpayer showing the balance due, including the tax amount or penalty assessment and fees, and it shall be a separate, additional violation of the provisions of this section, both civil and criminal, if the taxpayer fails to make payment in full within ten (10) calendar days of mailing.

Section 10. Failure to Make Return: If any taxpayer fails, neglects or refuses to make and file his return as and when required under these provisions, Pacific County is authorized to determine the amount of tax payable, together with any penalty and/or interest assessed. The taxpayer shall then be notified by mail of the amount which shall become immediately due and payable.

Section 11. Tax Additional to Others: The tax herein levied shall be in addition to any license fee or tax imposed or levied under any law or any other ordinance of Pacific County except as herein otherwise expressly provided.

Section 12. Taxes, Penalties and Fees Constitute Debt

to Municipality: Any tax due and unpaid under these provisions and all penalties or fees shall constitute a debt to Pacific County, a municipal corporation, and may be collected by court proceedings the same as any other debt in like amount, but shall be in addition to all other existing remedies.

Section 13. Limitations on Right to Recovery: The right of recovery by the County from the taxpayer for any tax provided hereunder shall be outlawed after the expiration of three (3) calendar years from the date that tax became due. The right of recovery against the County because of overpayment of tax by any taxpayer shall be outlawed after the expiration of three (3) calendar years from the date such payment was made.

Section 14. Violation - Penalties: Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this ordinance is guilty of a misdemeanor. Any person convicted of a misdemeanor under this ordinance shall be punished by a fine not to exceed Five Hundred Dollars (\$500) or by imprisonment in the county jail not to exceed ninety (90) days, or both such fine and imprisonment.

Each such taxpayer is guilty of a separate offense for each and every day during any portion of which any violation of these provisions is committed, continued or permitted by any such taxpayer and he is punishable accordingly.

Section 15. - Causing Person to Violate Rule or Regulation as Violation - Penalty: Any person who knowingly causes, aids, abets or conspires with another to cause any person to violate any rule or regulation adopted pursuant to Chapter 9.46 RCW originally and as amended shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000) or both such imprisonment and fine.

Section 16. Violation Relating to Fraud or Deceit - Penalty: Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

- A. Employ any device, scheme, or artifice to defraud; or
- B. Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said

statement is made; or

- C. Engage in any act, practice or course of operation as would operate a fraud or deceit upon any person.

Shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000) or both.

Section 17. Defrauding or Cheating Other Participant or Operator as Violation - Causing Another to do so as Violation - Penalty: No person participating in a gambling activity shall in the course of such participation, directly or indirectly:

- A. Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator; or
- B. Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator; or
- C. Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or
- D. Cause, aid, abet, or conspire with another person to cause any other person to violate subsections A through C of this section.

Any person violating this section shall be guilty of a gross misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than Five Thousand Dollars (\$5,000) or both.

Section 18. Working in Gambling Activity Without License as Violation - Penalty: Any person who works as an employee or agent or in a similar capacity for another person in connection with the operation of an activity for which a license is required under Chapter 9.46 RCW originally and as amended or by rule of the Washington State Gambling Commission created in RCW 9.46 without having obtained the applicable license required by the Washington State Gambling Commission under RCW 9.46.070

(\*16) shall be guilty of a gross misdemeanor and shall, upon conviction, be punished by not more than one (1) year in the county jail or a fine of not more than Five Thousand Dollars (\$5,000) or both.

Section 19. Gambling Information, Transmitting or Receiving as Violation - Penalty: Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a gross misdemeanor; Provided, however, that this section shall not apply to such information transmitted or received or equipment installed or maintained relating to activities as enumerated in RCW 9.46.030 or any act or acts in furtherance thereof when conducted in compliance with the provisions of Chapter 9.46 RCW originally and as amended and in accord with the rules and regulations adopted pursuant thereto.

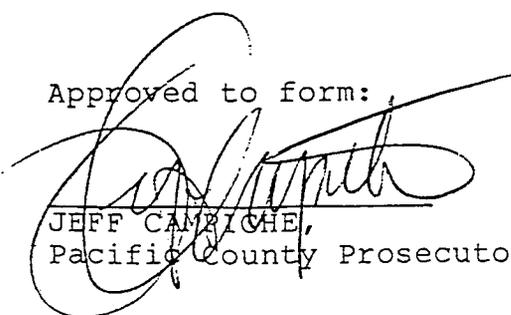
Section 20. Revenue: Any revenue collected from such tax shall be used primarily by Pacific County for the purpose of the enforcement of the provisions of Chapter 9.46 RCW and this ordinance.

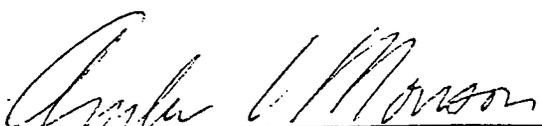
Section 21. Severability: If any provisions or sections of this ordinance shall be held void or unconstitutional, all other parts, provisions and sections not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 22. This ordinance shall take effect and be in force the first day of the month next succeeding the quarterly period in which it was passed and published as provided by law; that is on January 1, 1985.

PASSED AND APPROVED BY THE BOARD OF PACIFIC COUNTY COMMISSIONERS, this 4th day of December, 1984.

Approved to form:

  
JEFF CAMBICHE,  
Pacific County Prosecutor

  
ANDREW MONSON, CHAIRMAN OF THE BOARD

  
WILLIAM CROSSMAN, COMMISSIONER

  
DAN'L MARKHAM, COMMISSIONER

Attest:

  
Kyle C. Hies  
Clerk of the Board

