

**PROPOSED AMENDMENTS TO
HOUSE BILL 2548**

1 On page 1 of the printed bill, delete lines 4 through 29 and delete pages
2 2 through 6 and insert:

3 **“SECTION 1. ORS 167.121 is added to and made a part of ORS 167.108**
4 **to 167.164.**

5 **“SECTION 2. ORS 167.121 is amended to read:**

6 **“167.121. (1) [*Counties and cities may, by ordinance, authorize the playing***
7 ***or conducting of a social game in a private business, private club or in a place***
8 ***of public accommodation. Such ordinances may provide for regulation or li-***
9 ***ensing of the social games authorized.] Counties and cities may, by ordi-***
10 **nance, authorize the playing or conducting of a social game, poker**
11 **game or poker tournament in a private business, private club or place**
12 **of public accommodation. If city or county ordinances provide for**
13 **regulation or licensing of social games, poker games and poker tour-**
14 **naments:**

15 **“(a) The dominant use or dominant purpose, or both, of establish-**
16 **ments in which a poker game or poker tournament authorized under**
17 **this section is conducted may not be for gambling.**

18 **“(b) The determination of the dominant use or dominant purpose**
19 **of an establishment in which a social game, a poker game or poker**
20 **tournament authorized under this section is conducted shall be based**
21 **on consideration of one or more of the following factors:**

22 **“(A) The square footage of the portion of the establishment in**

1 which only poker games or poker tournaments are conducted in re-
2 lation to the total square footage of the establishment;

3 “(B) Whether the establishment offers other types of games in-
4 cluding, but not limited to, pool, backgammon, chess or other games
5 from which the establishment does not benefit from the outcome of
6 any individual game;

7 “(C) Whether the establishment has been offering goods, services
8 and the games described in this paragraph for the 12 months prior to
9 applying the authorization to conduct a poker game or poker tourna-
10 ment, and if the establishment will continue to offer such games,
11 goods or services after receiving authorization to conduct a poker
12 game or poker tournament; and

13 “(D) The total amount of operating expenses incurred solely in the
14 course of operating poker games in relation to the total expense in-
15 curred in the operation of the entire establishment.

16 “(2) When conducting a poker game or poker tournament, the op-
17 erator:

18 “(a) May employ persons to manage and operate the poker game
19 or poker tournament.

20 “(b) May recover up to 18 percent of the final prize pool of the poker
21 tournament for the payment of operating expenses.

22 “(c) May charge a seat fee for each player in the poker game.

23 “(d) May not receive income from the playing of any single hand.

24 “(3) As used in this section, ‘operator’ and ‘poker tournament’ have
25 the meanings given those terms in ORS 167.117.

26 “**SECTION 3.** ORS 167.117 is amended to read:

27 “167.117. As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless
28 the context requires otherwise:

29 “(1) ‘Bingo or lotto’ means a game, played with cards bearing lines of
30 numbers, in which a player covers or uncovers a number selected from a

1 container, and which is won by a player who is present during the game and
2 who first covers or uncovers the selected numbers in a designated combina-
3 tion, sequence or pattern.

4 “(2) ‘Bookmaker’ means a person who unlawfully accepts a bet from a
5 member of the public upon the outcome of a future contingent event and who
6 charges or accepts a percentage, fee or vigorish on the wager.

7 “(3) ‘Bookmaking’ means promoting gambling by unlawfully accepting
8 bets from members of the public as a business, rather than in a casual or
9 personal fashion, upon the outcomes of future contingent events.

10 “(4) ‘Casino game’ means any of the traditional gambling-based games
11 commonly known as dice, faro, monte, roulette, fan-tan, twenty-one,
12 blackjack, [*Texas hold-'em*,] seven-and-a-half, big injun, klondike, craps,
13 [*poker*,] chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune,
14 chemin de fer, baccarat, pai gow, beat the banker, panquinqui, red dog,
15 acey-deucey, or any other gambling-based game similar in form or content.

16 “(5)(a) ‘Charitable, fraternal or religious organization’ means any person
17 that is:

18 “(A) Organized and existing for charitable, benevolent, eleemosynary,
19 humane, patriotic, religious, philanthropic, recreational, social, educational,
20 civic, fraternal or other nonprofit purposes; and

21 “(B) Exempt from payment of federal income taxes because of its chari-
22 table, fraternal or religious purposes.

23 “(b) The fact that contributions to an organization profiting from a con-
24 test of chance do not qualify for a charitable deduction for tax purposes or
25 that the organization is not otherwise exempt from payment of federal in-
26 come taxes pursuant to the Internal Revenue Code of 1986, as amended,
27 constitutes prima facie evidence that the organization is not a bona fide
28 charitable, fraternal or religious organization.

29 “(6) ‘Contest of chance’ means any contest, game, gaming scheme or
30 gaming device in which the outcome depends in a material degree upon an

1 element of chance, notwithstanding that skill of the contestants may also be
2 a factor therein.

3 “(7) ‘Gambling’ means that a person stakes or risks something of value
4 upon the outcome of a contest of chance or a future contingent event not
5 under the control or influence of the person, upon an agreement or under-
6 standing that the person or someone else will receive something of value in
7 the event of a certain outcome. ‘Gambling’ does not include:

8 “(a) Bona fide business transactions valid under the law of contracts for
9 the purchase or sale at a future date of securities or commodities, and
10 agreements to compensate for loss caused by the happening of chance, in-
11 cluding but not limited to contracts of indemnity or guaranty and life, health
12 or accident insurance.

13 “(b) Engaging in contests of chance under the following conditions:

14 “(A) The contest is played for some token other than money;

15 “(B) An individual contestant may not purchase more than \$100 worth of
16 tokens for use in the contest during any 24-hour period;

17 “(C) The tokens may be exchanged only for property other than money;

18 “(D) Except when the tokens are exchanged for a beverage or merchandise
19 to be consumed on the premises, the tokens are not redeemable on the
20 premises where the contest is conducted or within 50 miles thereof; and

21 “(E) Except for charitable, fraternal or religious organizations, no person
22 who conducts the contest as owner, agent or employee profits in any manner
23 from operation of the contest.

24 “(c) Social games.

25 “(d) Bingo, lotto or raffle games or Monte Carlo events operated in com-
26 pliance with ORS 167.118, by a charitable, fraternal or religious organization
27 licensed pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530
28 to operate such games.

29 “(e) **Poker games or poker tournaments operated in compliance**
30 **with ORS 167.121.**

1 “(8) ‘Gambling device’ means any device, machine, paraphernalia or
2 equipment that is used or usable in the playing phases of unlawful gambling,
3 whether it consists of gambling between persons or gambling by a person
4 involving the playing of a machine. Lottery tickets, policy slips and other
5 items used in the playing phases of lottery and policy schemes are not gam-
6 bling devices within this definition. Amusement devices other than gray
7 machines, that do not return to the operator or player thereof anything but
8 free additional games or plays, shall not be considered to be gambling de-
9 vices.

10 “(9)(a) ‘Gray machine’ means any electrical or electromechanical device,
11 whether or not it is in working order or some act of manipulation, repair,
12 adjustment or modification is required to render it operational, that:

13 “(A) Awards credits or contains or is readily adaptable to contain, a cir-
14 cuit, meter or switch capable of removing or recording the removal of credits
15 earned by a player, other than removal during the course of continuous play;
16 or

17 “(B) Plays, emulates or simulates a casino game, bingo or keno.

18 “(b) A device is no less a gray machine because, apart from its use or
19 adaptability as such, it may also sell or deliver something of value on the
20 basis other than chance.

21 “(c) ‘Gray machine’ does not include:

22 “(A) Any device commonly known as a personal computer, including any
23 device designed and marketed solely for home entertainment, when used
24 privately and not for a fee and not used to facilitate any form of gambling;

25 “(B) Any device operated under the authority of the Oregon State Lottery;

26 “(C) Any device manufactured or serviced but not operated in Oregon by
27 a manufacturer who has been approved under rules adopted by the Oregon
28 State Lottery Commission;

29 “(D) A slot machine;

30 “(E) Any device authorized by the Oregon State Lottery Commission for:

1 “(i) Display and demonstration purposes only at trade shows; or
2 “(ii) Training and testing purposes by the Department of State Police; or
3 “(F) Any device used to operate bingo in compliance with ORS 167.118
4 by a charitable, fraternal or religious organization licensed to operate bingo
5 pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530.

6 “(10) ‘Handle’ means the total amount of money and other things of value
7 bet on the bingo, lotto or raffle games, the value of raffle chances sold or
8 the total amount collected from the sale of imitation money during Monte
9 Carlo events.

10 “(11) ‘Internet’ means an interactive computer service or system or an
11 information service, system or access software provider that provides or en-
12 ables computer access by multiple users to a computer server and includes,
13 but is not limited to, an information service, system or access software pro-
14 vider that provides access to a network system commonly known as the
15 Internet, or any comparable system or service and also includes, but is not
16 limited to a World Wide Web page, newsgroup, message board, mailing list
17 or chat area on any interactive computer service or system or other online
18 service.

19 “(12) ‘Lottery’ or ‘policy’ means an unlawful gambling scheme in which:

20 “(a) The players pay or agree to pay something of value for chances, re-
21 presented and differentiated by numbers or by combinations of numbers or
22 by some other medium, one or more of which chances are to be designated
23 the winning ones;

24 “(b) The winning chances are to be determined by a drawing or by some
25 other method; and

26 “(c) The holders of the winning chances are to receive something of value.

27 “(13) ‘Monte Carlo event’ means a gambling event at which wagers are
28 placed with imitation money upon contests of chance in which players com-
29 pete against other players or against the house. As used in this subsection,
30 ‘imitation money’ includes imitation currency, chips or tokens.

1 “(14) ‘Numbers scheme or enterprise’ means a form of lottery in which the
2 winning chances or plays are not determined upon the basis of a drawing
3 or other act on the part of persons conducting or connected with the scheme,
4 but upon the basis of the outcome of a future contingent event otherwise
5 unrelated to the particular scheme.

6 “(15) ‘Operating expenses’ means those expenses incurred in the operation
7 of a bingo, lotto or raffle game **or a poker game or poker tournament**
8 **authorized under ORS 167.121**, including only the following:

9 “(a) Salaries, employee benefits, workers’ compensation coverage and
10 state and federal employee taxes;

11 “(b) Security services;

12 “(c) Legal and accounting services;

13 “(d) Supplies and inventory;

14 “(e) Rent, repairs, utilities, water, sewer and garbage;

15 “(f) Insurance;

16 “(g) Equipment;

17 “(h) Printing and promotions;

18 “(i) Postage and shipping;

19 “(j) Janitorial services and supplies; and

20 “(k) Leasehold improvements.

21 “(16) ‘Operator’ means the person responsible for the operation of
22 a private business, private club or place of public accommodation au-
23 thorized to conduct a poker game or poker tournament under ORS
24 167.121.

25 “[(16)] (17) ‘Player’ [*means a person*]:

26 “(a) Means an individual who engages in any form of gambling **or**
27 **participates in a social game, poker game or poker tournament** solely
28 as a contestant or bettor, without receiving or becoming entitled to receive
29 any profit therefrom other than personal [*gambling*] winnings, and without
30 otherwise rendering any material assistance to the establishment, conduct

1 or operation of the particular gambling **or game** activity.

2 “(b) [A *person who gambles at*] **Means an individual who participates**
3 **in a social game of chance, poker game or poker tournament authorized**
4 **under ORS 167.121** on equal terms with the other [*participants therein is*]
5 **individuals in the game, who shall be considered** a person who does not
6 otherwise render material assistance to the establishment, conduct or oper-
7 ation thereof by performing, without fee or remuneration, acts directed to-
8 ward the arrangement or facilitation of the game, such as inviting persons
9 to play, permitting the use of premises therefor and supplying cards or other
10 equipment used therein.

11 “(c) **Does not include:**

12 “(A) **An employee of the operator of the establishment in which a**
13 **poker game or poker tournament is conducted who deals cards to**
14 **players in the game and does not receive or play a hand; or**

15 “(B) A person who engages in bookmaking [*is not a player*].

16 “(18) **‘Poker game’ means a contest in which:**

17 “(a) **Players pool money to create a prize pool that the players**
18 **compete against each other to win; and**

19 “(b) **A player bets that the value of the player’s hand is greater**
20 **than the values of the hands held by other players, the hand with the**
21 **greatest value remaining alive after betting is completed being the**
22 **winner.**

23 “(19) **‘Poker tournament’ means a contest in which:**

24 “(a) **Players pay an entry fee into an overall prize pool;**

25 “(b) **Players are provided with an equal number of playing tokens;**
26 **and**

27 “(c) **Players continue to play until only one player remains or until**
28 **the remaining players all agree to divide the prize pool.**

29 “[*(17)*] (20) **‘Profits from unlawful gambling’ means that a person, acting**
30 **other than solely as a player, accepts or receives money or other property**

1 pursuant to an agreement or understanding with another person whereby the
2 person participates or is to participate in the proceeds of unlawful gambling.

3 “[(18)] **(21)** ‘Promotes unlawful gambling’ means that a person, acting
4 other than solely as a player, engages in conduct that materially aids any
5 form of unlawful gambling. Conduct of this nature includes, but is not lim-
6 ited to, conduct directed toward the creation or establishment of the partic-
7 ular game, contest, scheme, device or activity involved, toward the
8 acquisition or maintenance of premises, paraphernalia, equipment or appa-
9 ratus therefor, toward the solicitation or inducement of persons to partic-
10 ipate therein, toward the conduct of the playing phases thereof, toward the
11 arrangement of any of its financial or recording phases or toward any other
12 phase of its operation. A person promotes unlawful gambling if, having con-
13 trol or right of control over premises being used with the knowledge of the
14 person for purposes of unlawful gambling, the person permits the unlawful
15 gambling to occur or continue or makes no effort to prevent its occurrence
16 or continuation.

17 “[(19)] **(22)** ‘Raffle’ means a lottery operated by a charitable, fraternal or
18 religious organization wherein the players pay something of value for
19 chances, represented by numbers or combinations thereof or by some other
20 medium, one or more of which chances are to be designated the winning ones
21 or determined by a drawing and the player holding the winning chance is to
22 receive something of value.

23 “[(20)(a)] **(23)(a)** ‘Slot machine’ means a gambling device that as a result
24 of the insertion of a coin or other object operates, either completely auto-
25 matically, or with the aid of some physical act by the player, in such a
26 manner that, depending upon elements of chance, it may eject something of
27 value or otherwise entitle the player to something of value. A device so
28 constructed or readily adaptable or convertible to such use is no less a slot
29 machine because it is not in working order or because some mechanical act
30 of manipulation or repair is required to accomplish its adaptation, conver-

1 sion or workability. Nor is it any less a slot machine because apart from its
2 use or adaptability as such it may also sell or deliver something of value on
3 the basis other than chance.

4 “(b) ‘Slot machine’ does not include any device authorized by the Oregon
5 State Lottery Commission for:

6 “(A) Display and demonstration purposes only at trade shows; or

7 “(B) Training and testing purposes by the Department of State Police.

8 “[21] **(24)** ‘Social game’ means:

9 “(a) A game, other than a lottery, between players in a private home
10 where no house player, house bank or house odds exist and there is no house
11 income from the operation of the social game; and

12 “(b) If authorized pursuant to ORS 167.121, a game, other than a lottery,
13 between players in a private business, private club or place of public ac-
14 commodation where no house player, house bank or house odds exist and
15 there is no house income from the operation of the social game.

16 “[22] **(25)** ‘Something of value’ means any money or property, any token,
17 object or article exchangeable for money or property, or any form of credit
18 or promise directly or indirectly contemplating transfer of money or property
19 or of any interest therein.

20 “[23] **(26)** ‘Trade show’ means an exhibit of products and services that
21 is:

22 “(a) Not open to the public; and

23 “(b) Of limited duration.

24 “[24] **(27)** ‘Unlawful’ means not specifically authorized by law.

25 **“SECTION 4.** ORS 167.116 is amended to read:

26 “167.116. (1) The Oregon State Lottery Commission shall adopt rules to
27 carry out the provisions of ORS 167.117 (9)(c)(E) and [(20)(b)] **(23)(b)**.

28 “(2) Devices authorized by the Oregon State Lottery Commission for the
29 purposes described in ORS 167.117 (9)(c)(E) and [(20)(b)] **(23)(b)** are exempted
30 from the provisions of 15 U.S.C. 1172.”.

