

Legislative Analysis



ALLOW RECREATIONAL CARD PLAYING AT SENIOR CITIZEN CENTERS

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House Bill 5009 (as reported without amendment)

Sponsor: Rep. Pete Lund

Committee: Regulatory Reform

First Analysis (3-6-12)

BRIEF SUMMARY: The bill would extend an exception to gambling laws that allows card playing at a senior citizen housing facility so that it would also apply to a senior citizens center.

FISCAL IMPACT: House Bill 5009 would not have a significant fiscal impact on the state budget. The fine for operating or assisting in the operation of a gaming room, table, or party is \$1,000. The bill amends the current exemption of Section 303 of the Michigan Penal Code for a "senior citizen housing facility" operated by a "group of residents of a senior citizen housing facility" to include a "senior citizen's center" operated by a "group of senior citizens." Data is not available for the number of persons convicted for violating Section 303 of the Penal Code, or more specifically, for groups of senior citizens at a senior citizen's center convicted of violating Section 303. It is assumed, however, that the number of convictions, and thus amount of fines paid, is minimal.

THE APPARENT PROBLEM:

Generally speaking the Michigan Penal Code prohibits all forms of gambling unless specifically permitted. As noted below, Section 303a of the Code provides an exemption for recreational card playing conducted at senior citizen housing facilities that are not licensed to serve or sell alcohol, provided the eligibility criteria is met. Amongst other things, the card playing must be conducted solely for the amusement and recreation of the senior citizens and cannot be operated as a fundraiser.

From January 2009 to May of 2010, members of the Romeo Senior Center in Romeo, Michigan, conducted weekly games of tournament-style Texas Hold'em poker. Each participant paid a \$5 buy-in and played until losing all of his or her chips. At the conclusion of the game the top four finishers received a monetary payout from the initial buy-in. Players also provided a monetary donation to the senior center to cover costs associated with the game. According to testimony, the game was conducted for the recreation and amusement of the participating senior citizens and was not intended as a fund-raiser or money making venture. On May 27, 2010, the weekly poker game was suspended after the Center was notified that a state gambling license would be needed if the participants wanted to continue playing the game for money. A license would be necessary because, under current law, the Penal Code does not provide a gambling exemption for recreational card playing at a senior citizen center.

This bill is intended to provide fairness to senior citizens by extending the current exemption that allows for card playing at senior citizen housing facilities to also apply to senior citizens centers, provided all of the conditions in the bill are met.

THE CONTENT OF THE BILL:

With exceptions, Chapter XLIV (Gambling) of the Michigan Penal Code prohibits gambling and establishes penalties for violating the act. Section 303a of the Code provides an exception for recreational card playing conducted at **a senior citizen housing facility** that is not licensed by the Liquor Control Commission, by a senior citizens club or a group of residents containing at least 15 members who are 60 years of age or older, provided all the following are met:

- a) The card playing is conducted solely for amusement and recreation and not for fund-raising. The number of guests playing cannot exceed the number of club members playing.
- b) Only bona fide members and employees of the club conduct the activity.
- c) The card playing is conducted after 9 a.m. and before midnight.
- d) Players cannot bet more than 25 cents per bet.
- e) The winnings from any one hand of cards do not exceed \$5.
- f) Except for winnings, revenue generated from the activity is used for reasonable expenses incurred in conducting the card game, and no person is compensated for participating in the conduct of card playing.

House Bill 5009 would extend the exception to include a "**senior citizen's center**" operated by a "group of senior citizens" that consists of at least 15 individuals who are at least 60 years of age or older. The bill would also allow participating card players to pay up to \$5 to buy into the card playing.

MCL 750.303a

BACKGROUND INFORMATION:

The current exemption in Section 303a was added by 1996 PA 539, which originally sought to exempt certain gambling activities that were taking place in bowling centers. At the time, complaints were filed with the Liquor Control Commission (administrative rules prohibit unlawful gambling on premises licensed to serve alcohol), and several bowling centers were facing penalties. Sections 310a and 310b were added to exempt certain bowling and redemption games from the gambling provisions of the Penal Code. In a related matter, the bill acknowledged that senior citizen groups and members of senior citizen housing facilities often engage in low stakes card games. Although these groups did not possess liquor licenses and were not under the purview of the Liquor Control Commission, it was believed that local law enforcement could view the activity at senior citizen housing facilities as violating gambling prohibitions. 1996 PA 539 added Section 303a to specifically exempt these senior citizen housing facilities from gambling prohibitions.

ARGUMENTS:

For:

The bill would provide fairness to senior citizens. They are already allowed to conduct recreational card games for money at senior citizen housing facilities, and the bill would extend this to senior citizen centers. Many feel the card games taking place in senior citizens

centers are not harming anyone and should be allowed to continue. Prohibiting them serves no useful public purpose.

Response:

While the policy the bill would put in place might be sound, several potential issues remain. While it appears the original intent of 1996 PA 539 was to allow recreational card playing by senior citizen groups, the original bill did not define what constitutes a senior citizen housing facility. Additionally, House Bill 5009 does not define what a senior citizen center is. This ambiguity could lead to problems down the road if a group of senior citizens wants to play recreational card games at a community center or other facility that is not officially labeled a senior citizen center. For example, would a group of senior citizens gathered at a local community center where the majority of patrons are senior citizens be exempted from gambling prohibitions? One way to address this possible ambiguity would be to add a definition of what a senior citizen center is. As defined in the state Bingo Act (MCL 432.103j), a "senior citizen organization" is *an organization within this state that is organized not for pecuniary profit, that consists of at least 15 members who are 60 years of age or older, and that exists for their mutual support and for the advancement of the causes of elderly or retired persons.*

The act is also ambiguous concerning guests that are eligible to participate in the card playing. The only provision in Section 303a stipulates that the number of guests participating in the card playing cannot exceed the actual number of club or group members that are participating. The act does not speak to any age requirement of the guests. For example, do guests also have to be over 60 years of age? Do guests have to be at least 18 years of age, which is the legal gambling age in Michigan? Would a group of individuals under 60 years of age that are invited guests of a member be permitted to conduct a card game separate from a game being conducted by members or do guests have to participate directly in a game with members?

Against:

During committee deliberation, there was concern that providing exemptions to gambling prohibitions to specific classes of people is unfair. If recreational card playing for money is going to be permitted then it should be opened up and applied to all citizens, irrespective to age. A substitute bill to this effect was offered, but was voted down by the committee.

POSITIONS:

A representative of the Romeo-Washington-Bruce Senior Center testified in support of the bill. (2-29-12)

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Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.