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FISCAL IMPACT REPORT

SPONSOR: Lujan, B. DATE TYPED: 03/17/03 HB 899/aHBIC

SHORT TITLE: Gaming Waiver of Manufacturer's License SB _____

ANALYST: Gonzales

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	(Minimal)		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Gaming Control Board

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee amendment authorize the Gaming Control Board to issue permanent waivers of the requirement to obtain a manufacturer's license for types of associated equipment (page 2, lines 17-21). The bill also provides that it is not unlawful to manufacture associated equipment if the manufacturer first obtains and maintains a waiver of the requirement for a manufacturer's license (page 4, line 10-11). The bill includes an emergency clause.

Synopsis of Original Bill

House Bill 899 amends the Gaming Control Act to:

- authorize the Gaming Control Board to issue permanent waivers of licensing requirements for manufacturers of associated equipment or types of associated equipment;
- provide that it is not unlawful to manufacture any gaming device or associated equipment if the manufacturer first obtains and maintains a waiver of the requirement for a manufacturer's license; and

- allow a person to distribute gaming devices without obtaining a distributor or manufacturer's license if the person obtains and maintains a waiver of the requirement for a manufacturer's license.

Significant Issues

The bill includes an emergency clause.

This bill would allow the manufacture of gaming machines without a license, or allow a distributor or a manufacturer to distribute gaming machines and associated equipment without a license. These actions are both contrary to other provisions in the Gaming Control Act. The Gaming Control Act currently authorizes the GCB to issue one-year waivers of manufacturers' licenses. A permanent waiver would require additional monitoring by the GCB to prevent a gaming device manufacturer from manufacturing all parts necessary for a gaming machine in contravention of licensing requirements.

FISCAL IMPLICATIONS

Annual registration fees are \$100 and individual waiver fees are \$25. Lost revenues due to issuance of permanent waivers would be minimal.

ADMINISTRATIVE IMPLICATIONS

See significant issues above.

OTHER SUBSTANTIVE ISSUES

The Gaming Control Board notes the following potential issues with the provisions of this bill:

- Section 2 of the bill permits a manufacturer of gaming devices to obtain a waiver of the obligation to obtain a manufacturer's license. This may have been an inadvertent error. Under the Gaming Control Act, "gaming devices" include both gaming machines and associated equipment. "Associated equipment" means components or equipment used in connection with gaming activity.

Similarly, Section 3 of the bill permits distribution of gaming devices without a license. It appears that this also is an inadvertent error arising out of a misunderstanding that "gaming devices" includes both gaming machines and associated equipment.

If the bill is enacted, it arguably would allow an unlicensed manufacturer to manufacture gaming machines for play in New Mexico and an unlicensed manufacturer or distributor to distribute gaming machines or associated equipment to gaming operators as long as the manufacturer or distributor obtains a waiver. By doing so, the bill goes well beyond the current law, which allows a manufacturer to *manufacture* (but not distribute) *associated equipment* (but not gaming machines) without a license if the manufacturer obtains a waiver from the Board.

Waivers may be acceptable for the manufacture of certain associated equipment because the equipment will be integrated into a gaming machine that must be manufactured by a

licensed manufacturer and must be tested, approved, and licensed by the State. Unless amended, Section 2 will allow the unlicensed, unregulated manufacture of gaming machines and Section 3 will allow the unlicensed, unregulated distribution of gaming devices. That clearly is contrary to fundamental regulatory principles requiring licensing to ensure the honesty and integrity of gaming, and it is inconsistent with other waiver provisions in the Act that apply to the manufacture of associated equipment only.

- Waivers should apply to types of associated equipment only. Language in the bill allowing waiver of licensing requirements for a manufacturer will undermine the state's ability to maintain scrutiny over gaming device manufacturers doing business in the state. The Board needs to be able to keep a detailed list of components made to ensure "associated equipment" does not end up a full gaming machine manufactured and distributed without a license.

To address the issues listed above, the GCB suggests the following amendments:

1. On page 2, lines 17-21: delete "a manufacturer of associated equipment or"
2. On page 4, lines 4-11 amend the language to read:
"60-2E-29. LICENSING OF MANUFACTURERS OF GAMING DEVICES—

EXCEPTION—DISPOSITION OF GAMING DEVICES.—

A. It is unlawful for any person to operate, carry on, conduct or maintain any form of manufacturing of any gaming [~~device~~] machine or associated equipment for use or play in New Mexico or any form of manufacturing of any gaming [~~device~~] machine or associated equipment in New Mexico for use or play outside of New Mexico without first obtaining and maintaining a manufacturer's license or in the case of associated equipment, a waiver, granted by the board, of the requirement for a manufacturer's license.

3. On page 6, lines 18-20, delete the proposed amendment to Section 3 that allows a person to distribute gaming machines and associated equipment without a license.

JMG/njw:yr