

SENATE FILE 338  
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 40)

Passed Senate, Date <sup>(P.1035)</sup> 4/4/95 Passed House, Date \_\_\_\_\_  
Vote: Ayes 48 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the regulation of games of skill, games of  
2 chance, and amusement devices, and subjecting violators to  
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 338

1 Section 1. Section 99B.1, subsection 2, Code 1995, is  
2 amended by striking the subsection.

3 Sec. 2. Section 99B.1, subsection 14, Code 1995, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 14. "Game of chance" means a game whereby the result is  
7 determined by chance and includes the game defined as bingo.  
8 A game of chance does not include a game, such as poker, in  
9 which some level of skill affects the results of the game.  
10 Games of chance do not include slot machines or pull-tabs. A  
11 game of chance is not an amusement device.

12 Sec. 3. Section 99B.1, subsection 15, Code 1995, is  
13 amended by striking the subsection and inserting in lieu  
14 thereof the following:

15 15. "Game of skill" means a game in which skill has a  
16 bearing on the results. A game with some level of skill is  
17 neither a game of chance nor a gambling device as defined in  
18 section 725.9. A game of skill does not include a device if  
19 adapted, possessed, and used in accordance with section  
20 99B.10.

21 Sec. 4. Section 99B.1, Code 1995, is amended by adding the  
22 following new subsection:

23 NEW SUBSECTION. 22A. "Slot machine" means a mechanical,  
24 electronic, or video gambling device into which a player  
25 deposits coins, tokens, or currency and from which credits,  
26 tickets, tokens, or coins are paid out when a particular  
27 random, configuration of symbols appears on the reels,  
28 simulated reels, or screen of the device. A slot machine may  
29 have a lever, buttons, or other means to activate or stop the  
30 play.

31 Sec. 5. Section 99B.10, unnumbered paragraph 1, Code 1995,  
32 is amended to read as follows:

33 It is lawful to own, possess, and offer for use by any  
34 person at any location an ~~electrical-or-mechanical~~ amusement  
35 device, but only if all of the following are complied with:

1     Sec. 6. Section 99B.10, subsection 1, Code 1995, is  
2 amended to read as follows:

3     1. ~~A prize-of-merchandise-exceeding-five-dollars-in-value~~  
4 ~~or cash prize~~ shall not be awarded for use of the device.  
5 However, a ~~mechanical-or~~ merchandise prize not exceeding five  
6 dollars in value may be awarded and an amusement device may be  
7 designed or adapted to award a prize or one or more free games  
8 or portions of games without payment of additional  
9 consideration by the participant.

10    Sec. 7. Section 99B.10, Code 1995, is amended by adding  
11 the following new subsection:

12    NEW SUBSECTION. 4. An amusement device shall have an  
13 identification tag or plate with the name, address, and retail  
14 sales tax permit number of the owner. The identification tag  
15 or plate must be no less than two and one-half inches square  
16 in size and must be affixed in a visible and easily accessible  
17 location on the device. An owner or lessee of an amusement  
18 device shall not knowingly fail to display an identification  
19 tag or plate with the name, address, and retail sales tax  
20 permit number of the owner or lessee before the device is  
21 offered for commercial use by the public.

22    Sec. 8. Section 99B.10, unnumbered paragraph 3, Code 1995,  
23 is amended by striking the unnumbered paragraph and inserting  
24 in lieu thereof the following:

25    NEW UNNUMBERED PARAGRAPH. When used and possessed in  
26 accordance with this section, an amusement device is not a  
27 game of chance, a game of skill, or a gambling device as  
28 defined in section 725.9. A slot machine is not an amusement  
29 device. An amusement device is not a gambling game authorized  
30 under chapter 99F and the use of an amusement device which  
31 complies with this section is not gambling or gaming.

32    Sec. 9. Section 99B.10, Code 1995, is amended by adding  
33 the following new unnumbered paragraph:

34    NEW UNNUMBERED PARAGRAPH. This section does not apply to  
35 an amusement device owned, possessed, and used for personal,

1 noncommercial purpose.

2 Sec. 10. Section 99B.14, Code 1995, is amended by striking  
3 the section and inserting in lieu thereof the following:

4 99B.14 DISCIPLINARY ACTION -- LICENSE DENIAL, SUSPENSION,  
5 OR REVOCATION, AND CIVIL PENALTY.

6 1. The director may deny a license application, suspend a  
7 license issued pursuant to this chapter for not more than one  
8 year, revoke a license issued pursuant to this chapter for not  
9 more than two years, impose a civil penalty of not more than  
10 one thousand dollars per violation, or take more than one of  
11 the actions specified in this subsection for a violation.

12 2. The director shall deny, suspend, or revoke a license,  
13 or impose a civil penalty by delivering to the applicant or  
14 the licensee by mail or personal service to the current  
15 address of record, a notice setting forth the particular  
16 reason for the action. The action becomes effective fifteen  
17 days after the date of mailing or service of notice unless the  
18 applicant or licensee gives written notice to the department  
19 requesting a hearing before the expiration of the fifteen  
20 days. If a hearing has been requested, the applicant or  
21 licensee shall be given an opportunity for a prompt hearing.  
22 An administrative law judge from the department of inspections  
23 and appeals shall conduct the hearing and issue a proposed  
24 decision. On the basis of the hearing or upon default of the  
25 applicant or licensee, the determination involved in the  
26 notice may be affirmed, modified, or denied by the director.  
27 A copy of the decision shall be sent by mail or served  
28 personally upon the applicant or licensee. A licensee or  
29 applicant aggrieved by a decision of the director may seek  
30 judicial review of the director's decision in accordance with  
31 chapter 17A.

32 3. The suspension or revocation of a license or the  
33 imposition of a civil penalty or a combination of the actions  
34 shall be stayed pending the result of the hearing. Before a  
35 hearing, the department may rescind the notice of denial,

1 suspension, revocation or civil penalty, or a combination of  
2 the actions if the department is satisfied that the reason for  
3 the denial, suspension, or revocation, or other disciplinary  
4 action is or will be removed.

5 4. A license issued under this chapter may be suspended or  
6 revoked, a civil penalty may be imposed, or a combination of  
7 those actions may be taken for any of the following causes  
8 including, but not limited to:

9 a. Misrepresentation of any material fact in the  
10 application for the license.

11 b. A violation of any of the provisions of this chapter or  
12 rules adopted pursuant to this chapter.

13 c. An event which would have resulted in disqualification  
14 from receiving the license when originally issued.

15 d. A sale, hypothecation, or transfer of a license.

16 e. The failure or refusal on the part of a licensee to  
17 submit a report when due to the department under this chapter.

18 Sec. 11. Section 725.9, subsection 2, Code 1995, is  
19 amended by striking the subsection.

20 Sec. 12. Section 725.9, subsection 3, Code 1995, is  
21 amended to read as follows:

22 3. "Gambling device" means a device used or adapted or  
23 designed to be used for gambling and includes, but is not  
24 limited to, roulette wheels, klondike tables, punchboards,  
25 faro layouts, keno layouts, numbers tickets, slot machines,  
26 ~~pinball-machines~~, push cards, jar tickets, and pull-tabs.  
27 However, "gambling device" does not include an antique slot  
28 machine, ~~antique-pinball-machine~~, or any device regularly  
29 manufactured and offered for sale and sold as a toy, except  
30 that any use of ~~such-a~~ the toy, or antique slot machine or  
31 ~~antique-pinball-machine~~ for gambling purposes constitutes  
32 unlawful gambling.

33 Sec. 13. Section 725.9, subsection 5, Code 1995, is  
34 amended to read as follows:

35 5. This chapter does not prohibit the possession of

1 gambling devices by a manufacturer or distributor if the  
2 possession is solely for sale ~~out-of-the-state~~ in another  
3 jurisdiction including a tribal jurisdiction where possession  
4 of the device is legal ~~or-for-sale-in-the-state-or-use-in-the~~  
5 ~~state-if-the-use-is-licensed-pursuant-to-either-chapter-99B-or~~  
6 ~~chapter-99E~~.

7 Sec. 14. Section 725.16, Code 1995, is amended by striking  
8 the section and inserting in lieu thereof the following:

9 725.16 GAMBLING PENALTY.

10 1. A person who commits an offense declared in chapter  
11 99B, except in section 99B.10, to be a misdemeanor is guilty  
12 of a serious misdemeanor.

13 2. If an owner of a device claimed, promoted, or  
14 identified as an amusement device commits an offense in  
15 violation of section 99B.10, the owner is guilty of a class  
16 "D" felony.

17 3. However, if an owner only violates section 99B.10,  
18 subsection 4, the owner is guilty of a serious misdemeanor.

19 EXPLANATION

20 This bill amends the definitions of amusement device, game  
21 of chance, and game of skill to distinguish between amusement  
22 devices and gambling games. The bill also defines slot  
23 machines and provides new identification requirements for  
24 amusement devices.

25 The bill amends provisions relating to the issuance,  
26 denial, suspension, and revocation of licenses to offer  
27 gambling devices to the public. A civil penalty of not more  
28 than \$1,000 may also be imposed for failure to comply with  
29 regulatory requirements.

30 The bill amends penalty sections under chapter 725 to  
31 delete the definition of antique pinball machines, removes  
32 pinball machines from the definition of gambling device, and  
33 provides for tribal possession of gambling devices. The bill  
34 also provides that the possession and operation of an  
35 amusement device with an identification tag or plate is a

1 serious misdemeanor. A serious misdemeanor is punishable by  
2 imprisonment for not more than one year, or by a fine of at  
3 least \$250 but not more \$1,500, or by both imprisonment and  
4 fine.

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**SENATE FILE 338  
FISCAL NOTE**

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The estimate for Senate File 338 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 338 amends the definition of amusement device, game of chance, and game of skill to distinguish between amusement devices and gambling games. The Bill also defines slot machines and provides new identification requirements for amusement devices.

The Bill amends provisions relating to the issuance, denial, suspension, and revocation of licenses to offer gambling devices to the public. The Bill also changes penalties associated with games of skill, games of chance, and amusement devices.

**Fiscal Impact**

This Bill has no fiscal impact.

**Correctional Impact**

Enactment of this Bill will have no significant impact on the correctional system.

**Sources**

Department of Inspections and Appeals  
Department of Human Rights, Division of Criminal and Juvenile Justice Planning

(LSB 1186sv, LDC)

FILED MARCH 23, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

Bisignano  
Fink  
Lind

SSB-40  
State Government

Succeeded By

SENATE/HOUSE FILE 338

BY (PROPOSED DEPARTMENT OF  
INSPECTIONS AND APPEALS  
BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the regulation of games of skill, games of  
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Succeeded By

1 Section 1. Section 99B.1, subsection 2, Code 1995, is  
2 amended by striking the subsection.

3 Sec. 2. Section 99B.1, subsection 14, Code 1995, is  
4 amended by striking the subsection and inserting in lieu  
5 thereof the following:

6 14. "Game of chance" means a game whereby the result is  
7 determined by chance and includes the game defined as bingo.  
8 A game of chance does not include a game, such as poker, in  
9 which some level of skill affects the results of the game.  
10 Games of chance do not include slot machines or pull-tabs. A  
11 game of chance is not an amusement device.

12 Sec. 3. Section 99B.1, subsection 15, Code 1995, is  
13 amended by striking the subsection and inserting in lieu  
14 thereof the following:

15 15. "Game of skill" means a game in which skill has a  
16 bearing on the results. A game with some level of skill is  
17 neither a game of chance nor a gambling device as defined in  
18 section 725.9. A game of skill does not include a device if  
19 adapted, possessed, and used in accordance with section  
20 99B.10.

21 Sec. 4. Section 99B.1, Code 1995, is amended by adding the  
22 following new subsection:

23 NEW SUBSECTION. 22A. "Slot machine" means a mechanical,  
24 electronic, or video gambling device into which a player  
25 deposits coins, tokens, or currency and from which credits,  
26 tickets, tokens, or coins are paid out when a particular  
27 random, configuration of symbols appears on the reels,  
28 simulated reels, or screen of the device. A slot machine may  
29 have a lever, buttons, or other means to activate or stop the  
30 play.

31 Sec. 5. Section 99B.10, unnumbered paragraph 1, Code 1995,  
32 is amended to read as follows:

33 It is lawful to own, possess, and offer for use by any  
34 person at any location an ~~electrical-or-mechanical~~ amusement  
35 device, but only if all of the following are complied with:

1 Sec. 6. Section 99B.10, subsection 1, Code 1995, is  
2 amended to read as follows:

3 1. A ~~prize-of-merchandise-exceeding-five-dollars-in-value~~  
4 ~~or cash prize~~ shall not be awarded for use of the device.  
5 However, a ~~mechanical-or~~ merchandise prize not exceeding five  
6 dollars in value may be awarded and an amusement device may be  
7 designed or adapted to award a prize or one or more free games  
8 or portions of games without payment of additional  
9 consideration by the participant.

10 Sec. 7. Section 99B.10, Code 1995, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. 4. An amusement device shall have an  
13 identification tag or plate with the name, address, and retail  
14 sales tax permit number of the owner. The identification tag  
15 or plate must be no less than two and one-half inches square  
16 in size and must be affixed in a visible and easily accessible  
17 location on the device. An owner or lessee of an amusement  
18 device shall not knowingly fail to display an identification  
19 tag or plate with the name, address, and retail sales tax  
20 permit number of the owner or lessee before the device is  
21 offered for commercial use by the public.

22 Sec. 8. Section 99B.10, unnumbered paragraph 3, Code 1995,  
23 is amended by striking the unnumbered paragraph and inserting  
24 in lieu thereof the following:

25 NEW UNNUMBERED PARAGRAPH. When used and possessed in  
26 accordance with this section, an amusement device is not a  
27 game of chance, a game of skill, or a gambling device as  
28 defined in section 725.9. A slot machine is not an amusement  
29 device. An amusement device is not a gambling game authorized  
30 under chapter 99F and the use of an amusement device which  
31 complies with this section is not gambling or gaming.

32 Sec. 9. Section 99B.10, Code 1995, is amended by adding  
33 the following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. This section does not apply to  
35 an amusement device owned, possessed, and used for personal,

1 noncommercial purpose.

2 Sec. 10. Section 99B.14, Code 1995, is amended by striking  
3 the section and inserting in lieu thereof the following:

4 99B.14 DISCIPLINARY ACTION -- LICENSE DENIAL, SUSPENSION,  
5 OR REVOCATION, AND CIVIL PENALTY.

6 1. The director may deny a license application, suspend a  
7 license issued pursuant to this chapter for not more than one  
8 year, revoke a license issued pursuant to this chapter for not  
9 more than two years, impose a civil penalty of not more than  
10 one thousand dollars per violation, or take more than one of  
11 the actions specified in this subsection for a violation.

12 2. The director shall deny, suspend, or revoke a license,  
13 or impose a civil penalty by delivering to the applicant or  
14 the licensee by mail or personal service to the current  
15 address of record, a notice setting forth the particular  
16 reason for the action. The action becomes effective fifteen  
17 days after the date of mailing or service of notice unless the  
18 applicant or licensee gives written notice to the department  
19 requesting a hearing before the expiration of the fifteen  
20 days. If a hearing has been requested, the applicant or  
21 licensee shall be given an opportunity for a prompt hearing.  
22 An administrative law judge from the department of inspections  
23 and appeals shall conduct the hearing and issue a proposed  
24 decision. On the basis of the hearing or upon default of the  
25 applicant or licensee, the determination involved in the  
26 notice may be affirmed, modified, or denied by the director.  
27 A copy of the decision shall be sent by mail or served  
28 personally upon the applicant or licensee. A licensee or  
29 applicant aggrieved by a decision of the director may seek  
30 judicial review of the director's decision in accordance with  
31 chapter 17A.

32 3. The suspension or revocation of a license or the  
33 imposition of a civil penalty or a combination of the actions  
34 shall be stayed pending the result of the hearing. Before a  
35 hearing, the department may rescind the notice of denial,

1 suspension, revocation or civil penalty, or a combination of  
2 the actions if the department is satisfied that the reason for  
3 the denial, suspension, or revocation, or other disciplinary  
4 action is or will be removed.

5 4. A license issued under this chapter may be suspended or  
6 revoked, a civil penalty may be imposed, or a combination of  
7 those actions may be taken for any of the following causes  
8 including, but not limited to:

9 a. Misrepresentation of any material fact in the  
10 application for the license.

11 b. A violation of any of the provisions of this chapter or  
12 rules adopted pursuant to this chapter.

13 c. An event which would have resulted in disqualification  
14 from receiving the license when originally issued.

15 d. A sale, hypothecation, or transfer of a license.

16 e. The failure or refusal on the part of a licensee to  
17 submit a report when due to the department under this chapter.

18 Sec. 11. Section 725.9, subsection 2, Code 1995, is  
19 amended by striking the subsection.

20 Sec. 12. Section 725.9, subsection 3, Code 1995, is  
21 amended to read as follows:

22 3. "Gambling device" means a device used or adapted or  
23 designed to be used for gambling and includes, but is not  
24 limited to, roulette wheels, klondike tables, punchboards,  
25 faro layouts, keno layouts, numbers tickets, slot machines,  
26 ~~pinball-machines~~, push cards, jar tickets, and pull-tabs.  
27 However, "gambling device" does not include an antique slot  
28 ~~machine~~, ~~antique-pinball-machine~~, or any device regularly  
29 manufactured and offered for sale and sold as a toy, except  
30 that any use of ~~such-a~~ the toy, or antique slot machine or  
31 ~~antique-pinball-machine~~ for gambling purposes constitutes  
32 unlawful gambling.

33 Sec. 13. Section 725.9, subsection 5, Code 1995, is  
34 amended to read as follows:

35 5. This chapter does not prohibit the possession of

1 gambling devices by a manufacturer or distributor if the  
2 possession is solely for sale ~~out-of-the-state~~ in another  
3 jurisdiction including a tribal jurisdiction where possession  
4 of the device is legal ~~or-for-sale-in-the-state-or-use-in-the~~  
5 ~~state-if-the-use-is-licensed-pursuant-to-either-chapter-99B-or~~  
6 ~~chapter-99E~~.

7 Sec. 14. Section 725.16, Code 1995, is amended by striking  
8 the section and inserting in lieu thereof the following:

9 725.16 GAMBLING PENALTY.

10 1. A person who commits an offense declared in chapter  
11 99B, except in section 99B.10, to be a misdemeanor is guilty  
12 of a serious misdemeanor.

13 2. If an owner of a device claimed, promoted, or  
14 identified as an amusement device commits an offense in  
15 violation of section 99B.10, the owner is guilty of a class  
16 "D" felony.

17 3. However, if an owner only violates section 99B.10,  
18 subsection 4, the owner is guilty of a serious misdemeanor.

19 EXPLANATION

20 This bill amends the definitions of amusement device, game  
21 of chance, and game of skill to distinguish between amusement  
22 devices and gambling games. The bill also defines slot  
23 machines and provides new identification requirements for  
24 amusement devices.

25 The bill amends provisions relating to the issuance,  
26 denial, suspension, and revocation of licenses to offer  
27 gambling devices to the public. A civil penalty of not more  
28 than \$1,000 may also be imposed for failure to comply with  
29 regulatory requirements.

30 The bill amends penalty sections under chapter 725 to  
31 delete the definition of antique pinball machines, removes  
32 pinball machines from the definition of gambling device, and  
33 provides for tribal possession of gambling devices. The bill  
34 also provides that the possession and operation of an  
35 amusement device with an identification tag or plate is a

1 serious misdemeanor. A serious misdemeanor is punishable by  
2 imprisonment for not more than one year, or by a fine of at  
3 least \$250 but not more \$1,500, or by both imprisonment and  
4 fine.

5 BACKGROUND STATEMENT

6 SUBMITTED BY THE AGENCY

7 Section 1 strikes the definition of "amusement device".  
8 Because "amusement device" is defined by possession and use,  
9 the qualifying language related to amusement devices is moved  
10 to section 99B.10 where the legal use and possession of the  
11 device is described.

12 Section 2 amends the definition of "game of chance" for  
13 clarification and to show that pull-tabs and slot machines are  
14 not included and that a game of chance is not an amusement  
15 device.

16 Section 3 amends the definition of "game of skill" for  
17 better clarification and to bring the definition up-to-date.

18 Section 4 adds a definition of "slot machine" to chapter  
19 99B. References are made to slot machines, but no definition  
20 currently exists. A definition is necessary to advise the  
21 public of what constitutes a slot machine under chapter 99B.

22 Sections 5 and 6 are intended to clarify the Code section  
23 on amusement devices, including that cash shall not be awarded  
24 for using a device.

25 Section 7 adds a new identification requirement for persons  
26 owning or leasing amusement devices to assist in the  
27 regulation of legal devices.

28 Section 8 further defines "amusement devices".

29 Section 9 exempts amusement devices owned, possessed, and  
30 used for personal, noncommercial purposes from the  
31 requirements of section 99B.10. This refers to those devices  
32 that an individual has in the individual's home for personal  
33 use.

34 Section 10 amends the provision on revocation of licenses  
35 by adding intermediate sanctions for violations of chapter 99B

1 and clarifying the contested case hearing process on adverse  
2 agency actions. The department would have the authority to  
3 suspend or revoke a license for a period of time or to impose  
4 a civil penalty of up to \$1,000. This language is needed to  
5 provide the department with flexibility in bringing licensees  
6 into compliance. Some violations would not warrant a  
7 revocation, but may warrant suspension or civil penalty. The  
8 language also clarifies that the department may deny a  
9 license.

10 Section 11 deletes the definition of "antique pinball  
11 machines" as explained later in the explanation to section 11.

12 Section 12 deletes pinball machines from the definition of  
13 a gambling device under section 725.9. Pinball machines are  
14 not designed or intended for use as a gambling device, but are  
15 designed and intended for use as an amusement device. A  
16 pinball machine used in accordance with section 99B.10 would  
17 be legal. Antique pinball machines are being deleted from  
18 this subsection. Since pinball machines are not being  
19 considered as a gambling device, there is no need to exempt  
20 antique pinball machines from the definition of gambling  
21 device. Antique pinball machines would automatically be  
22 considered a nongambling device.

23 Section 13 specifies who may legally possess gambling  
24 devices. Tribal jurisdiction is being added as a result of  
25 the Indian gaming compacts.

26 Section 14 rewrites and revises the penalty for offenses  
27 under chapter 99B. Under current law, an offense of section  
28 99B.10 is a class "D" felony. This amendment would make an  
29 exception to this if the violation is only for the new  
30 subsection on requiring an identification tag or plate -- this  
31 would be a serious misdemeanor, which is the same as other  
32 misdemeanor offenses under chapter 99B.

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