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OAKLAND

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CITY OF OAKLAND
BILL ANALYSIS



Date: January 16, 2014

Bill Number: AB 1439

Bill Author: Salas

DEPARTMENT INFORMATION

Contact: Claudia Burgos, District 5, 510-238-7051
cburgos@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of the Bill:

AB 1439 would 1) Prohibit a person from operating a gambling themed or simulated gambling electronic video monitor in a business establishment that gives cash or other prizes of value and 2) Permits the California Attorney General, district attorneys and city attorneys to bring civil suit to subject operators to civil penalties for violations

Positive Factors for Oakland

Internet cafes are setting up computers where customers can wager funds on gambling-themed games. These businesses are usually decorated with casino themes, and the games offered simulate slot machine-themed games found in casinos. The gambling is offered under the guise of marketing internet time and telephone time. Oakland has not been spared from the recent proliferation of such establishments which have been setting up throughout the state. One known location is in the Fruitvale district where this type of operation has been taking place for approximately 9 months. Local business owners have voiced concern about the negative consequences of these cafes, including many reports of increased crime, particularly robberies. The Fruitvale Business Improvement District has voiced opposition to this particular operation which has had a negative impact on the business corridor. Support for this bill will help close the loop hole in state law which currently allows for these types of businesses to open up. Additionally, City staff is currently pursuing changes to the Oakland Municipal and Zoning Code to close additional loop holes at the local level.

Negative Factors for Oakland None

A support position is recommended

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

Critical (top priority for City lobbyist, city position required ASAP)

Very Important (priority for City lobbyist, city position necessary)

Somewhat Important (City position desirable if time and resources are available)

Minimal or None (do not review with City Council, position not required)

Respectfully Submitted,
Councilmember Gallo,





Assemblymember Rudy Salas, 32nd District
ASSEMBLY BILL 1439 – Internet Gambling Sweepstakes

FACT SHEET

ISSUE

Internet cafes are setting up computers where customers can wager funds on gambling-themed games. These businesses are usually decorated with casino themes, and the games offered simulate slot machine-themed games found in casinos. The gambling is offered under the guise of marketing internet time and telephone time.

A loophole in the law has permitted internet gambling sweepstakes to operate in a “gray area” and evade law enforcement.

These internet sweepstakes are thinly veiled gambling operations. The law must be updated to prohibit these activities and provide authorities with the necessary enforcement tools to regain local control of the public safety issues that arise because of illegal internet gambling sweepstakes.

Local business owners have voiced concern about the negative consequences of these cafes, including many reports of increased crime. As a result, nearby businesses are hurting as their customers seek to avoid the crowd and crime that these illegal gambling cafes attract. These illegal gambling cafes are a threat to both public safety and local business.

The pattern of these illegal gambling cafes has been to establish themselves in an economically depressed area, accrue hundreds of thousands of dollars through online gambling, and close when apprehended by law enforcement. Often, the illegal gambling cafes will then re-open in a new location, threatening to negatively impact another neighborhood in the community.

Recently, there has been a growing proliferation of these gaming operations throughout the State.

AB 1439 will close the loophole that has allowed these illegal cafes to operate.

EXISTING LAW

The Gambling Control Act requires the licensure of individuals and establishments involved in gambling activities.

Article IV, Section 19, subdivision of the California Constitution permits Indian tribes to conduct and operate slot machines, lottery games, and banked and percentage card games on Indian land if: (1) the Governor and an Indian tribe reach agreement on a compact, (2) the Legislature approves the compact, and (3) the federal government approves the compact.

THIS BILL

AB 1439 would

- Prohibit a person from operating a gambling-themed or simulated gambling electronic video monitor in a business establishment that gives cash or other prizes of value.
- Permits the California Attorney General, district attorneys and city attorneys to bring civil suit to subject operators to civil penalties for violations.

SUPPORT

None on file

OPPOSITION

None on file

FOR MORE INFORMATION CONTACT:

Contact
 Marvin F. Pineda
 (916) 319-2032

ASSEMBLY BILL

No. 1439

Introduced by Assembly Member Salas

(Coauthors: Assembly Members Bonilla, Bonta, Ian Calderon, Campos, Conway, Cooley, Daly, Fox, Gonzalez, Gray, Grove, Levine, Medina, Melendez, Nazarian, Perea, Quirk-Silva, Rendon, Tmg, and Waldron)

(Coauthor Senator Lara)

January 6, 2014

An act to amend Section 17539.1 of the Business and Professions Code, relating to sweepstakes

LEGISLATIVE COUNSEL'S DIGEST

AB 1439, as introduced, Salas Sweepstakes

Existing law prohibits certain unfair acts or practices undertaken by, or omissions of, any person in the operation of a contest, as described, including, among other things, misrepresenting the odds of winning any prize or failing to award and distribute all prizes, as specified. A violation of this provision is a misdemeanor.

This bill would make the provision described above applicable to unfair acts or practices undertaken by, or omissions of, any person in the operation of a sweepstakes, as defined. The bill would also prohibit using any method intended to be used by a person interacting with a gambling-themed or simulated gambling electronic video monitor in a business establishment that directly or indirectly implements the predetermination of sweepstakes cash, cash-equivalent prizes, or other prizes of value, or otherwise connects a sweepstakes player or participant with sweepstakes cash, cash-equivalent prizes, or other prizes of value.

By creating new crimes, the bill would impose a state-mandated local program

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote majority Appropriation no Fiscal committee yes
State-mandated local program yes

The people of the State of California do enact as follows

1 SECTION 1 Section 17539.1 of the Business and Professions
2 Code is amended to read

3 17539.1 (a) The following unfair acts or practices undertaken
4 by, or omissions of, any person in the operation of any contest or
5 *sweepstakes* are prohibited

6 (1) Failing to clearly and conspicuously disclose, at the time of
7 the initial contest solicitation, at the time of each precontest
8 promotional solicitation and each time the payment of money is
9 required to become or to remain a contestant, the total number of
10 contestants anticipated based on prior experience and the
11 percentages of contestants correctly solving each puzzle used in
12 the three most recently completed contests conducted by the person.
13 If the person has not operated or promoted three contests he shall
14 disclose for each prior contest if any, the information required by
15 this section

16 (2) Failing to promptly send to each member of the public upon
17 his request, the actual number and percentage of contestants
18 correctly solving each puzzle or game in the contest most recently
19 completed

20 (3) Misrepresenting in any manner the odds of winning any
21 prize

22 (4) Misrepresenting in any manner, the rules, terms, or
23 conditions of participation in a contest

24 (5) Failing to clearly and conspicuously disclose with all contest
25 puzzles and games and with all promotional puzzles and games
26 all of the following

27 (A) The maximum number of puzzles or games which may be
28 necessary to complete the contest and determine winners

- 1 (B) The maximum amount of money, including the maximum
2 cost of any postage and handling fees, which a participant may be
3 asked to pay to win each of the contest prizes then offered
- 4 (C) That future puzzles or games, if any, or tie breakers, if any,
5 will be significantly more difficult than the initial puzzle
- 6 (D) The date or dates on or before which the contest will
7 terminate and upon which all prizes will be awarded
- 8 (E) The method of determining prizewinners if a tie remains
9 after the last tie breaker puzzle is completed
- 10 (F) All rules, regulations, terms, and conditions of the contest
- 11 (6) Failing to clearly and conspicuously disclose the exact nature
12 and approximate value of the prizes when offered
- 13 (7) Failing to award and distribute all prizes of the value and
14 type represented
- 15 (8) Representing directly or by implication that the number of
16 participants has been significantly limited, or that any particular
17 person has been selected to win a prize unless such is the fact
- 18 (9) Representing directly or by implication that any particular
19 person has won any money, prize, thing, or other value in a contest
20 unless there has been a real contest in which a meaningful
21 percentage, which shall be at least a majority, of the participants
22 in such contests have failed to win a prize, money, thing, or other
23 value
- 24 (10) Representing directly or by implication that any particular
25 person has won any money, prize, thing, or other value without
26 disclosing the exact nature and approximate value thereof
- 27 (11) Using the word “lucky” to describe any number, ticket,
28 coupon, symbol, or other entry, or representing in any other manner
29 directly or by implication that any number, ticket, coupon, symbol,
30 or other entry confers or will confer an advantage upon the recipient
31 that other recipients will not have, that the recipient is more likely
32 to win a prize than are others, or that the number, ticket, coupon,
33 symbol or other entry has some value that other entries do not
34 have
- 35 (12) *Using any method intended to be used by a person*
36 *interacting with a gambling-themed or simulated gambling*
37 *electronic video monitor in a business establishment that directly*
38 *or indirectly implements the predetermination of sweepstakes cash,*
39 *cash-equivalent prizes, or other prizes of value, or otherwise*

1 *connects a sweepstakes player or participant with sweepstakes*
2 *cash, cash-equivalent prizes, or other prizes of value*

3 ~~(12)~~

4 *(13) Failing to obtain the express written or oral consent of*
5 *individuals before their names are used for a promotional purpose*
6 *in connection with a mailing to a third person*

7 ~~(13)~~

8 *(14) Using or distributing simulated checks, currency, or any*
9 *simulated item of value unless there is clearly and conspicuously*
10 *printed thereon the words SPECIMEN—NONNEGOTIABLE*

11 ~~(14)~~

12 *(15) Representing, directly or by implication, orally or in*
13 *writing, that any tie breaker puzzle may be entered upon the*
14 *payment of money qualifying the contestant for an extra cash or*
15 *any other type prize or prizes unless*

16 *(A) It is clearly and conspicuously disclosed that the payments*
17 *are optional and that contestants are not required to pay money,*
18 *except for reasonable postage and handling fees, to play for an*
19 *extra cash or any other type of prize or prizes, and*

20 *(B) Contestants are clearly and conspicuously given the*
21 *opportunity to indicate they wish to enter such phase of the contest*
22 *for free, except for reasonable postage and handling fees the*
23 *amount of which shall not exceed one dollar and fifty cents (\$1 50)*
24 *plus the actual cost of postage and which shall be clearly and*
25 *conspicuously disclosed at the time of the initial contest solicitation*
26 *and each time thereafter that the payment of such fees is required*
27 *The contestants' opportunity to indicate they wish to enter for free*
28 *shall be in immediate conjunction with and in a like manner as the*
29 *contestants' opportunity to indicate they wish to play for an extra*
30 *prize*

31 *(b) For the purposes of this section, "sweepstakes" means a*
32 *procedure, activity, or event, for the distribution, donation, or sale*
33 *of anything of value by lot, chance, predetermined selection, or*
34 *random selection that is not unlawful under other provisions of*
35 *law, including, but not limited to, Chapter 9 (commencing with*
36 *Section 319) and Chapter 10 (commencing with Section 330) of*
37 *Title 9 of Part 1 of the Penal Code*

38 ~~(b)~~

1 (c) This section does not apply to an advertising plan or program
2 that is regulated by, and complies with, the requirements of Section
3 17537.1

4 (d) *Nothing in this section shall be deemed to render lawful any*
5 *activity that is unlawful pursuant to other law, including, but not*
6 *limited to, Section 320, 330a, 330b, 330.1, or 337j of the Penal*
7 *Code*

8 SEC 2 No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution



THE
UNITY
COUNCIL

Fruitvale Business Improvement District

CALIFORNIA GAMBLING CONTROL COMMISSION
2399 GATEWAY OAKS DR STE 220
SACRAMENTO CA 95833-4231

November 25, 2013

To whom it may concern,

This is a formal petition in regards to the business
Get Connected! Located at 3322 International Blvd Suite B, Oakland, CA 94601

“Get Connected” is advertised as an internet café; however, Fruitvale residents and merchants have noticed much detrimental activity arises from this location. We have contacted the City of Oakland and various political figures about this issue, however we were told to contact the California Gambling Control Commission directly. This “internet café” is really an online gambling location that stays open until 2-4am serving as a haven for drug abuse, alcohol consumption, and prostitution. In addition to further adding to the crime in Oakland, this venue offers “FREE \$5 to play” coupons to youth from neighboring schools! Included, please find the numerous signatures of concerned residents and families, along with testimonies of merchants that have been first hand witnesses and victims to the patrons of this online casino as well as a copy of some of their advertising and “FREE \$5 to play” vouchers. A prevalent issue is that often times, the patrons of this establishment will run out of money (as it happens in the vicious gambling cycle) and will turn to the residents and merchants of Fruitvale and Oakland to rob for more gambling money. Patrons will also engage in illegal activities in front of neighboring businesses, as the security for “Get Connected” only cares that their storefront is neat, ushering their disorderly patrons onto other storefronts. Once sunset falls, the area becomes filled with drug dealers and users, open alcohol containers and prostitutes. We are unsure of what the formal process is to resolve this issue, but we hope that some peace can be returned to Fruitvale without a venue for “online gambling” so centrally located. Thank you for your time and consideration.

The Unity Council is a non-profit community organization dedicated to helping families build wealth and assets through comprehensive programs of sustainable economic, social, and neighborhood development. The Unity Council has worked in the Fruitvale neighborhood since 1964 and continues to work with the community and the commercial corridor by leading many wonderful projects and programs in the neighborhood.

Sincerely,

Marra Sanchez,
Fruitvale Business Improvement District
Manager
(510) 535-6919

Victoria Herrera
Program Assistant
(510) 535-7176



December 12, 2013

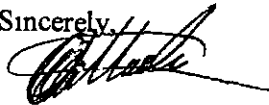
California Gambling Control Commission
2399 Gateway Oaks DR STE 220
Sacramento CA 94601

To whom it may concern,

My name is Marcela Flores and I am a distributor of HerbaLife located at 3322 International Blvd Suite C, phone number (510) 712-7508. My office is located above the "Get Connected" casino 3322 International Blvd #B Oakland CA 94601 Tel 510-436-2928, who calls themselves an internet café. This location which opened around six months ago has caused me a lot of trouble, including a robbery and illegal entering of my establishment. Being the business on top of "Get Connected" I am a first hand witness to the illegal activity that occurs at this establishment. The security of this illegal casino does nothing but keep their patrons off their property and scooting them into neighboring businesses. Before they came, I used to have my doors open and welcoming for customers and visitors. The patrons of "Get Connected" would take advantage of this, fill up my staircase and start smoking marijuana, drinking and doing drugs. One time they came running in, and hid from a passing police car, clearly they were up to no good. I have tried many times to speak to the security, the business managers and owners and even filed a police report and nothing has been done. Now, I have to resort to locking all my doors, having customers ring the doorbell and then I must let each individual in.

As you can imagine, this is DISASTROUS for business and safety. Too many times have I had clients tell me they wish they could come back but they fear for the safety of their families (many of my clients have children). I was robbed July 19th into July 20th and on the afternoon of July 19th, 3 men (2 African Americans and 1 Caucasian) locked themselves in my staircase, keeping a lookout. It appeared they were running away from somebody, possibly a police officer. I asked trusted male customers to please tell them to leave and they did, during which time I took advantage and snapped a quick picture. Unfortunately, they noticed the camera and turned around but I was still able to get a good enough picture to have Officer Pereda help me identify the males. The next morning (a Saturday), I came in to find my establishment robbed of a laptop, a desktop, and about \$800-\$900 worth of product. I filed a police report and had pictures of how they left me establishment (pictures are included). This "Get Connected" casino is horrible for Oakland, how can we expect to thrive when criminals and drug users are permitted a haven for safety? I witness youth being allowed into this establishment along with prostitutes and the drug users/drunks. I hope this establishment is gone soon and some safety returned to our streets.

Sincerely,



Maricela Flores

14 JAN 16 PM 2:36

DRAFT

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember Noel Gallo

RESOLUTION IN SUPPORT OF ASSEMBLY BILL 1439 REGARDING THE PROHIBITION OF SWEEPSTAKES GAMBLING OPERATIONS

WHEREAS, Internet cafes are setting up computers where customers can wager funds on gambling-themed games, and

WHEREAS, These businesses are usually decorated with casino themes, and the games offered simulate slot machine-themed games found in casinos, and

WHEREAS, The gambling is offered under the guise of marketing internet time and telephone time, and

WHEREAS, A loophole in the law has permitted internet gambling sweepstakes to operate in a "gray area" and evade law enforcement, and

WHEREAS, Local business owners have voiced concern about the negative consequences of these cafes, including many reports of increased crime, and

WHEREAS, Recently there has been a growing proliferation of these gaming operations throughout the State including in Oakland, and

WHEREAS, AB 1439 will close the loophole that has allowed these illegal cafes to operate, and

WHEREAS, AB 1439 Prohibit a person from operating a gambling themed or simulated gambling electronic video monitor in a business establishment that gives cash or other prizes of value, and

WHEREAS, AB 1439 Permits the California Attorney General, district attorneys and city attorneys to bring civil suit to subject operators to civil penalties for violations, now therefore be it

RESOLVED that the Oakland City Council supports California Assembly Bill 1439 and encourages the California Legislature to accept it, and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the California State Legislature

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2014

PASSED BY THE FOLLOWING VOTE:

AYES-, BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST
LATONDA SIMMONS
City Clerk and Clerk
of the Council of the City of
Oakland, California