

MINUTES OF THE MEETING
FREE CONFERENCE COMMITTEE
HOUSE BILL 236

April 19, 1985

The first meeting of the Free Conference Committee on House Bill 236 was called to order by the Chairman, Senator Chris Christiaens at 6:15 p.m. in Room 325 of the State Capitol Building.

ROLL CALL: Rep. Bob Pavlovich, Rep. Tom Jones, Rep. John Mercer, Rep. Gary Spaeth, Senator Mike Halligan, Senator Gene Thayer and Senator Chris Christiaens were present. Mary McCue, Legislative Staff Attorney was also present.

Rep. Pavlovich expressed his desire to include the coin machine dealer into the licensing of the machines also. He felt the way the bill was written the dealer was excluded. Senator Thayer felt the reason the wording was the way it is in the bill was because the license was tied to the person who had a liquor license. Mary McCue noted you can still require that the machines be in a licensed liquor establishment but have the licensee be the owner of the machine whether this be the distributor or the tavern owner. She had prepared an amendment to this effect. (EXHIBIT 1) A discussion followed of who should be licensed and at what point the license is attached to a machine if the coin dealer can be licensed.

Rep. Pavlovich was concerned there might be someone come in with a lot of new machines that would eliminate the coin operator who is currently in business now but does not have the machine available that would be legal. Senator Christiaens noted that the language in Senate Bill 391 stated the coin operator had to be a resident of the state. Senator Thayer felt the language in the bill now is sufficient because the license would be in the name of the bar owner and not the coin operator because someone has to bear the responsibility if there is a violation.

Phil Strobe, Montana Tavern Association, was asked to comment. He stated he felt some people were concerned about licensing the machine and others are concerned about licensing the person who is handling the machine and he recommended one or the other be done.

Senator Halligan asked John Poston to respond and he stated that a coin operator can own the machine but in order for them to be put to use they have to be in a licensed establishment. Glen Drake, representing the coin dealers, felt there might be a problem if both had a license and wondered if a violation occurred who would be the responsible party. Rep. Spaeth felt the language in the bill makes the bar owner the only one who could be licensed.

Mary McCue noted that this was the intent but it must also be noted that in most of the cases the barowners might not necessarily own the machine but may only be leasing them from the coin operator.

Rep. Spaeth noted what is being said is that is not illegal to have the machine in your possession if it is not licensed but it is illegal if you are not licensed and have a machine in operation.

Mary McCue noted it might be clearer to insert the pronoun "his" before licensed establishment in the areas where it is necessary in the bill. Rep. Pavlovich made a MOTION TO INSERT THE WORD "HIS" ON PAGE 2, LINE 4 AND AGAIN ON PAGE 8, LINE 5 BEFORE LICENSED ESTABLISHMENT. Mary McCue noted you might insert also before the person who meets those requirements for a license to sell alcoholic beverages for consumption and who has been granted such a license. Rep. Pavlovich indicated this would be ok to include this language also in his motion. The motion carried.

Mary McCue noted a typographical error had been overlooked in the original bill which should be corrected. (Refer to Amendment 2 of Exhibit 1) Senator Halligan MOVED THAT AMENDMENT 2 BE ADOPTED. The motion carried.

Amendment #4 of Exhibit 1 deals with a problem Mary McCue felt might be misinterpreted to read that a person could only pay \$500 for the machine. It should state "each" video draw poker machine instead. Rep. Pavlovich MOVED THAT THE WORD "EACH" BE INSERTED. The motion carried.

Rep. Pavlovich then MOVED TO CHANGE MUST TO "MAY" ON LINE 15 of PAGE 3. This motion carried.

Rep. Pavlovich then distributed some proposed amendments (EXHIBIT 2) to strike subsection (j) and (k) in their entirety which is the portion dealing with the computer printout information on each machine. He stated if this language is left in the bill that he would like to see a grandfather provision for the old machines. He felt there would be approximately 4000 old machines this might include. He wondered if language could be left in the bill but include language that would put a time limit where by a certain date the new machines would have to meet the new qualifications.

Discussion of what it might cost to add this printout mechanism to the present machines. Dave Schlosser felt it might be rather expensive to convert the old machines. Rep. Pavlovich felt it was not necessary as there are counters in the machines already which tell how much money has been inserted and paid out just by pushing a button and the information comes out on the screen. Rep. Pavlovich was concerned the the machine displayed for Senate Bill 391 could only be manufactured by one dealer in the state and that one person would be making the profits if this bill were to pass as it is now and he did not feel this was right.

Dave Schlosser from the Department of Revenue noted without the computer function in the machine it would not leave an audit trail and would then require that a person go in and individually inspect each machine and it could be quite a lengthy process. Rep. Mercer wondered what would happen if a machine were to

go berserk how this would be handled. Dave Schlosser noted that all the details had not been worked out but it could probably be included in the department's rulemaking authority.

Rep. Pavlovich noted again there is already some information on the machines and felt that all the department is really concerned about is whether or not the machine is paying out the 80% or not.

Senator Christiaens was still concerned about whether or not the payouts could be changed easily such as on the so called "weekender" machines. He wondered if this could be sealed somehow. Dave Schlosser also noted that some of the old machines were not capable of paying out 80%.

Rep. Mercer could see the advantage of having the paper printout to keep track of the income that is made off each machine.

Senator Thayer wondered if there is more than one machine made that has the type of information on it that would be required. Dave Schlosser noted there are several but all have a price tag attached to them such as Electrosport, IGT and others. Senator Thayer felt that the safeguards have to be in place in order for this bill to pass or fail and if it is allowed to be too wide open and gets off to a bad start that poker will go down the drain. He felt precautions should be taken to make it right the first time.

Rep. Jones felt the committee was assuming that all people who deal with the machines are crooks and he felt this was just not true in most instances and that the safeguards were not necessary.

Rep. Spaeth wondered if there was a chip that could be inserted that would indicate the payout without a printout. He felt the more complex the bill is the more it is being built in for a particular interest group. He felt it should be kept an open marketplace.

Dave Schlosser noted again the advantage of the paper trail for auditing purposes would just provide a double check for the auditor. Rep. Spaeth wondered why control was desired and was told the department is being charged with the responsibility of protecting the welfare of the public and this is a means for them to provide that protection. Rep. Pavlovich felt that no matter what is done someone will find a way to beat the machine however.

Rep. Pavlovich still felt a certain person might make money because of being the only manufacturer who could provide the legal machine presently. Senator Thayer felt there were other manufacturers and so this should not be the case. John Poston representing the coin operators showed an example of an ad showing many machines that were available. Rep. Spaeth stated he had inquired on these however and found they were very selective of just who they would sell the machines to.

Rep. Pavlovich then MOVED TO STRIKE ON PAGE 4, LINES 7 THROUGH 24 AND ON PAGE 6, LINES 1 THROUGH 13. (EXHIBIT 2)

Senator Halligan had checked into the costs of a printer and felt it would be somewhere between \$400 and \$500 per machines to add this additional equipment. He wondered if there were a cheaper way to be able to do this. Dave Schlosser noted you might possibly have to add more FTE to handle this operation also.

Senator Thayer felt if this safeguard were taken out there would be no protection whatsoever. Senator Christiaens also felt there should be more assurance for this measure to pass the Senate body. Rep. Pavlovich felt the violation for the penalty was enough to assure that people would comply. Rep. Jones felt if the machines could be sealed and one could see that it had not been tampered with this would be sufficient enough protection.

Rep. Spaeth felt there should at least be a transition for getting back into operation and then a provision could be provided that any new machines would have to have the safeguards and a time limit on the old machines would be set. He felt there was quite an investment in the old machines and if there was a transition time it might be very helpful.

Senator Christiaens felt that the old machines would need some modification before they could be put into use. Rep. Mercer felt that the odds could be changed very easily on the machines and wondered if a sealed board would be possible to prevent change.

Dave Schlosser wondered if the old machines were put back into use if the department would have to check each machine that is put back into operation. Rep. Pavlovich felt the cities and town could police themselves and there would be no reason really for the department to inspect each machine.

Senator Halligan wondered how many other states had the poker machines before and was told three states plus Nevada and New Jersey. He wondered also if the old machines could be traded for ones that did meet the proper specifications.

Senator Thayer felt the law states the state has to administer and not the cities and towns. Rep. Spaeth felt there would be expense in bringing in out of state machines and felt there would be self policing anyway because if a machine isn't paying out it will cost the machine owner to keep that machine around. Rep. Pavlovich felt you have to keep your machines updated and the old machines are outdated fairly rapidly. He figured on the average of every 12 months anyway the machines are replaced.

Senator Thayer noted another consideration should be whether or not the machines could be brought to Helena for inspection before they could be put into operation. Rep. Pavlovich felt the liquor inspectors could do this and the city itself could police it as they will be the ones losing if the machines are not paying out properly. He felt the penalty was a very good enforcement also.

Rep. Pavlovich withdrew his motion for further discussion. A discussion of the grandfather amendment that had been prepared followed with the possibility of a sunset provision. (EXHIBIT 3)

Rep. Mercer wondered if it might be easier to just say that the sections that Rep. Pavlovich wanted to amend out would just not apply to the old machines until one year later.

Rep. Spaeth then MOVED A SUBSTITUTE MOTION THAT THE PROVISIONS THAT REP. PAVLOVICH WISHED TO AMEND OUT WOULD JUST NOT BE EFFECTIVE UNTIL A YEAR HAD GONE BY AFTER THE EFFECTIVE DATE OF JULY 1, 1985. This is only for the grandfathered machines but the new machines would be required to have the printout provisions immediately. Rep. Pavlovich withdrew his original motion but noted he would prefer to have a two year period rather than only one year.

Rep. Spaeth felt more time should be given to the drafting so that it would be more carefully considered. Senator Christiaens felt next session will be dealing with this same bill once more.

Senator Thayer asked Phil Strobe to respond. He stated with the specifications being locked in as they are now in the bill it would be locking it into one specific manufacturer. He felt considering the fact that the machine must pay out 80% and then with the stiff violation penalty and the risk of losing your license, that this would be enough of a safeguard to prevent any misuse.

Senator Christiaens felt in one year there will be several companies that will be able to manufacture the machines that have the proper specifications. He felt competition alone would take care of the problem of the concern for having only one manufacturer. Phil Strobe disagreed.

Senator Christiaens wondered how much the industry would be willing to give in order to pass this bill because it is doubtful this bill will pass with many more amendments or any less restrictions in the Senate.

Rep. Spaeth felt the bill was too built in as is and just too restrictive and perhaps then the bill should be killed at this late date if a compromise cannot be reached. Senator Thayer felt we should either shut down gambling once and for all or pass a bill that can be lived with. Rep. Spaeth felt the bill as written is just too restrictive for the benefit of the small town people. Senator Christiaens stated he realized the importance to all counties but some reasonable ground had to be sought.

Rep. Spaeth stated his motion intended to include any machine that was used before.

Senator Halligan wanted more time to consider the proposal. He stated he felt Phil Strobe's objections were not accurate. Senator Christiaens wanted more information concerning manufacturers who could build the type of machine desired.

Rep. Pavlovich noted he had been approached by the university system that upon passage of the bill they would like to see general fund struck and funds earmarked for university building projects. Senator Christiaens noted he had heard from many different sources wanting a portion of the revenues. He felt this was not the

proper time to address these concerns.

Rep. Pavlovich felt there were some problems with the fee being too high also. Rep. Spaeth felt some concessions might have to be given in order for the bill to pass. He was especially concerned about the small towns not being able to afford the fee the way it presently stands.

Rep. Mercer suggested the fee could perhaps be prorated to be paid perhaps on a quarterly basis rather than a lump sum. It was felt however this might create a bookkeeping problem for the department of revenue. The House is especially concerned about the fee structure Rep. Mercer felt. Senator Christiaens noted this structure had been discussed in committee and a suggestion had been made to eliminate the fee completely and just go completely on the computer but the barowners did not want this.

Rep. Spaeth stated he would not support the bill with the present \$2000 fee.

Senator Christiaens wondered how often the liquor inspectors go through to inspect the taverns. Dave Schlosser stated there are presently six inspectors and about 70% of their time is spent doing work other than inspections. Senator Thayer noted this bill requires an inspection four times per year.

It was decided by the committee as a whole to adjourn and meet for further consideration at noon on Saturday, April 20.

The meeting was adjourned at 8 p.m.


SENATOR CHRIS CHRISTIAENS, CHAIRMAN

Proposed amendments to HB 236, reference bill April 19, 1985

1. Page 2, lines 3 through 5.

Following: "that" on line 3

Strike: remainder of line 3

Insert: "owns a video draw poker machine and is licensed
by the department"

2. Page 6, line 13.

Following: "subsection"

Strike: "(1)"

Insert: "(m)"

3. Page 6, line 25.

Strike: "person who meets the qualifications of [section
8]"

Insert: "video draw poker machine owner licensed under
[section 10]"

4. Page 7, line 1.

Following: "for"

Insert: "each"

Following: "poker"

Strike: "machines"

Insert: "machine"

5. Page 8, lines 2 through 6.

Following: "(1)" on line 2

Strike: remainder of line 2 through end of line 6

Insert: (state license criteria)

Proposed amendments to HB 236, reference bill

1. Page 4, lines 7 through 24.

Strike: subsections (j) and (k) in their entirety

Re-number: subsequent subsections

2. Page 5, line 4.

Following: "player;"

Insert: "and"

3. Page 5, line 5.

Following: "player;"

Strike: "and"

4. Page 5, line 6.

Strike: subsection (iv) in its entirety

5. Page 6, lines 1 through 13.

Strike: subsection (o) in its entirety

Proposed amendment to HB 236, reference copy

1. Page 9, line 14.

Following: line 13

Insert: "(3) A person who owns a video draw poker machine for which he had a license under Title 23, chapter 5, part 3 on February 3, 1984 is entitled to a license under this section and the provisions of _____ do not apply."