ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

COMMITTEE ON COMMERCE

Report of Regular Meeting
Tuesday, February 18, 2020
House Hearing Room 3 -- 2:00 P.M.

Convened 3:46 P.M.
Recessed
Reconvened
Adjourned 7:15 P.M.

MINUTES RECEIVED
CHIEF CLERK'S OFFICE
2-21-20

Members Present
Mr. Biasiucci
Ms. Butler
Mr. Chávez
Ms. Epstein
Mr. Kern
Mr. Meza
Mr. Roberts
Mr. Grantham, Vice-Chairman
Mr. Weninger, Chairman

Agenda
Original Agenda – Attachment 1

Request to Speak
Report – Attachment 2

Committee Attendance
Report – Attachment 3

Committee Action

Bill	Action	Vote	Attachments
HB2311	DP	8-0-0-1	4, 5
HB2400	DPA/SE	8-0-0-1	6, 7, 8
HB2522	DPA/SE	9-0-0-0	9, 10, 11
HB2876	DP	9-0-0-0	12, 13
HB2823	DPA	9-0-0-0	14, 15, 16, 17, 18
HB2826	DP	6-0-0-3	19, 20
HB2853	DPA	4-2-0-3	21, 22, 23
HB2813	DP	5-2-0-2	24, 25, 26, 27
HB2446	DPA	7-0-0-2	28, 29, 30
HB2635	DPA	7-0-0-2	31, 32, 33
HB2841	DPA	5-2-0-2	34, 35, 36

Iris McMahon
Iris McMahon, Committee Secretary
February 21, 2020

(Original attachments on file in the Office of the Chief Clerk; video archives available at http://www.azleg.gov)

Convened: 3:46pm

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

Adjourned: 7:15pm

REGULAR MEETING AGENDA

COMMITTEE ON COMMERCE

DATE Tuesday, February 18, 2020 ROOM HHR 3 TIME 2:00 P.M.

Members:

Mr. Biasiucci	Ms. Epstein	Mr. Roberts
Ms. Butler	Mr. Kern	Mr. Grantham, Vice-Chairman
Mr. Chávez	Mr. Meza	Mr. Weninger, Chairman

	Bills		Short Title	Strike Everything Title
1	HB2311	8-00-1	wireless providers; authority; applicability	
			(Dunn: Osborne, Kerr)	
		DP	COM, RULES	
2	**HB2400	8-0-0-1	technical correction; self-service storage; notice	
			(Weninger)	SE: ~~blockchain~~ and cryptocurrency study committee
		DPA/SE		
9	HB2446	7-0-0-2	simulcast dog racing; wagering; time	
			(Pierce: Finchem)	
		DPA	COM, RULES	
3	*HB2522	9-0-0-0	bingo; licenses; taxes.	SE: bingo; conduct; licenses; taxes
			(Lieberman: Dunn)	
		DPA/SE	COM, RULES	
10	*HB2635	7-0-0-2	mobile home parks; caregivers	
			(Blackman: Bolick)	
		DPA	COM held 0-0-0-0-0, RULES	
8	HB2813	5-2-0-2	sports betting; historic racing; revenue	
			(Pierce: Borrelli)	
		DP	COM, APPROP, RULES	
5	HB2823	9-0-0-0	ambulance service; interfacility transfers	
			(Weninger: Barto, Carroll, et al)	
		DPA	COM, RULES	
6	**HB2826	6-0-0-3	tobacco; vaping; penalties; legal age	
			(Osborne)	
		DP		

Attachment 1

	Bills		Short Title	Strike Everything Title
11	**HB2841	5-2-0-2 DPA	municipal zoning; housing overlay (Kern)	
7	**HB2853	4-2-0-3 DPA	furnishing tobacco; minors; enterprise penalties (Bolick: Blackman)	
4	**HB2876	9-0-0-0 DP	~~farm wineries; production~~ (Weninger: Allen J, Biasiucci, et al)	

** If printed, first read and assigned
* On previous agenda

ORDER OF BILLS TO BE SET BY THE CHAIRMAN

im
02/12/2020

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032 or through Arizona Relay Service 7-1-1.

Information Registered on the Request to Speak System

House Commerce (2/18/2020)

HB2311, wireless providers; authority; applicability

Testified in support:
Rodney Short, YUMA, CITY OF

Support:
Jen Springman, GREATER PHOENIX CHAMBER OF COMMERCE; Scott Smith, City Of Yuma

All Comments:
Scott Smith, City Of Yuma: The exemption in the existing statue is causing confusion with constituents and telecommunication providers and needs to be removed to provide clarity for our rural border communities.; Rodney Short, YUMA, CITY OF: This bill simply removes an exemption and places border communities on a level field with the remainder of the state.

HB2400, technical correction; self-service storage; notice

Testified in support:
Ryan Taylor, representing self

Support:
Brett Mecum, Other

HB2522, bingo; licenses; taxes.

Testified in support:
Connie Rogers, representing self; Weldon McCarrell, representing self

Neutral:
Bill Ritz , AZ DEPT OF REVENUE

Oppose:
Michael Haener, Partner, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY; Theresa Ulmer, COCOPAH INDIAN TRIBE

All Comments:
Michael Haener, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY: SRPMIC is opposed to the underlying bill. With the passage of the Chairman's strike everything amendment, we will be neutral.; Theresa Ulmer, COCOPAH INDIAN TRIBE: Support Striker Language

HB2876, farm wineries; production

Support:

Rob Fullmer, ARIZONA CRAFT BREWERS GUILD; Camila Alarcon, ARIZONA CRAFT BREWERS GUILD; Alicia Klassen, representing self; Robert Klassen, representing self; Rod Keeling, representing self; James Collins, representing self; Joseph Junker, representing self; Elizabeth Salazar, representing self; Santa Cruz County Supervisor Bruce Bracker, representing self; Peggy Klemp, representing self; pam fitzgerald, representing self; Kelle Maslyn, representing self; Philip Bashaw, AZ FARM BUREAU FEDERATION; Mila Besich, representing self; Ryan McLaughlin , representing self; Tiffany Dahlin, representing self; Joseph Dahlin, representing self; Martha Liermann, representing self; Barbara Pierce, representing self; Ken Wilson, representing self; Jesse Noble, representing self; Frank Bostock, representing self; Dean Pefanis, representing self; Pavle Milic, representing self; Barbara Meaney, ARIZONA VIGNERONS ALLIANCE; Yavapai County Supervisor Randy Garrison, representing self; Chelsea McGuire, AZ FARM BUREAU FEDERATION; Alan Everett, AZ WINE GROWERS ASSN

Oppose:

Don Isaacson, AZ LICENSED BEVERAGE ASSN; Tom Farley, Wine Spirits Wholesalers Association Of Arizona; Kevin O'Malley, representing self; Marie Isaacson, AZ LICENSED BEVERAGE ASSN; Trish Hart, AZ FOOD MARKETING ALLIANCE; Jaime Molera, ARIZONA LODGING AND TOURISM ASSOCIATION; Courtney Coolidge, AZ CHAMBER OF COMMERCE; Mike Reina, representing self; Susie Stevens, Breakthru Beverage; Steve Barclay, BEER & WINE DISTRIBUTORS OF ARIZONA; Jessie Armendt, YOUNG'S MARKET CO SOUTHWEST LLC; Ryan O'Daniel, SOUTHERN WINE & SPIRITS OF AMER INC DBA SO WINE & SPIRITS OF AZ

All Comments:

Rob Fullmer, ARIZONA CRAFT BREWERS GUILD: We support this bill so that it may pass and the negotiations can continue.; Rod Keeling, Self: It's about water as much as wine. Viticulture uses 1/5th the water and can have 25X the economic impact for rural communities than commodity crops. We need to eliminate the limits on wineries to attract the expansion of vineyards in AZ.; James Collins, Self: Wine makes Arizona special. Please support our Arizona wineries.; Joseph Junker, Self: I support this bill and efforts to allow small farming operations the opportunity to grow and compete with neighboring states; Santa Cruz County Supervisor Bruce Bracker, Self: It is time to make Arizona Wine Growers competitive with the the rest of the country; Kelle Maslyn, Self: You should vote yes on HB2876. I have enjoyed seeing the wine business in AZ grow into a popular industry that also brings tourists to the state. It is a benefit to the state to continue to let it prosper and bring in more tax money for the state.; Ryan McLaughlin , Self: STEM Wine Company - Arizona Wine Wholesaler; Dean Pefanis, Self: This bill will help grow the Arizona wine industry as well as tourism and promote job growth in rural Arizona; Pavle Milic, Self: Co-Owner - FnB Restaurant, Los Milics Winery; Chelsea McGuire, AZ FARM BUREAU FEDERATION: Farm wineries are an important and growing part of Arizona's agriculture and tourism economies. They should not be stifled by an arbitrary production limit or limitations on their retail businesses.; Kevin O'Malley, Self: Kevin O'Malley, Gallagher & Kennedy, appearing and speaking on behalf of Wine and Spirits Wholesalers Association of Arizona; Ryan O'Daniel, SOUTHERN WINE & SPIRITS OF AMER INC DBA SO WINE & SPIRITS OF AZ: Opposed.

HB2823, ambulance service; interfacility transfers

Testified in support:

Stuart Goodman, DIGNITY HEALTH; Diane King, representing self; Will Humble, AZ PUBLIC HEALTH ASSOCIATION; Brandon Hestand, representing self; Anne Burns, representing self; Todd Nickoles, representing self; Shirley Gunther, DIGNITY HEALTH

Testified as opposed:

Don Isaacson, ABC AMBULANCE LLC; Michael Colletto, PROFESSIONAL FIRE FIGHTERS OF AZ; Meghaen Dell'Artino, AMERICAN MEDICAL RESPONSE; Stan Barnes, Maricopa Ambulance; Mike Bielecki, AZ AMBULANCE ASSN; Glenn Kasprzyk, representing self; Marie Isaacson, ABC AMBULANCE LLC; Brian Tobin, representing self

Support:

Scot Mussi, Arizona Free Enterprise Club; Michelle Guadnola, representing self; Julie Graham, representing self; Richard Sherry, representing self; Ryan Peters, CHANDLER, CITY OF; Annie Mooney, PHOENIX CHILDREN'S HOSPITAL; Jennifer Carusetta, HEALTH SYSTEM ALLIANCE OF ARIZONA; Jen Springman, GREATER PHOENIX CHAMBER OF COMMERCE; Nancy Gomez, representing self; Julia Blair, representing self; Kelly VanDahm, representing self; Jennifer Baugham, representing self; Hank Roberson, representing self; Gabriel Gabriel, representing self; Matthew Karger, representing self; Aaron Peace, representing self; Brandi Brashear, representing self; Rachel Kurian, representing self; Anna McShane, representing self; Staci Ann King, representing self; Karen Thorn, representing self

Neutral:

Greg Ensell, AZ HOSPITAL & HEALTHCARE ASSN; Rob Bohr, GILBERT, TOWN OF; Miranda DeWitt, MESA, CITY OF; Ryan Lee, GLENDALE, CITY OF

Oppose:

Saundra Cole, representing self; Janna Day, AMERICAN MEDICAL RESPONSE; Chuck LeVinus, PROFESSIONAL FIRE FIGHTERS OF AZ; Joseph Witt Jr., representing self; Brian Moore, representing self; Shelbe Hunsaker, AMERICAN MEDICAL RESPONSE; Tom Dorn, AMERICAN MEDICAL RESPONSE; John Flynn, AZ FIRE DISTRICT ASSN; Briona May, representing self

All Comments:

Will Humble, AZ PUBLIC HEALTH ASSOCIATION: I believe this will improve overall urban ambulance system performance in Arizona. I wouldn't support the bill if it included rural areas, but for Maricopa County I believe this policy change will improve system efficiency and patient outcomes.; Michelle Guadnola, Self: I work in a busy Phoenix ED/trauma center. Timely transport of critically ill or injured patients is essential for optimal patient outcomes!!; Karen Thorn, Self: It is critical we complete interfacility ambulance transports in a more timely manner. Many times patients have had to wait too long to get the next level of specialized care that is needed for their treatment and recovery.; Meghaen Dell'Artino, AMERICAN MEDICAL RESPONSE: .; Mike Bielecki, AZ AMBULANCE ASSN: This bill will have damaging consequences to Arizona EMS providers and lead to additional costs for the system.; Glenn Kasprzyk, Self: Representing AMR; Brian Tobin, Self: Representing the Daisy Mountain Fire District, (Anthem, New River, Desert Hills, Black Canyon City); Brian Moore, Self: The Daisy Mountain Fire District located in the North Valley had to go through a time consuming process to obtain an Interfacility CON. An out of state for profit company should be granted special legislation to circumvent that process. Thank you.; John Flynn, AZ FIRE

DISTRICT ASSN: Oppose any carve out of the ground ambulance CON process for special interests; Briona May, Self: I will speak on behalf of AFSCME Local 2960 and 2384. If time permits

HB2826, tobacco; vaping; penalties; legal age

Testified in support:

Doug Lau, representing self

Testified as neutral:

Brian Hummell, American Cancer Society Cancer Action Network

Support:

Barry Aarons, ARIZONA ASSOCIATION OF COUNTY SCHOOL SUPERINTENDENTS; Amanda Rusing, AZ ATTORNEY GENERAL'S OFFICE

Neutral:

Kevin DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK; Joe DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK; Mark Barnes, Preventing Tobacco Addiction Foundation; Don Isaacson, RAI SERVICES COMPANY; Nicole Olmstead, American Heart Association; Elizabeth Goodman, American Heart Association; Marie Isaacson, RAI SERVICES COMPANY

Oppose:

Pat VanMaanen, representing self

All Comments:

Pat VanMaanen, Self: Aligns use age with federal law, Does not establish a license and does not include enforcement mechanism.; Kevin DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK: with concerns; Joe DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK: Neutral with concerns. Looking forward to ongoing dialogue; Nicole Olmstead, American Heart Association: We have concerns regarding the implementation of this bill and would like to work with the sponsor to improve it.; Elizabeth Goodman, American Heart Association: Will support if funding source is added and if vapor products are defined as tobacco.

HB2853, furnishing tobacco; minors; enterprise penalties

Support:

Doug Lau, representing self; Amanda Rusing, AZ ATTORNEY GENERAL'S OFFICE

Neutral:

Kevin DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK; Joe DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK; Mark Barnes, Preventing Tobacco Addiction Foundation; Elizabeth Goodman, American Heart Association; Don Isaacson, RAI SERVICES COMPANY; Nicole Olmstead, American Heart Association; Marie Isaacson, RAI SERVICES COMPANY

Oppose:

Pat VanMaanen, representing self

All Comments:

Pat VanMaanen, Self: As written, does not increase usage age to be consistent with federal law. --LD 15; Kevin DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK: with concerns; Joe DeMenna, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK: Neutral with concerns. Looking forward to ongoing dialogue; Nicole Olmstead, American Heart Association: We have some concerns with how compliance will work with this bill. We would like to work with the sponsor to improve.

HB2813, sports betting; historic racing; revenue

Testified in support:

Lloyd Yother, representing self

Testified as opposed:

Jerome Kasey, representing self

Support:

Kevin DeMenna, RILLITO RACING, INC.; Fred Guzman, representing self; James Hamilton, J&J EQUINE ENTERPRISES; Leroy Gessmann, representing self; Joe DeMenna, RILLITO RACING, INC.; Brian Murray, J&J EQUINE ENTERPRISES; Kurt Davis, DELAWARE NORTH; Jaye Wells, representing self; Aaron Feinberg, representing self

Neutral:

Aiden Fleming , AZ DEPT OF GAMING

Oppose:

Michael Haener, Partner, SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY; Tom Farley, COLORADO RIVER INDIAN TRIBES; Kristen Boilini, FORT MCDOWELL YAVAPAI NATION; Meghaen Dell'Artino, GILA RIVER INDIAN COMMUNITY; John MacDonald, HUALAPAI TRIBE; Delia Carlyle, representing self; Edith Lefevre, AZ INDIAN GAMING ASSN; STEVE TITLA, representing self; Theresa Ulmer, COCOPAH INDIAN TRIBE

All Comments:

Kevin DeMenna, RILLITO RACING, INC.: .; Lloyd Yother, Self: Az Horsemen's Benevolent & Protective Assoc; Leroy Gessmann, Self: AZ Horsemen's Benevolent & Protective Assoc; Jerome Kasey, Self: White Mountain Apache Tribe and Arizona Indian Gaming Association; Meghaen Dell'Artino, GILA RIVER INDIAN COMMUNITY: .; STEVE TITLA, Self: With San Carlos Apache Tribe

HB2446, simulcast dog racing; wagering; time

Testified in support:

Fred Guzman, representing self

Testified as neutral:

Kevin DeMenna, RILLITO RACING, INC.

Support:

James Hamilton, J&J EQUINE ENTERPRISES; Marcus Dell'Artino, DELAWARE NORTH; Leroy Gessmann, representing self; Brian Murray, J&J EQUINE ENTERPRISES; Kurt Davis, DELAWARE NORTH; Aaron Feinberg, representing self; Lloyd Yother, representing self

Neutral:

Joe DeMenna, RILLITO RACING, INC.; Kelsey Lundy, TURF PARADISE

Oppose:

Jaye Wells, representing self

All Comments:

Fred Guzman, Self: Happy to provide comments; Leroy Gessmann, Self: AHBPA; Lloyd Yother, Self: Az Horsemen's Benevolent & Protective Assoc; Kevin DeMenna, RILLITO RACING, INC.: with concerns; Joe DeMenna, RILLITO RACING, INC.: with concerns; Kelsey Lundy, TURF PARADISE: Neutral with Weninger amendment and amendment expected on the floor.

HB2635, mobile home parks; caregivers

Support:

Dana Paschke, AZ ASSN MANUFACTURED HOME OWNERS; ellen katz, William E. Morris Institute For Justice; Zach Tretton, AZ ASSN MANUFACTURED HOME OWNERS

Neutral:

Susan Brenton, MANUFACTURED HOUSING COMMUNITIES OF AZ INC

All Comments:

Dana Paschke, AZ ASSN MANUFACTURED HOME OWNERS: Support with the Committee amendment and floor amendment to strike lines 8-10.; ellen katz, William E. Morris Institute For Justice: We support the bill with the committee amendment and with the expectation that on the House floor there will be an amendment to remove the requirement in the bill that the live-in aide meets the definition in the federal regulation.; Zach Tretton, AZ ASSN MANUFACTURED HOME OWNERS: Support with the Committee amendment and pending floor amendment to strike lines 8-10.; Susan Brenton, MANUFACTURED HOUSING COMMUNITIES OF AZ INC: We are still working with other groups on this bill

HB2841, municipal zoning; housing overlay

Testified in support:

Spencer Kamps, HOME BUILDERS ASSOCIATION OF CENTRAL AZ

Testified as opposed:

Douglas Cole, PARADISE VALLEY, TOWN OF; Tom Savage, LEAGUE OF ARIZONA CITIES & TOWNS

Support:

Emily Ryan, Southern Arizona Home Builders Association; Steve Trussell, AZ ROCK PRODUCTS ASSN; Aimee Yentes, AZ FREE ENTERPRISE CLUB

Oppose:

George Diaz, Principal, BUCKEYE, TOWN OF; Sandy Bahr, Sierra Club - Grand Canyon Chapter; Brad Lundahl, SCOTTSDALE, CITY OF; Rivko Knox, representing self; Peter Bengtson, representing self; Pat VanMaanen, representing self; Robert White, representing self; Amber Wakeman, City Of El Mirage; Judith Simons, representing self; Thomas Krepitch, representing self; Lisa Doll, representing self; Harry Lumley, representing self; howard johnson, representing self; Barbara Warren, representing self; Elna Otter, representing self; Rebecca Smith Gross, representing self; Cary Meister, representing self; Peggie Jo Vincent, representing self; Rob Bohr, GILBERT, TOWN OF; Beverly Janowitz-Price, representing self; Rosalind Switzer, representing self; Jessica Blazina, City Of Avondale; Adrienne Udarbe, representing self; Kenneth Bierman, representing self; Mary Ann Graffagnino, representing self; Alisa McMahon, representing self; Michael Fiflis, representing self; Thomas Adkins, PEORIA, CITY OF; Cheryl Lombard, VALLEY PARTNERSHIP; Dianne Post, representing self; elizabeth Michele Edson, representing self; Miranda DeWitt, MESA, CITY OF; Karen Cusano, representing self; Tyler Goodman, PRESCOTT, CITY OF; Judy Whitehouse, representing self; Meg Weesner, representing self; Bettina Bickel, representing self; Cole Libera, AZ PLANNING ASSOCIATION; Dale Wiebusch, MARICOPA, CITY OF; Lourdes Peña, SIERRA VISTA, CITY OF; Ronald Eich, representing self; Cynthia Hans, representing self; Shirley Hervatin, representing self; Kathleen Sikes, representing self; Rebecca Hinton, representing self; Daniel Romm, QUEEN CREEK, TOWN OF; Jackie Rich, representing self; Sharon Lee, representing self; Geline Coulbourne, representing self; Lynn Ashby, representing self; Julie Davis, representing self; Gail Bliss, representing self; Korey Hjelmeir, representing self; Linda Bentley, representing self; Don Bentley, representing self; Patricia Mentz, representing self; Tristan Topps, representing self; Virginia Dotson, representing self; Nancy Santori, representing self; Jana Segal, representing self; Daniel Stormont, representing self; Vivian Harte, representing self; Duane Ediger, representing self; Christina Bustos, representing self; Andrea Will, representing self; Gloria Montano, LEAGUE OF CONSERVATION VOTERS, INC; Yesenia Dhott, PHOENIX, CITY OF; Rodney Short, YUMA, CITY OF; Alex Brough, representing self; Kenneth Muir, representing self; Alexis Apodaca, CHANDLER, CITY OF; Shelly Gordon-Gray, representing self; Norma Bliven, representing self; Pat Jayson, representing self

All Comments:

Steve Trussell, AZ ROCK PRODUCTS ASSN: The state faces a housing affordability issue. The Director of the Arizona Department of Housing is expecting the "private sector to step up" to solve this matter. You can help by reforming the zoning and land use rules. Regulations impact cost!; Douglas Cole, PARADISE VALLEY, TOWN OF: There was no stakeholder process. PV is all one-acre or larger lots. Bill does not recognize the uniqueness of towns such as PV.; Rivko Knox, Self: This bill purports to address affordable housing, but it doesn't. Instead it opens up more land for development while taking away local control.; Peter Bengtson, Self: I urge you to reject this bill. Local control is important in any land decisions.; Pat VanMaanen, Self: This would open up massive amounts of land for development and take away more local control while purporting to address affordable housing. It does not.; Judith Simons, Self: Ironic how some bemoan "federal overreach" but don't recognize "state overreach." The text of this bill sounds like a topic for city/town councils. Please refrain from injecting yourselves into these matters better decided at the local level.; Lisa Doll, Self: Let our communities be where ore children can have a place to play !; Elna Otter, Self: I'm really tired of rampant, uncontrolled development. How about we just enjoy Arizona?;

Adrienne Udarbe, Self: Housing is one of the best known and documented determinants of health. The affordability, location, and quality of housing have all been independently linked to health. Poor quality housing and blighted neighborhoods diminish community wellbeing.; Mary Ann Graffagnino, Self: This would open up massive amounts of land for development and take away more local control while purporting to address affordable housing, WHICH IT DOES NOT!; Alisa McMahon, Self: This is not about affordable housing.; Michael Fiflis, Self: Local zoning control works best.; Cheryl Lombard, VALLEY PARTNERSHIP: We are happy to work with the bill sponsor on addressing our concerns.; Lourdes Peña, SIERRA VISTA, CITY OF: .; Cynthia Hans, Self: Let municipalities decide their zoning--they have their own elected officials. One size does not fit all; relish the joy of diversity in neighborhoods.; Rebecca Hinton, Self: against; Jackie Rich, Self: Takes away local control.; Lynn Ashby, Self: Another attempt to overrule local gov't authority in favor of absolute control by a GOP legislature.; Gail Bliss, Self: This bill would take away local control of development and does not really address affordable housing.; Virginia Dotson, Self: We need to maintain local control over potentially large -scale housing developments.; Jana Segal, Self: This will take power away from communities to have a say in development. We don't have the resources for perpetual development.; Daniel Stormont, Self: This appears to be little more than a giveaway of lands to developers. It is bad land policy and bad water policy masquerading as a way to address the affordable housing crisis.; Gloria Montano, LEAGUE OF CONSERVATION VOTERS, INC: The State should support local governments and not take on pre-emption.; Alex Brough, Self: Stop giving our public spaces away to corporate interests. This bill is not about affordable housing. Quality of life is important to health and having open spaces is a huge factor in that quality.

PLEASE COMPLETE THIS FORM FOR THE PUBLIC RECORD

HOUSE OF REPRESENTATIVES

Please PRINT Clearly

Committee on Commerce Bill Number HB2311

Date 2/18/2020 ☐ Support ☐ Oppose ☑ Neutral

Name Paul E. Brierley Need to Speak? ☑ Yes ☐ No

Representing Yuma Center of Excellence for Desert Agriculture Are you a registered lobbyist? No

Complete Address 6425 W. 8th St, Yuma, AZ 85365

E-mail Address Paulbrierley@email.arizona.edu Phone Number 928-920-4983

Comments: Broadband is critical for Ag Tech Economic Development

*****FIVE-MINUTE SPEAKING LIMIT*****

PLEASE COMPLETE THIS FORM FOR THE PUBLIC RECORD

HOUSE OF REPRESENTATIVES

Please PRINT Clearly

Committee on COMMERCE Bill Number HB 2841

Date Feb 18 2020 ☐ Support ☒ Oppose ☐ Neutral

Name Frank Cassidy Need to Speak? ☒ Yes ☐ No

Representing League technical expert Are you a registered lobbyist? NO

Complete Address

E-mail Address Phone Number

Comments:

*****FIVE-MINUTE SPEAKING LIMIT*****

ARIZONA STATE LEGISLATURE
Fifty-fourth Legislature - Second Regular Session

COMMITTEE ATTENDANCE RECORD

COMMITTEE ON COMMERCE

CHAIRMAN: Jeff Weninger VICE-CHAIRMAN: Travis W. Grantham

	DATE	02/11/20	2/18 /20	/20	/20	/20
	CONVENED	2:52pm	3:46pm	m	m	m
	RECESSED					
	RECONVENED					
	ADJOURNED	5:02pm	7:15PM			
MEMBERS						
Biasiucci		✓	✓			
Butler		✓	✓			
Chávez		✓	✓			
Epstein		✓	✓			
Kern		✓	✓			
Meza		✓	✓			
Roberts		✓	✓			
Grantham, Vice-Chairman		✓	✓			
Weninger, Chairman		✓	✓			

√ Present --- Absent exc Excused

Attachment 3

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2311: wireless providers; authority; applicability
Sponsor: Representative Dunn, LD 13
Committee on Commerce

Overview

Applies laws governing the use of public right-of-way by wireless providers to an *Authority* located along the Mexico border.

History

Laws 2017, Chapter 124 established regulations for wireless providers for the use of a right-of-way to construct, install, maintain or replace utility poles or monopoles or the collocation of a small wireless facility. The law prohibits an Authority from entering into an exclusive arrangement with a wireless provider for the construction, installation, maintenance or replacement of a utility poles or monopoles or their collocation. Any Authority located within 10 miles of the border of Mexico that has a contract which assists and supports national security objectives along the border is exempt from laws governing wireless providers use of a right-of-way (A.R.S. § 9-591 et al.).

An *Authority* includes any city, town, special district or political subdivision of this state (A.R.S. § 9-591).

Provisions

1. Removes the exemption of laws governing wireless providers use of right-of-way granted to Authorities located along the Mexico border. (Sec. 1)

Attachment 4

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2311

DATE February 18, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez					✓
Epstein		✓			
Kern		✓			
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		8	0	0	1

Lois McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 5

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2400: technical correction; self-service storage; notice
S/E: blockchain and cryptocurrency study committee
Sponsor: Representative Weninger, LD 17
Committee on Commerce

Summary of the Strike-Everything Amendment to HB 2400

Overview

Establishes the Blockchain and Cryptocurrency Study Committee (Committee).

History

Blockchain is a cryptographically-secured distributed ledger that records transactions chronologically, permanently and unalterably.

Laws 2019, Chapter 263 appropriated $1,250,000 in FY 2020 to the Arizona Commerce Authority to distribute to applied research centers and institutes located in this state that specialize in blockchain technology.

Provisions

1. Establishes the 11-member Committee and outlines the Committee membership. (Sec. 1)
2. Directs the Committee to:
   a) Meet as often as the chairperson deems necessary;
   b) Review data on the scope of blockchain and cryptocurrency through the country;
   c) Compile an overview of potential legislation;
   d) Solicit ideas and opinions of industry experts on additional legislation in Arizona; and
   e) Submit a report regarding the Committee's findings and recommendations of legislative priorities that will foster a positive blockchain and cryptocurrency economic environment in this state to the Speaker of the House of Representatives by December 31, 2020. (Sec. 1)
3. Terminates the Committee September 31, 2021. (Sec. 1)

Attachment 6

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2400

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Blockchain and cryptocurrency study committee; members; duties; report; delayed repeal

A. The blockchain and cryptocurrency study committee is established consisting of the following members:

1. Three members of the house of representatives who are appointed by the speaker of the house of representatives, not more than two of whom are members of the same political party. The speaker of the house of representatives shall designate one of these members to serve as chairperson of the committee.

2. One member who is the president or chief executive officer of an Arizona-based cryptocurrency company that is within the top twenty-five in the world by trade volume. The speaker of the house of representatives shall appoint this member.

3. One member who represents a cryptocurrency exchange. The speaker of the house of representatives shall appoint this member.

4. One member who represents a company with a business model that uses blockchain for non-cryptocurrency transaction purposes. The speaker of the house of representatives shall appoint this member.

5. The director of the department of revenue or the director's designee.

6. A university professor who specializes in blockchain and who is from a university under the jurisdiction of the Arizona board of regents. The speaker of the house of representatives shall appoint this member.

Adopted ✓ # of Verbals ____
Failed ____ Withdrawn ____
Not Offered ____ Analysts Initials PB

Attachment 7

7. One member who represents a blockchain payments solution company. The speaker of the house of representatives shall appoint this member.

8. One member who represents a blockchain or cryptocurrency association. The speaker of the house of representatives shall appoint this member.

9. One public member who is appointed by the speaker of the house of representatives.

B. The committee shall:

1. Meet as often as the chairperson deems necessary.

2. Review data on the scope of blockchain and cryptocurrency throughout the country.

3. Compile an overview of potential legislation.

4. Solicit ideas and opinions of industry experts on additional legislation in Arizona.

5. On or before December 31, 2020, submit a report regarding the committee's findings and recommendations of legislative priorities that will foster a positive blockchain and cryptocurrency economic environment in this state to the speaker of the house of representatives and provide a copy of this report to the secretary of state.

C. This section is repealed from and after September 30, 2021."

Amend title to conform

JEFF WENINGER

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ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2400

DATE February 18, 2020 MOTION: DPA/SE

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez					✓
Epstein		✓			
Kern		✓			
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		8	0	0	1

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 8

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2522: bingo; licenses; taxes.
Sponsor: Representative Lieberman, LD 28
Committee on Commerce

Overview
Removes references to a class A license with regards to games of bingo and repeals stature relating to license classifications.

History
Current statute outlines the three different classifications of licenses and their requirements as: A class A license which may be issued to a person to manage bingo games as long as the gross receipts do not exceed $15,600 per year. A class B license may be issued to a qualified organization to manage a bingo games in which the gross receipts do not exceed $300,000 per year. A class C license may be issued to a qualified organization to manage bingo games in which the gross receipts do exceed $300,000.00 per year.

Bingo means a game of chance in which a prize is awarded to a player who obtains a designated pattern or sequence of numbers or symbols on a card that are the same as the pattern or sequence of numbers or symbols selected at random. When placed in quotation marks, "bingo" means the designated pattern or sequence of numbers or symbols needed to win a bingo game. (A.A.C. R15-7-201)

Qualified organization is defined as a homeowners association or any bona fide charitable, fraternal, religious, social, veterans' organization or volunteer firefighters organization, or nonprofit ambulance service as defined in section 41-1831 or any chartered branch or lodge or chapter of such national or state organization which operates without profit to its members and which has been in existence continuously for a period of two years in Arizona immediately before applying for a license under this article, and may include not more than one identified auxiliary of any such organization.

Manager is defined as a person who has overall responsibility for conducting bingo games by a licensee and is designated as a manager in the application for a license.

Lawful purposes are defined as the expenditure of net proceeds of a game of bingo exclusively by a licensee for the purposes of carrying out its mission and its aims or for the purpose of charity. (A.R.S. § 5-401)

Provisions
1. Eliminates laws outlining the requirement for multiple classifications of licenses to manage a bingo game. (Sec. 5)
2. Creates singular classification for bingo operation license. (Sec. 6)
3. Outlines what is a qualified organization in order to be licensed bingo game operator as:
   a. The manager and supervisor must be member of licensee;

b. The proceeds coordinator mush be an officer or director and a member of the licensee and is responsible for completion of the required financial report; and
c. An assistant must be a member or new member of the licensee. (Sec. 6)

4. Makes a substantive change by eliminating different license classes body, fees and taxes, and creating one body, fee and tax structure for bingo gaming. (Sec. 7)
5. Eliminates laws outlining reporting instructions for different classifications of bingo licenses. (Sec. 8)
6. Increases the number of days that a licensee may operate a bingo game in a week from five to seven days. (Sec. 3)
7. Makes technical changes. (Sec. 1, 2, 3, and 4)

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

Fifty-fourth Legislature
Second Regular Session

Commerce
H.B. 2522

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2522

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 5-406, Arizona Revised Statutes, is amended to read:

5-406. Persons permitted to conduct games; premises; equipment; expenses; compensation

A. A person shall not hold, operate or conduct any game of bingo under any license issued pursuant to this article unless the person has submitted affidavits as required in section 5-404 and has received prior written approval from the licensing authority. Persons seeking to replace a manager, proceeds coordinator, supervisor or assistant or to serve as an additional manager, supervisor or assistant shall submit the appropriate affidavit to the licensing authority as required in section 5-404.

B. Except as provided in section 5-413, only contractors, members and new members of a licensee or an applicant may participate or apply to participate in conducting any bingo game held by the licensee.

C. Except for a class A licensee, a person shall not hold, operate, conduct or assist in conducting any game or games of bingo under any license if the person or the person's spouse has a proprietary, equitable or credit interest, or is an officer, director, agent or employee of an individual or company that has a proprietary, equitable or credit interest, in the licensee.

D. Bookkeepers or accountants need not be members of the organization.

Attachment 10

Adopted V # of Verbals ____
Failed ____ Withdrawn ____
Not Offered ____ Analysts Initials PB

E. An item of expense shall not be incurred or paid in connection with holding, operating or conducting any game of bingo held, operated or conducted pursuant to any license issued under this article, except bona fide expenses in a reasonable amount for purposes described in section 5-407, subsection G. A game of bingo shall not be conducted with any equipment except equipment owned solely by the licensee, or jointly by not more than six licensees. No portion of the ownership of such equipment may be held by any person or organization not licensed pursuant to this chapter. A game of bingo shall not be conducted with rented equipment. This subsection does not apply to technological aids for bingo games that function only as electronic substitutes for bingo cards or a contractor's personnel who are needed to operate technological aids prescribed in subsection Y of this section.

F. An applicant or a licensee shall not enter into any purchase agreement other than a bona fide purchase agreement. The seller may repurchase equipment only on default of the buyer and then only at a price equal to or greater than ninety percent of any money paid for equipment from buyer to seller. The seller may repurchase a building only on default of the buyer at a fair market value per licensee.

G. A licensee shall not conduct or operate more than five occasions of bingo during any calendar week. Not more than twelve hours of bingo shall be conducted in any building or on any premises during any calendar day.

H. The entire net proceeds of any game shall be devoted to a lawful use or uses. In addition to other unlawful uses, the following are not considered lawful uses under this subsection:

1. Compensation and expenses of directors, officers and management personnel.

2. Fees or commissions of consultants.

3. Compensation paid for legal services incurred by a licensee unsuccessfully defending against charges of violations of this article.

4. Donations to other than national, state or local nonprofit parent organizations in excess of five percent of the net proceeds except with the permission of the licensing authority.

5. Donations or any payment from the lessor to the lessee.

I. The premises where any game of bingo is being held, operated or conducted, where it is intended that any game of bingo shall be held, operated or conducted or where it is intended that any equipment shall be used shall at all times be open to inspection by the licensing authority, its agents and employees and peace officers of any political subdivision of the state.

J. When any merchandise prize is awarded in a game of bingo, its value shall be its current retail price. A merchandise prize shall not be redeemable or convertible into cash directly or indirectly.

K. Equipment, prizes and supplies for games of bingo shall not be purchased or sold at prices in excess of one hundred fifteen percent of the average price paid by other licensees as reported in the reports submitted to the licensing authority during the prior six-month period by licensees having the same class of license. A licensee shall not enter into any contract or purchase agreement whereby it agrees to limit its source of supplies.

L. An alcoholic beverage shall not be offered or given as a prize in any such game.

M. The net profits derived from the holding of games of bingo must be devoted within one year after the date such profits were earned to the lawful purposes of the organization permitted to conduct such games. Any organization desiring to hold the net profits of games of bingo for a period longer than one year after the date such profits were earned must apply to the licensing authority for special permission and on good cause shown the authority may grant the request.

N. Any licensee that does not report during any one-year period the amount of its net profits, if any, shall be required to show cause before

the licensing authority why its license to conduct games of bingo should not be revoked.

O. The licensing authority shall require a licensee that does not conduct bingo games during any one-year period to show cause why its license to conduct games of bingo should not be cancelled.

P. Except as otherwise provided by this section, a prize greater in amount or value than one thousand dollars shall not be offered or given in any single game of bingo conducted under any such license, and total prizes shall not exceed an amount or value greater than three thousand dollars for any occasion. Door prizes, discounts or other inducements with a value exceeding two hundred fifty dollars per occasion shall not be offered or given away.

Q. Except for a class A licensee, on application to the licensing authority by the licensee the licensing authority may authorize one special bonus game to be played at weekly consecutive occasions with a quarterly prize limit of twelve thousand dollars. A weekly consecutive occasion is an occasion played on the same day of each week during the quarter. The special bonus game may be played at each weekly consecutive occasion subject to the rules adopted by the licensing authority. The special bonus game is not subject to the prize limits prescribed by subsection P of this section.

R. The equipment used in playing bingo and the method of play shall be such that each card shall have an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance and all other characteristics that may influence their selection. All objects or balls shall be present in the receptacle before each game is begun. All numbers announced shall be plainly and clearly audible or visible to all the players present. Where more than one room is used for any one game, the receptacle, the person calling the numbers as they are drawn and the person removing the objects or balls from the receptacle must be present in the room where the greatest number of players is present and all numbers announced shall be plainly audible or

visible to the players in that room and also audible or visible to the players in the other room or rooms. The cards or sheets of the players shall be part of a deck, group or series of cards, no two of which shall be alike, and which deck, group or series shall not be so prepared or arranged as to prefer any card. A licensee may provide braille cards for legally blind persons or allow legally blind persons to supply their own braille cards. A legally blind person supplying the person's own cards shall pay a fee to the licensee equal to that which would be charged if the legally blind person obtained the cards from the licensee. The bingo game activity shall be conducted and recorded in a manner as prescribed by the licensing authority to verify the gross receipts from each occasion.

S. The receptacle, the person calling the numbers as they are drawn and the person removing the objects or balls from the receptacle must be visible to all the players at all times except where more than one room is used for any one game and subsection R of this section applies.

T. The particular arrangement of numbers required to be covered in order to win the game and the amount of the prize shall be clearly and audibly or visibly described and announced to the players immediately before each game is begun.

U. Any players shall be entitled to call for a verification of all numbers drawn at the time a winner is determined, and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the supervisor and in full view of any player requesting the verification.

V. A person who is not physically present on the premises where the game is actually conducted shall not be allowed to participate as a player in the game.

W. A person who holds, operates or conducts, or assists in holding, operating or conducting, a game of bingo shall not play at any occasion at which such person works unless the game of bingo is conducted pursuant to a class A license.

~~X. A person shall not conduct a lottery or raffle within a twelve-hour period before or after a bingo occasion or game on any premises used for bingo games or within one thousand feet of the bingo game. This subsection does not affect any legally conducted activity related to the state lottery.~~

~~Y.~~ X. The operator of a bingo game shall offer assistance to players with disabilities, subject to the following:

1. The operator of a bingo game may offer players technological aids for bingo games that function only as electronic substitutes for bingo cards and shall reserve at least two of these technological aids for use by players with disabilities. If no requests are made for the use of these technological aids within fifteen minutes after the scheduled start of a game of bingo, these reserved technological aids may be made available to any other player.

2. If the operator of a bingo game, or any other person that is involved in the conduct of a bingo game, charges players a fee for the use of technological aids for bingo games that function only as electronic substitutes for bingo cards or requires players to comply with a minimum purchase requirement for the use of these technological aids, players with disabilities may not be required to pay that fee or to comply with that minimum purchase requirement. This paragraph does not prohibit the operator of a bingo game or any other person that is involved in the conduct of a bingo game from requiring a player with a disability to comply with a minimum purchase requirement that is imposed on all players.

3. The operator of a bingo game that offers technological aids for bingo games that function only as electronic substitutes for bingo cards shall allow players with disabilities to claim prizes by presenting a printout or other evidence of a winning card.

4. The operator of a bingo game shall allow players to use a form of visual or audio signal to notify the operator of a winning pattern or bingo, which may include a flag, paddle, light, horn, bell or whistle or any other mechanical or electronic means.

5. If a player's disability restricts the player's ability to mark cards, use technological aids for bingo games that function only as electronic substitutes for bingo cards or announce bingo, the operator of a bingo game shall allow another person to assist the player with a disability in the bingo game.

6. A person with a disability who is employed by a bingo operator may use technological aids for bingo games that function only as electronic substitutes for bingo cards to properly carry out the person's job functions as those functions apply to the conduct of bingo games.

Sec. 2. Section 5-413, Arizona Revised Statutes, is amended to read:

5-413. License classification; requirements

A. A class A license may be issued to a person for the conduct of bingo games for which the gross receipts do not exceed ~~fifteen thousand six hundred dollars~~ $75,000 per year. A class A license shall not be issued to a person who holds a license issued pursuant to title 4 except a club license issued pursuant to section 4-205. For a class A license:

1. Any person may apply as prescribed in this article.

2. The manager, proceeds coordinator, supervisor and assistant are not required to be members or new members.

3. The reporting period is one year coinciding with the term of the license.

B. A class B license may be issued to a qualified organization for the conduct of bingo games for which the gross receipts do not exceed ~~three hundred thousand dollars~~ $500,000 per year. For a class B license:

1. Only a qualified organization may apply.

2. The manager and supervisor shall be members of the licensee.

3. The proceeds coordinator shall be an officer or director and a member of the licensee and is responsible for completion of the required financial report.

4. An assistant shall be a member or new member of the licensee.

5. There are four reporting periods coinciding with the quarters of the term of the license.

C. A class C license may be issued to a qualified organization for the conduct of bingo games for which the gross receipts exceed ~~three hundred thousand dollars~~ $500,000 per year. For a class C license:

1. Only a qualified organization may apply.

2. The manager and supervisor shall be members of the licensee.

3. The proceeds coordinator shall be an officer or director and a member of the licensee and is responsible for completion of the required financial report.

4. An assistant shall be a member or new member of the licensee.

5. There are twelve reporting periods coinciding with each month of the term of the license."

Amend title to conform

JEFF WENINGER

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ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2522

DATE February 18, 2020 MOTION: DPA/SE

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez		✓			
Epstein		✓			
Kern		✓			
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		9	0	0	0

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 11

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2876: farm wineries; production
Sponsor: Representative Weninger, LD 17
Committee on Commerce

Overview

Removes certain production limitations for a farm winery license.

History

A person that produces between 200 and 40,000 gallons of wine may be licensed as a farm winery. Statute outlines permissible actions and restrictions regarding the sale and delivery of wine (A.R.S. § 4-205.04)

Provisions

1. Removes the production cap for a farm winery licensee that ships wine directly to purchasers in this state. *Current cap is 20,000 gallons per year.* (Sec. 1)
2. Removes the requirement for a farm winery licensee to obtain a producer license if the licensee exceeds the production cap permitted by the license. (Sec. 2)
3. Removes the production cap for a farm winery license. *Current cap is 40,000 gallons per year.* (Sec. 2)
4. Removes the production cap for a farm winery licensee that makes sales and deliveries of wine to on-sale and off-sale retailers and to consumers who order by telephone, mail, fax or internet. *Current cap is 20,000 gallons per year.* (Sec. 2)
5. Extends statutory restrictions for a licensed farm winery to a remote tasting room. (Sec. 2)
6. Makes a conforming change. (Sec. 3)

☐ Prop 105 (45 votes)	☐ Prop 108 (40 votes)	☐ Emergency (40 votes)	☐ Fiscal Note

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2876

DATE February 18, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez		✓			
Epstein		✓			
Kern		✓			
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		9	0	0	0

Lisa McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 13

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2823: ambulance service; interfacility transfers
Sponsor: Representative Weninger, LD 17
Committee on Commerce

Overview

Creates a *certificate of operation* for non-emergency interfacility transfers.

History

The Director (Director) of the Department of Health Service (Department) must adopt rules to regulate the operation of ambulances and ambulance services which include, to regulate operating and response times of ambulances to meet the needs of the public and to ensure adequate service (A.R.S. § 36-2232).

In order to operate an ambulance service a person must apply for a certificate of necessity issued by the Department. A person must meet all of the following requirements for issuance:

a) The ambulance service has a certificate of registration issued by the Department for at least one ambulance;
b) The Director finds that public necessity requires the service, or any part of the service proposed by the applicant;
c) The Director finds that the applicant is fit and proper to provide the service;
d) The applicant has paid the appropriate fees; and
e) The applicant has filed the necessary surety bond (A.R.S. § 36-2233).

Current statute defines *ambulance* as any publicly or privately owned surface, water or air vehicle, including a helicopter, that contains a stretcher and necessary medical equipment and supplies and that is especially designed and constructed or modified and equipped to be used, maintained or operated primarily for the transportation of individuals who are sick, injured or wounded or who require medical monitoring or aid (A.R.S. § 36-2201).

Provisions

1. Clarifies the rules adopted to regulate operating and response times of ambulance must meet *or exceed* the needs of the public *or the sponsoring hospital system.*
   a) Adds the rules adopted for certificated ambulance service operating under a certificate of operation must include uniform standards for its service area and medical considerations. (Sec. 2)
2. Extends certain rules and requirements for ambulance services operating under a certificate of necessity to ambulance services operating under a certificate of operation. (Sec. 2)
3. Allows the Director to inquire into the compliance of certification by the commission on accreditation of ambulance services. (Sec. 2)
4. Instructs the Department to grant requests from an ambulance service to be part of the Phoenix Uniform Rate Group. (Sec. 2)
5. Excludes a person wishing to operate interfacility transfers under a certificate of operation from the requirements for issuing a certificate of necessity. (Sec 3)

6. Requires a person to obtain a certificate of operation to operate an ambulance service to provide interfacility transfers.
   a) Outlines the requirements for issuance. (Sec. 4)
7. Requires a person that has obtained a certificate of operation to apply for a certificate of registration. (Sec. 4)
8. Specifies the requirements for a certificate of operation does not apply to a person who holds a valid certificate of necessity that authorizes interfacility transport. (Sec. 4)
9. Defines *sponsorship.* (Sec. 4)
10. Exempts certificates of operation from public hearings and judicial review relating to rates, fares or charges, operating or response times. (Sec. 5)
11. Allows the Director to determine the effects of rate changes on the general public in the area of service designated in a certificate of operation. (Sec. 5)
12. Allows the Director to immediately suspend a certificate of registration, necessity or operation or any combination of the three without notice if the Director determines a potential threat to public health and safety. (Sec. 5)
13. Specifies an initial certificate of operation be issued for three years.
   a) Allows the Director to evaluate the performance of the certificate holder after the first year.
   b) Stipulates the certificate holder must implement an improvement plan if determined that the performance is substandard. (Sec. 6)
14. Mandates the certificate holder to demonstrate accreditation by the Commission on Accreditation of Ambulance Services prior to the expiration of the certificate of operation. (Sec. 6)
15. Requires the Director to renew the certificate of operation for three years if certain criteria are met. (Sec. 6)
16. Stipulates a certificate of operation will be renewed for a period of at least one year if the Director fails to act within 90 days after the expiration date.
   a) Extends the term to three years if it is determined that there is no cause for denying or renewing for a shorter term. (Sec. 6)
17. Voids a certificate of operation if the hospital system sponsorship is terminated. (Sec. 6)
18. Specifies a certificate of operation is not a franchise, may be revoked and does not confer a property right to its holder. (Sec. 7)
19. Extends certain issuance requirements for a certificate of necessity to a certificate of operation. (Sec. 8)
20. Establishes the following fees for a certificate of operation:
   a) Application, $100;
   b) Amend, transfer or renew, $50; and
   c) Issuance of an initial certification, $200.
21. Clarifies written and signed statements of dissatisfaction *pertaining to patient care, wait time for interfacility transfers,* the customer, *patient, hospital system or health care provider* are deemed to have filed an inform complaint against the ambulance service. (Sec. 10)
22. Extends certain civil penalties, suspensions, reinstatement, and legal name change requirements for a certificate of necessity to a certificate of operation. (Sec. 10, 11)

23. Defines *certificate of operation, hospital system, interfacility transfer* and *sponsoring hospital system.* (Sec. 1)

24. Makes technical changes. (Sec. 1, 2, 5, 8, 9, 10 and 11)

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

Fifty-fourth Legislature
Second Regular Session

Commerce
H.B. 2823

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2823

(Reference to printed bill)

Page 2, strike lines 40 through 45

Page 3, strike lines 1 through 4

Renumber to conform

Page 4, line 4, strike "AND THAT" insert a period

Strike line 5

Line 26, strike "OPERATING PURSUANT TO A CERTIFICATE" insert a period

Strike line 27

Page 5, strike lines 14 through 45

Strike pages 6 and 7

Page 8, strike lines 1 through 33

Renumber to conform

Line 36, strike "Certificate of operation to provide"

Strike line 37, insert "ambulance service demonstration project; permits; third-party vendor; definition

Line 38, after "A." insert "THE DEPARTMENT SHALL ESTABLISH AN INTERFACILITY AMBULANCE SERVICE DEMONSTRATION PROJECT."; strike "IN THIS STATE" insert "UNDER THE DEMONSTRATION PROJECT TO RECEIVE A DEMONSTRATION PERMIT"

Line 40, strike "FOR A CERTIFICATE OF OPERATION"

Line 41, strike "B."; strike "A CERTIFICATE OF OPERATION" insert "AN INTERFACILITY TRANSPORT DEMONSTRATION PERMIT"

Reletter to conform

Page 9, line 2, strike "FOR THE SAME LEVEL OF SERVICE IN ANOTHER STATE"

Line 4, after "REPORT" insert "RESPONSE TIMES"

Line 5, after "department" strike remainder of line insert a period

Attachment 15

Adopted ✓ # of Verbals ____

Failed ____ Withdrawn ____

Not Offered ____ Analysts Initials PB

Page 9, strike line 6

Line 9, strike "CERTIFICATE OF OPERATION" insert "DEMONSTRATION PERMIT"

Strike lines 12 through 14, insert:

"C. A PERSON WHO HOLDS A CERTIFICATE OF NECESSITY PURSUANT TO SECTION 36-2233 DOES NOT QUALIFY FOR THE INTERFACILITY AMBULANCE SERVICE DEMONSTRATION PROJECT.

D. THE SERVICE AREA IN WHICH AN INTERFACILITY TRANSPORT DEMONSTRATION PERMIT HOLDER MAY OPERATE IS LIMITED TO A COUNTY WITH A POPULATION OF MORE THAN THREE MILLION PERSONS.

E. THE TERM OF AN INTERFACILITY TRANSPORT DEMONSTRATION PERMIT ISSUED PURSUANT TO THIS SECTION IS FIVE YEARS.

F. THE DIRECTOR SHALL ESTABLISH RESPONSE TIMES FOR AN INTERFACILITY TRANSPORT DEMONSTRATION PERMIT HOLDER THAT ARE CONSISTENT WITH CERTIFICATE OF NECESSITY HOLDERS THAT PERFORM INTERFACILITY TRANSPORTS IN THE SAME SERVICE AREA. THE DATA SHALL BE COLLECTED FROM A THIRD-PARTY VENDOR AND USED TO VALIDATE RESPONSE TIMES OF THE INTERFACILITY TRANSPORT DEMONSTRATION PERMIT HOLDER.

G. AT ANY TIME, THE DIRECTOR MAY EVALUATE THE PERFORMANCE OF THE PERMIT HOLDER. IF THE PERFORMANCE IS DETERMINED TO BE SUBSTANDARD, THE PERMIT HOLDER SHALL IMPLEMENT AN IMPROVEMENT PLAN THAT COMPLIES WITH THE REQUIREMENTS OF THE DIRECTOR.

H. IF AN INTERFACILITY TRANSPORT DEMONSTRATION PERMIT HOLDER ACHIEVES BOTH OF THE FOLLOWING AT THE END OF THE FIVE-YEAR DEMONSTRATION PROJECT, NOTWITHSTANDING ANY OTHER LAW, THE DIRECTOR SHALL ISSUE THE PERMIT HOLDER A CERTIFICATE OF NECESSITY:

1. RESPONSE TIMES HAVE BEEN MET AT LEAST NINETY-TWO PERCENT OF THE TIME AS DETERMINED BY THE THIRD-PARTY VENDOR.

2. THE PERMIT HOLDER HAS ACHIEVED OR IS SEEKING ACCREDITATION BY THE COMMISSION ON ACCREDITATION OF AMBULANCE SERVICES."

Reletter to conform

House Amendments to H.B. 2823

Page 9, strike lines 18 through 45
Strike pages 10 through 13
Page 14, strike lines 1 through 36, insert:
"Sec. 3. Repeal
Section 36-2233.01, Arizona Revised Statutes, as added by this act, is repealed from and after June 30, 2027."
Renumber to conform
Page 16, lines 4 and 5, strike "OR CERTIFICATE OF OPERATION"
Lines 10 and 11, strike "OR CERTIFICATE OF OPERATION"
Line 14, strike "OR CERTIFICATE OF OPERATION"
Strike lines 26 through 36
Amend title to conform

JEFF WENINGER

2823WENINGER
02/17/2020
11:20 AM
C: MH

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2823

DATE February 18, 2020 MOTION: DPA

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez		✓			
Epstein		✓			
Kern		✓			
Meza		✓			
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		9	0	0	0

Iris Mc Mahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 16

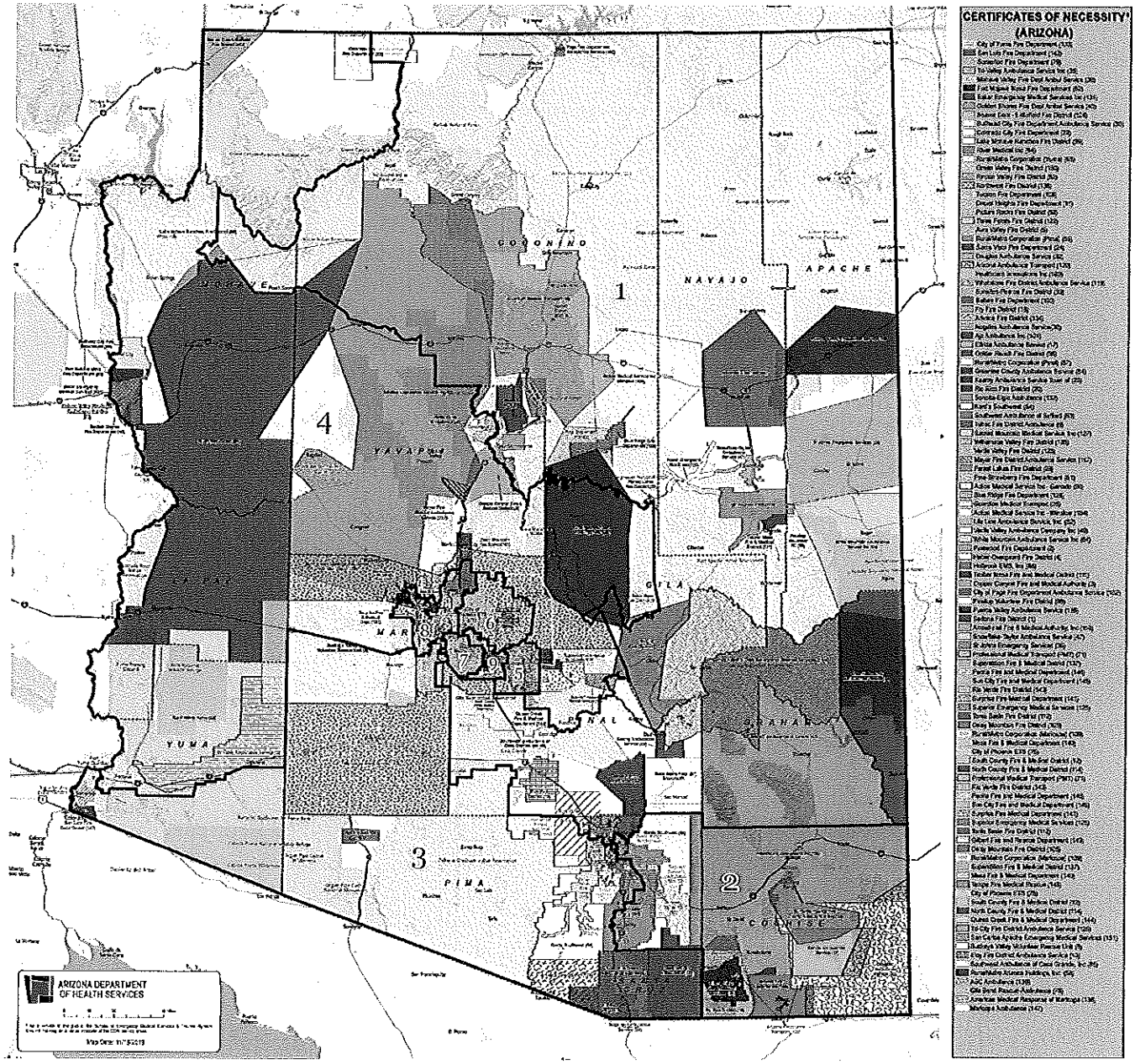
Tammy L. Eigenheer

Tammy L. Eigenheer, Assistant Presiding Administrative Law Judge at the Arizona Office of Administrative Hearings, has been with OAH since 2012. At OAH, Judge Eigenheer presides over a wide variety of cases including HOA matters, disputes between homeowners and licensed contractors, and disciplinary actions against professional licenses.

Before joining OAH, Judge Eigenheer was a hearing officer with the Nebraska Department of Health and Human Services for four years. Judge Eigenheer also clerked for the Missouri Court of Appeals, Southern District, in Springfield, Missouri, and the 4th Judicial District in Omaha, Nebraska.

Judge Eigenheer received her Bachelor of Science from Missouri State University and her Juris Doctorate from University of Missouri – Columbia School of Law where she was on Law Review and in the Order of the Coif.

CERTIFICATE OF NECESSITY BY CONGRESSIONAL DISTRICT



District 1 - Tom O'Halleran

4 Heber-Overgaard Fire District
5 Avra Valley Fire District
13 Eloy Fire District Ambulance
22 Colorado City Fire Department
23 Kearny Ambulance Service
26 Guardian Medical Transport
29 Forest Lakes Fire District
36 St Johns Emergency Services
47 Snowflake-Taylor Ambulance Service
56 Golder Ranch Fire District
62 Life Line Ambulance Service, Inc
63 Southwest Ambulance of Safford
64 White Mountain Ambulance Service Inc
71 Professional Medical Transport
84 Greenlee County Ambulance Service
85 Southwest Ambulance of Casa Grande Inc
87 Rural Metro Corporation-Pinal
88 Holbrook EMS Inc
90 Action Medical Service, Inc-Ganado
94 River Medical Inc
96 Pinetop Volunteer Fire District
99 Lake Mohave Ranchos Fire District
102 Page Fire Dept. Ambulance Service
104 Action Medical Service, Inc-Winslow
110 Arrowhead Fire & Medical Authority, Inc
111 Timber Mesa Fire and Medical District
116 Puerco Valley Ambulance Service
126 Tri-City Fire District Ambulance Service
127 Sacred Mountain Medical Service
136 American Medical Response of Maricopa
139 ABC Ambulance
147 Maricopa Ambulance, LLC
151 San Carlos Apache Tribe - EMS

District 2 - Ann Kirkpatrick

17 Elfrida Ambulance Service
18 Fry Fire District
24 Sierra Vista Fire & Medical Services
32 Douglas Ambulance Service
33 Sunsites-Pearce Fire District Ambulance Service
54 Kord's Southwest
55 Rural/Metro Corporation- Pima
92 Rincon Valley Fire District
100 Bisbee Fire Department
103 Healthcare Innovations, Inc
108 Tucson Fire Department
119 Whetstone Fire District Ambulance Service
120 Arizona Ambulance Transport
132 Sonoita-Elgin Ambulance
136 Northwest Fire District
150 Green Valley Fire District

District 3 - Raul Grijalva

5 Avra Valley Fire District
6 Tubac Fire District Ambulance
8 Buckeye Valley Volunteer Rescue Unit
11 Drexel Heights Fire Department
20 Rio Rico Fire District
30 Nogales Ambulance Service
52 Picture Rocks Fire District
54 Kord's Southwest
65 Rural Metro Corporation - Yuma
66 Southwest Ambulance & Rescue of AZ
71 Professional Medical Transport
76 City of Phoenix ETS
78 Gila Bend Rescue/Ambulance
79 Somerton Fire Department
101 Ajo Ambulance, Inc
108 Tucson Fire Department
109 Rural/Metro Corporation-Maricopa
122 Three Points Fire District
132 Sonoita-Elgin Ambulance
133 Yuma Fire Department
134 Arivaca Fire District
136 American Medical Response of Maricopa
138 Northwest Fire District
139 ABC Ambulance
142 San Luis Fire Department
147 Maricopa Ambulance

District 4 - Paul Gosar

3 Copper Canyon Fire & Medical District
8 Buckeye Valley Volunteer Rescue Unit
22 Colorado City Fire Department
35 Tri-Valley Ambulance Service
38 Mohave Valley Fire Dept Ambulance Service
39 Bullhead City Fire Department Ambulance
40 Golden Shores Fire Dept Ambulance
49 Verde Valley Ambulance Company
58 Rural/Metro Arizona Holdings
62 Life Line Ambulance Service
65 Rural Metro Corporation - Yuma
66 Southwest Ambulance & Rescue of AZ
71 Professional Medical Transport
82 Fort Mojave Mesa Fire Department
94 River Medical, Inc
99 Lake Mohave Ranchos Fire District
105 Daisy Mountain Fire District
109 Rural/Metro Corporation - Maricopa
114 North County Fire & Medical District
117 Mayer Fire District Ambulance Service
123 Verde Valley Fire District
124 Beaver Dam/Littlefield Fire District
131 Baker Emergency Medical Services
135 Williamson Valley Fire District
136 American Medical Response of Maricopa
139 ABC Ambulance
141 Surprise Fire & Medical Department
146 Peoria Fire and Medical Department
147 Maricopa Ambulance, LLC

District 5 - Andy Biggs

12 South County Fire and Medical District (AFMA)
71 Professional Medical Transport
136 American Medical Response of Maricopa
139 ABC Ambulance
147 Maricopa Ambulance

District 6 - David Schweikert

71 Professional Medical Transport
76 City of Phoenix ETS
109 Rural/Metro Corporation - Maricopa
136 American Medical Response of Maricopa
139 ABC Ambulance
147 Maricopa Ambulance

District 7 - Ruben Gallego

71 Professional Medical Transport
76 City of Phoenix ETS
109 Rural/Metro Corporation - Maricopa
136 American Medical Response of Maricopa
139 ABC Ambulance
147 Maricopa Ambulance

District 8 - Debbie Lesko

8 Buckeye Valley Volunteer Rescue Unit
62 Life Line Ambulance Service
66 Southwest Ambulance and Rescue of AZ
71 Professional Medical Transport
76 City of Phoenix ETS
105 Daisy Mounatin Fire District
109 Rural/Metro Corporation - Maricopa
114 North County Fire & Medical District
136 American Medical Response of Maricopa
139 ABC Ambulance
141 Surprise Fire & Medical Department
146 Peoria Fire & Medical Department
147 Maricopa Ambulance

District 9 - Greg Stanton

71 Professional Medical Transport
76 City of Phoenix ETS
109 Rural/Metro Corporation - Maricopa
136 American Medical Response of Maricopa
139 ABC Ambulance
147 Maricopa Ambulance
148 Tempe Fire Medical Rescue

Note:
Certificate of Necessity has some portion of its boundary within the Congressional District to be listed in it.

Attachment 18

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2826: tobacco; vaping; penalties; legal age
Sponsor: Representative Osborne, LD 13
Committee on Commerce

Overview

Clarifies the age of a *minor* to be consistent with federal law and establishes penalties for businesses that unlawfully furnishing tobacco and vapor products.

History

A person who knowingly sells, gives or furnishes cigars, cigarettes or cigarette papers or smoking and chewing tobacco (tobacco products), a vapor product or any instrument or paraphernalia that is solely designed for smoking or ingesting tobacco or shisha to a minor is guilty of a petty offense.

A minor who buys or possesses or knowingly accepts or receives such products or instruments is guilty of a petty offense and if applicable must pay a fine of at least $100 or serve at least 30 hours of community service.

A minor who misrepresents their age to any other person by means of a written instrument of identification with the intent to induce the other person to sell, give, or furnish such products or instruments is guilty of a petty offense and is required to pay a fine of no more than $500.

Statute defines "Shisha" as any mixture of tobacco leaf and honey, molasses or dried fruit or any other sweetener. "Vapor product" means a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States Food and Drug Administration (A.R.S. § 13-3622).

In 2019, the President signed legislation amending the Federal Food, Drug, and Cosmetic Act, and raising the federal minimum age of sale of tobacco products from 18 to 21 years.

Provisions

1. Replaces the term *minor* with a *person who is under the minimum age of sale for tobacco products as set by the Federal Food, Drug, and Cosmetic Act* in statute relating to selling or purchasing tobacco and vapor products. (Sec. 1)
2. Prescribes penalties and restrictions for businesses that violate laws relating to furnishing of tobacco and vapor products. (Sec. 1)
3. Specifies a business that violates an imposed restriction is subject to additional fines and increased restrictions. (Sec. 1)
4. Prohibits a court from waiving a fine if the enterprise commits a second or subsequent violation after 3 years from the first violation. (Sec. 1)
5. Requires at least one owner or manager and one person serving in a nonmanagerial position to attend a tobacco retailer educational course, if ordered by a court. (Sec.1)

6. Instructs the Department of Revenue (Department), on notice from the Attorney General's office, to suspend a person's use of the TPT class code for the retail sale of tobacco and vapor products for a period specified by the AG if the person commits a second or subsequent violation of laws relating to furnishing of tobacco and vapor products.
   a) Stipulates the Department must notify the AG if the person reports revenue from the sale of tobacco or vapor products during the suspension period. (Sec. 2)
7. Requires the Department to separately account for revenues collected from the gross proceeds of sales of tobacco and vapor products. (Sec. 3, 4)
8. Contains a conditional enactment clause. (Sec. 5)
9. Makes technical changes. (Sec. 1, 3, 4)

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2826

DATE February 18, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez					✓
Epstein		✓			
Kern		✓			
Meza					✓
Roberts					✓
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		6	0	0	3

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 20

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2853: furnishing tobacco; minors; enterprise penalties
Sponsor: Representative Bolick, LD 20
Committee on Commerce

Overview

Establishes penalties for businesses that unlawfully furnishing tobacco and vapor products.

History

A person who knowingly sells, gives or furnishes cigars, cigarettes or cigarette papers or smoking and chewing tobacco (tobacco products), a vapor product or any instrument or paraphernalia that is solely designed for smoking or ingesting tobacco or shisha to a minor is guilty of a petty offense.

A minor who buys or possesses or knowingly accepts or receives such products or instruments is guilty of a petty offense and if applicable must pay a fine of at least $100 or serve at least 30 hours of community service.

A minor who misrepresents their age to any other person by means of a written instrument of identification with the intent to induce the other person to sell, give, or furnish such products or instruments is guilty of a petty offense and is required to pay a fine of no more than $500.

Statute defines "Shisha" as any mixture of tobacco leaf and honey, molasses or dried fruit or any other sweetener. "Vapor product" means a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States Food and Drug Administration (A.R.S. § 13-3622).

Provisions

1. Prescribes penalties and restrictions for businesses that violate laws relating to furnishing of tobacco and vapor products as follows:
   a) For a first offense, mandatory attendance at a court-approved tobacco retailer educational course in lieu of or in addition to a fine of at least $500 but not more than $750;
   b) For a second offense within 3 years, a fine of at least $1,000 but not more than $1,500 and mandatory attendance at a court-approved tobacco retailer educational course, and the court must prohibit the enterprise from selling, giving or furnishing tobacco or vapor products for 30 days.
   c) For a third offense within 3 years, a fine of at least $2,000 but not more than $2,500 and mandatory attendance at a court-approved tobacco retailer educational course, and the court shall prohibit the enterprise from selling, giving or furnishing tobacco or vapor products for 90 days.
   d) For a fourth or subsequent offense within 3 years, a fine of at least $3,000 but not more than $5,000 and mandatory attendance at a court-approved tobacco retailer educational course and the court shall prohibit the enterprise from selling, giving or furnishing tobacco or vapor products for 1 year. (Sec. 1)

2. Specifies a business that violates an imposed restriction is subject to additional fines and increased restrictions. (Sec. 1)
3. Prohibits a court from waiving a fine if the enterprise commits a second or subsequent violation after 3 years from the first violation. (Sec. 1)
4. Requires at least one owner or manager and one person serving in a nonmanagerial position to attend a tobacco retailer educational course, if ordered by a court. (Sec.1)

Fifty-fourth Legislature
Second Regular Session

Commerce
H.B. 2853

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2853

(Reference to printed bill)

Page 1, line 6, strike the first and second "minor" insert "underage person"

Lines 16 and 17, strike "minor" insert "PERSON WHO IS UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT"

Line 25, strike "minor" insert "PERSON WHO IS UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT"; strike "minor's" insert "PERSON'S"; after "any" insert "OTHER"

Lines 42 and 43, strike "minor" insert "PERSON WHO IS UNDER THE MINIMUM AGE OF SALE FOR TOBACCO PRODUCTS AS SET BY THE FEDERAL FOOD, DRUG, AND COSMETIC ACT"

Page 2, line 19, after "COURSE" insert a comma

Amend title to conform

JEFF WENINGER

2853WENINGER
02/17/2020
09:36 AM
H: LS/PRB/ra

Attachment 22

Adopted ✓ # of Verbals ____
Failed ____ Withdrawn ____
Not Offered ____ Analysts Initials PB

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2853

DATE February 18, 2020 MOTION: DPA

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler			✓		
Chávez					✓
Epstein			✓		
Kern		✓			
Meza					✓
Roberts					✓
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		4	2	0	3

Lisa McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 23

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2813: sports betting; historic racing; revenue
Sponsor: Representative Pierce, LD 1
Committee on Commerce

Overview

Allows for historic racing and sports betting to be conducted in this state.

History

The Arizona Department of Gaming (Department) was established in 1995 to monitor tribal gaming activities in accordance with the Arizona tribal-state gaming compacts required by federal law and as authorized by statute.

Federal law requires an Indian tribe and the state to negotiate for a tribal-state compact governing the conduct of class III gaming activities on tribal lands (25 U.S.C. 2710). The tribal-state gaming compacts between Arizona and the 22 federally-recognized Indian tribes in the state are substantially identical and outline the regulatory framework governing class III gaming. The Department's duties prescribed by statute and tribal-state gaming compacts include: 1) monitoring gaming operations; 2) investigating suspected compact violations; 3) conducting compact compliance reviews of gaming operations, facilities and activities of facility operators; 4) certifying gaming employees who are not enrolled tribal members; 5) certifying management contractors, financiers, manufacturers and suppliers of gaming devices, providers of gaming services and management officials; 6) administering the transfer of unused gaming device allocations; 7) providing problem gambling prevention, treatment and education; and 8) administering and allocating Indian tribes' state contributions through the Arizona Benefits Fund as outlined (A.R.S. Title 5, Chapter 6).

Provisions

Historic Racing (Sec. 1)

1. Requires the Department to adopt rules to allow historic racing to be conducted as regulated gambling at racetrack enclosures and additional wagering facilities.
   a) Requires the rules to include license application procedures and approval, issuance, renewal and revocation criteria.
2. Specifies the systems for wagering may be both manual and electronic forms of wagering.
   a) Requires the wagering to be on a closed-loop system located within a racetrack enclosure or additional wagering facility.
3. Instructs the Director (Director) of the Department to establish application, issuance and renewal licensing fees.
4. Defines *historic racing* as a form of racing that establishes pari-mutuel pools from wagers placed on previously conducted races and that is conduct by a commercial live-racing permittee or additional wagering facility.

☒ Prop 105 (45 votes)	☐ Prop 108 (40 votes)	☐ Emergency (40 votes)	☐ Fiscal Note

Tribal-State Gaming Compact (Sec. 2)

5. Removes statutory language that is incorporated into a tribal-state gaming compact that stipulates tribal actions that maybe taken if, after May 2, 2002, state law changes to permit a person or entity other than an Indian tribe to operate a gaming device, any form of class III gaming or poker.

Sports Betting (Sec. 3)

6. Instructs the Department to adopt rules to allow sports betting to be conducted as regulated gambling at pari-mutuel racetrack, additional wagering facilities and casinos.
   a) Specifies the rules must include licensure requirement; and
   b) Adds the Director must establish licensing fees.
7. Allows the betting systems to be both manual and electronic forms on a closed-loop system.
8. Requires the Department to regulate sports betting in a manner that is consistent with the regulation of tribal gaming.
9. Allows an Indian tribe to operate sports betting through a tribal gaming operator who is subject to licensure.
10. Specifies the licensure of the owner, partner, shareholder of the tribal gaming operator does not include the members or government officials of an Indian tribe.
11. Directs the Department to impose and collect an unspecified percent amount of the licensee's adjusted gross sports betting receipts.
12. Establishes the racing purse enhancement fund consisting of monies collected from sports betting receipts.
    a) Requires the Department to administer the fund; and
    b) Outlines the distribution of monies.
13. Defines pertinent terms.

Miscellaneous

14. Includes sports betting and historic racing that is conducted pursuant to statute as lawful regulated gambling. (Sec. 5)
15. Exempts sports betting and historic racing from statute relating to prohibited betting and wagering. (Sec. 6)
16. Includes sports betting that is conducted outside a racetrack enclosure, additional wagering facility or tribal casino to the amusement tax classification. (Sec. 7)
17. Allows certain revenues collected by an Indian tribe for sports betting to be deducted from the amusement classification tax base. (Sec. 7)
18. Limits amounts subject to state and local taxes to 6.75% of the adjusted gross receipts. (Sec. 7)
19. Specifies *gross income* and *gross proceeds of sale* means the receipts remaining after deducting the monies paid for winnings from gross receipts. (Sec. 7)
20. Exempts the Department from rulemaking for one year. (Sec. 8)
21. Contains a Prop 105 clause. (Sec. 9)
22. Makes conforming changes. (Sec. 2, 4)

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2813

DATE February 18, 2020 MOTION: DP

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler			✓		
Chávez					✓
Epstein			✓		
Kern		✓			
Meza					✓
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		5	2	0	2

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

Jeff Weninger
JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 25

February 17, 2020

House Commerce Committee
Arizona State Capitol Complex
1700 West Washington Street
Phoenix, Arizona 85007

Re: HB 2813 (Rep. Pierce; Senator Borrelli); Sports Betting; Historic Racing - OPPOSED

Dear Commerce Committee Members:

The Arizona Indian Gaming Association ("AIGA") opposes HB 2813, which proposes to legalize sports betting and historic racing, and to unilaterally change the existing tribal-state compact's exclusivity provisions. HB 2813 would legalize previously illegal sports betting and historic racing gambling in the State of Arizona.

In short, this bill would violate the Indian Gaming Regulatory Act; disrupt on-going tribal-state compact negotiations; trigger the existing "poison pill" provisions of the tribal-state compact upon enactment; require a three-fourths vote of the Legislature; and could impair the interests of gaming tribes under the existing tribal-state compact in violation of the Arizona Constitution. HB 2813 does not demonstrate considered public policy regarding gaming in the State of Arizona and is inconsistent with the voters' will expressed through the passage of Proposition 202 in 2002.

General Overview

This bill requires the Arizona Department of Gaming (ADOG) to adopt rules to allow historic racing to be conducted at racetracks and additional wagering facilities. The bill would allow for manual and electronic forms of wagering and defines "historic racing."

The bill would also authorize sports betting in the state and direct ADOG to adopt rules regarding the conduct of sports betting at racetracks, additional wagering facilities, and casinos, and licensing of tribal gaming operators. Further, the bill would impose a tax on operators and allocates sports betting revenues to a "Racing Purse Enhancement Fund."

The bill would also unilaterally attempt to modify the existing tribal-state compact exclusivity provisions and strike the "poison pill" remedies. It would also remove the reference to exclusivity being consideration for payments by the compact

tribes, but would still require tribes to make tribal contributions in accordance with the existing contributions.

Historic Racing

Arizona's current horse racing rules do not encompass pari-mutuel historic racing. The term "historic racing" refers to the use of an electronic device or terminal (*e.g.*, a slot machine) to place bets on completed horse races in which the bettors do not know the outcome of the race. *Wyoming Downs Rodeo Events, LLC v. State,* 134 P.3d 1223, 1229-30 (Wyo. 2006). Historic racing is also known as "historical horse racing," "Instant Racing" (RaceTech, LLC's registered trademark for its patented system), "racing replay," or "replayed races." *Id.* at 1224-25; *Racetech, LLC v. Kentucky Downs, LLC,* 169 F. Supp. 3d 709, 711 (W.D. Ky. 2016); *State ex rel. Loontjer v. Gale,* 853 N.W.2d 494, 499-500 (Neb. 2014); Col. Rev. Stat. Ann. § 44-32-605 (2018); *see also Wyoming Downs,* 134 P.3d at 1225 (historic racing also encompasses completed dog races).

The Supreme Court of Kentucky has described historic racing as follows:

> The bettor inserts money or its equivalent into the Instant Racing terminal and then chooses a horse identified by a number. The terminal then displays a video recording of the race for the better [sic] to watch, or, as the name "Instant Racing" implies, the bettor may forego the excitement of the actual race by opting to see immediately the results of the race and the outcome of his wager. Bettors are not given information from which they might identify the specific time and place of the actual running of the race, or the identity of the horse, but some statistical data regarding the horses is provided for bettors who wish to place their bets with some degree of deliberation.

Appalachian Racing, LLC v. Family Tr. Found. of Kentucky, Inc., 423 S.W.3d 726, 730 (Ky. 2014). The terminals also allow a player to make wagers on several races at the same time, as opposed to traditional horse wagering, which generally only allows bets on one race at a time. *State ex rel. Loontjer*, 853 N.W.2d at 500.

Impact on Tribal-State Compact

"In conclusion, because pari-mutuel historic race wagering was not legal at the time of the Compact, if Arizona allowed it, the tribal signatories to the Compact could initiate action under § 3(h)(1) to abrogate portions of the Compact." August 2018 Attorney General Opinion issued by Mark Brnovich.

According to an August 2018 Attorney General Opinion issued by Mark Brnovich:

> "Wagering on historic racing through the use of player terminals has been prohibited in Arizona since before

> May 1, 2002. Any change to Arizona's pre-May 1, 2002 gaming laws could cause one of the signatories to the Arizona Tribal-State Gaming Compact (the "Compact") to initiate action under Compact section 3(h)(1), which would limit the State's ability to regulate some aspects of tribal gaming and dramatically decrease the revenues the tribes must provide to the State. Accordingly, Arizona's Indian Gaming Compact could be in jeopardy if the State permits historic pari-mutuel wagering."

Sports Betting; Tax on Indian Tribe; State Law v. Federal Law Gaming

This proposal is very similar to earlier proposals by Senator Borrelli, i.e., off-reservation sports betting being offered by Indian tribes or tribal gaming operators.

IGRA provides that Indian gaming can only be conducted on Indian lands. The bets or wagers at kiosks or by other methods by the language of the bill could take place off-reservation, i.e., not on Indian lands.

Hence, the question is whether this gaming is really going to be conducted by tribes or tribal operators (i.e., third parties) under state law. Importantly, the bill includes a tax provision, which imposes a tax on the gross income or gross proceeds of sales related to the sports betting. IGRA would prohibit the imposition of such a tax if this gaming is considered Indian gaming. If the sports betting is operated under State law, then the tax may be permissible because the operator (a third party) would be offering the sports betting under State law.

The ambiguity in HB 2813 is unacceptable and will result in a potential State violation of federal law as well as triggering the "poison pill" provisions of the existing tribal-state compact.

IGRA; Unilateral Amendment of Compact; Exclusivity

HB 2813 would contravene the Indian Gaming Regulatory Act. IGRA anticipates that a tribal-state compact will be negotiated and entered mutually by a state and a tribe. That is what happened as a result of Proposition 202. A unilateral amendment to the tribal-state compact would be inconsistent with the requirements of a mutually negotiated tribal-state compact under IGRA. Likewise, it is doubtful that the Secretary of the Interior (or his delegate) would approve such an amendment as required by IGRA.

This bill would trigger the "poison pill" provisions of the existing tribal-state compact. This bill would both authorize new gaming and gaming devices in violation of the exclusivity provisions. The Compact provides at Section 3(h):

> If, on or after May 1, 2002, State law changes or is interpreted in a final judgment of a court of competent jurisdiction or in a final order of a State administrative agency to permit either a Person or entity other than an Indian tribe to operate Gaming Devices; any form of Class III Gaming (including Video Lottery Terminals) that is not authorized under this Compact, other than gambling that is lawful on May 1, 2002 pursuant to A.R.S. § 13-3302; or poker, other than poker that is lawful on May 1, 2002 pursuant to A.R.S. § 13-3302 . . . then, upon the effective date of such State law, final judgment, or final order: (A) [t]he Tribe shall be authorized under this Compact to operate Class III Gaming Devices without limitations . . . and without the need to amend this Compact (B) [t]he Tribe shall be authorized under this Compact to operate table games, without limitations . . . and without the need to amend this Compact . . . and (C) . . . the Tribe's obligation under Section 12 to make contributions to the State shall be immediately reduced . . . .

Compact § 3(h)(1)(A)-(C) (2003), *available at* https://gaming.az.gov/sites/default/files/documents/files/compact.final_.pdf (emphasis added).

The Compact further provides:

> The provisions of this Section 3(h) shall not apply to casino nights operated by non-profit or charitable organizations pursuant to and qualified under A.R.S. § 13-3302(B); to social gambling as defined in A.R.S. § 13-3301(7); to any paper product lottery games, including ticket dispensing devices of the nature used prior to May 1, 2002, by the Arizona lottery; or to low-wager, non-banked recreational pools or similar activities operated by and on the premises of retailers licensed under Title 4, Arizona Revised Statutes, as may be authorized by State law.

Id. at § 3(h)(2) (emphasis added).

Authorizing new sports betting and historic racing would trigger the "poison pill" because the State would authorize a person or entity to offer new gaming that was not authorized on May 1, 2002 and both forms of gaming would be considered Class III

gaming under IGRA. Hence, the State would lose approximately $98 million per year in contributions to the Arizona Benefits Fund.

Voter Protection Act

This bill would unilaterally amend the existing tribal-state compacts to remove the exclusivity provision and acknowledgment that exclusivity is consideration for payments.

Proposition 202 directed the Governor to enter into tribal gaming compacts allowing Indian tribes to operate slot machines and card and table games on tribal land. In return, tribes would contribute 1% to 8% of "gross gaming revenue" (defined as the difference between gaming wins and losses, before deducting costs and expenses) to the state to fund programs for problem gambling, classroom size reduction, teacher salary increases, dropout prevention, instructional improvement, trauma and emergency services, wildlife conservation, tourism and local government programs benefiting the general public. These distributions are outside the regular legislative process.

Proposition 202 expressly directs the Governor to enter into a new gaming compact with each Indian tribe that requests it.

Proposition 202 also expressly provides the Governor with authority to amend a gaming compact consistent with the terms of Proposition 202.

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Conclusion

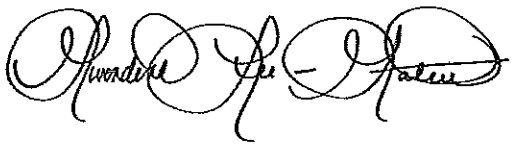
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Tribes in Arizona have a vested interest in the outcome of any proposed legislation regarding sports betting and historic racing as well as Legislative proposals to amend the existing tribal-state compact. Gaming legislation in Arizona needs to be a win–win scenario for both the State and Tribes. The appropriate time and place for

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Thank you for your consideration of the Arizona Indian Gaming Association's comments.

Sincerely,



Gwendena Lee-Gatewood, Chairperson
Arizona Indian Gaming Association

AK-CHIN INDIAN COMMUNITY

Community Government

42507 W. Peters & Nall Road • Maricopa, Arizona 85138 • Telephone: (520) 568-1000 • Fax: (520) 568-1001

February 18, 2020

House Commerce Committee
Arizona State Capitol Complex
1700 West Washington Street
Phoenix, Arizona 85007

Re: HB 2813 (Rep. Pierce; Senator Borrelli); Sports Betting; Historic Racing

Dear Commerce Committee Members:

The Ak-Chin Indian Community, a federally recognized Indian tribe ("Tribe") opposes HB 2813, which proposes to legalize sports betting and historic racing, and to unilaterally change the existing tribal-state compact's exclusivity provisions. HB 2813 would legalize previously illegal sports betting and historic racing gambling in the State of Arizona.

In short, this bill would violate the Indian Gaming Regulatory Act; disrupt on-going tribal-state compact negotiations; trigger the existing "poison pill" provisions of the tribal-state compact upon enactment; require a three-fourths vote of the Legislature; and could impair the interests of gaming tribes under the existing tribal-state compact in violation of the Arizona Constitution. HB 2813 does not demonstrate considered public policy regarding gaming in the State of Arizona and is inconsistent with the voters' will expressed through the passage of Proposition 202 in 2002.

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The bill would also unilaterally attempt to modify the existing tribal-state compact exclusivity provisions and strike the "poison pill" remedies. It would also remove the reference to exclusivity being consideration for payments by the compact

tribes, but would still require tribes to make tribal contributions in accordance with the existing contributions.

Historic Racing

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Appalachian Racing, LLC v. Family Tr. Found. of Kentucky, Inc., 423 S.W.3d 726, 730 (Ky. 2014). The terminals also allow a player to make wagers on several races at the same time, as opposed to traditional horse wagering, which generally only allows bets on one race at a time. *State ex rel. Loontjer*, 853 N.W.2d at 500.

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This proposal is very similar to earlier proposals by Senator Borrelli, i.e., off-reservation sports betting being offered by Indian tribes or tribal gaming operators.

IGRA provides that Indian gaming can only be conducted on Indian lands. The bets or wagers at kiosks or by other methods by the language of the bill could take place off-reservation, i.e., not on Indian lands.

Hence, the question is whether this gaming is really going to be conducted by tribes or tribal operators (i.e., third parties) under state law. Importantly, the bill includes a tax provision, which imposes a tax on the gross income or gross proceeds of sales related to the sports betting. IGRA would prohibit the imposition of such a tax if this gaming is considered Indian gaming. If the sports betting is operated under State law, then the tax may be permissible because the operator (a third party) would be offering the sports betting under State law.

The ambiguity in HB 2813 is unacceptable and will result in a potential State violation of federal law as well as triggering the "poison pill" provisions of the existing tribal-state compact.

IGRA; Unilateral Amendment of Compact; Exclusivity

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Thank you for your consideration of the Ak-Chin Indian Community comments.

Sincerely,

Gabriel Lopez, Vice-Chairman
Ak-Chin Indian Community

Kaibab Band of Paiute Indians

February 18, 2020

House Commerce Committee
Arizona State Capitol Complex
1700 West Washington Street
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Tribal Affairs
HC 65 Box 2
Fredonia, Arizona 86022
Phone (928) 643-7245
Fax (888) 939-3777

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Sincerely,

Ona M. Segundo
Chairwoman

xc: Tribal Council
Arizona House Commerce Committee Members

Terry Rambler
Chairman

SAN CARLOS APACHE TRIBE

P.O. Box 0, San Carlos, Arizona 85550
Phone (928) 475-1600 ❖ Fax (928) 475-2567

Tao Etpison
Vice-Chairman

February 18, 2020

Via Email & U.S. Postal Service

Honorable Jamescita Peshlakai
Senator
E-M: jpeshlakai@azleg.gov

Honorable Arlando Teller
Representative
E-M: ateller@azleg.gov

Honorable Myron Tsosie
Representative
E-M: mtsosie@azleg.gov
Arizona District 7

&

Honorable Members of the Commerce Committee
Arizona House of Representatives
1700 West Washington Street
Phoenix, Arizona 85007

Re: HB 2813 (Rep. Pierce; Senator Borrelli); Sports Betting; Historic Racing

Dear Senator Peshlakai, Reps. Teller & Tsosie, Commerce Committee Members:

On behalf of the over 16,900 members of the San Carlos Apache Tribe (the "Tribe"), I oppose HB 2813, which proposes to legalize sports betting and historic racing, and to unilaterally change the existing tribal-state compact's exclusivity provisions. HB 2813 would legalize previously illegal sports betting and historic racing gambling in the State of Arizona.

In short, this bill would violate the Indian Gaming Regulatory Act; disrupt on-going tribal-state compact negotiations; trigger the existing "poison pill" provisions of the tribal-state compact upon enactment; require a three-fourths vote of the Legislature; and could impair the interests of gaming tribes under the existing tribal-state compact in violation of the Arizona Constitution. HB 2813 does not demonstrate considered public policy regarding gaming in the State of Arizona and is inconsistent with the voters' will expressed through the passage of Proposition 202 in 2002.

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HB 2813 would contravene the Indian Gaming Regulatory Act. IGRA anticipates that a tribal-state compact will be negotiated and entered mutually by a state and a tribe. That is what happened as a result of Proposition 202. A unilateral amendment to the tribal-state compact would be inconsistent with the requirements of a mutually negotiated tribal-state compact under IGRA. Likewise, it is doubtful that the Secretary of the Interior (or his delegate) would approve such an amendment as required by IGRA.

This bill would trigger the "poison pill" provisions of the existing tribal-state compact. This bill would both authorize new gaming and gaming devices in violation of the exclusivity provisions. The Compact provides at Section 3(h):

> If, on or after May 1, 2002, State law changes or is interpreted in a final judgment of a court of competent jurisdiction or in a final order of a State administrative agency to permit either a Person or entity other than an Indian tribe to operate Gaming Devices; any form of Class III Gaming (including Video Lottery Terminals) that is not authorized under this Compact, other than gambling that is lawful on May 1, 2002 pursuant to A.R.S. § 13-3302; or poker, other than poker that is lawful on May 1, 2002 pursuant to A.R.S. § 13-3302 . . . then, upon the effective date of such State law, final judgment, or final order: (A) [t]he Tribe shall be authorized under this Compact to operate Class III Gaming Devices without limitations . . . and without the need to amend this Compact (B) [t]he Tribe shall be authorized under this Compact to operate table games, without limitations . . . and without the need to amend this Compact . . . and (C) . . . the Tribe's obligation under Section 12 to make contributions to the State shall be immediately reduced . . . .

Compact § 3(h)(1)(A)-(C) (2003), *available at* https://gaming.az.gov/sites/default/files/documents/files/compact.final_.pdf (emphasis added).

The Compact further provides:

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> 1, 2002, by the Arizona lottery; or to low-wager, non-banked recreational pools or similar activities operated by and on the premises of retailers licensed under Title 4, Arizona Revised Statutes, as may be authorized by State law.

Id. at § 3(h)(2) (emphasis added).

Authorizing new sports betting and historic racing would trigger the "poison pill" because the State would authorize a person or entity to offer new gaming that was not authorized on May 1, 2002 and both forms of gaming would be considered Class III gaming under IGRA. Hence, the State would lose approximately $98 million per year in contributions to the Arizona Benefits Fund.

Voter Protection Act

This bill would unilaterally amend the existing tribal-state compacts to remove the exclusivity provision and acknowledgment that exclusivity is consideration for payments.

Proposition 202 directed the Governor to enter into tribal gaming compacts allowing Indian tribes to operate slot machines and card and table games on tribal land. In return, tribes would contribute 1% to 8% of "gross gaming revenue" (defined as the difference between gaming wins and losses, before deducting costs and expenses) to the state to fund programs for problem gambling, classroom size reduction, teacher salary increases, dropout prevention, instructional improvement, trauma and emergency services, wildlife conservation, tourism and local government programs benefiting the general public. These distributions are outside the regular legislative process.

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Proposition 202 also expressly provides the Governor with authority to amend a gaming compact consistent with the terms of Proposition 202.

The Voter Protection Act ("VPA") limited the Legislature's authority to modify voter initiatives and referenda such as Proposition 202. When the Legislature deviates from a voter-approved law, the constitutional limitations of the VPA apply and qualify the Legislature's otherwise plenary authority. A.R.S. Const. Art. 4, Pt. 1, § 1(6)(B, C), (14). Nor may it amend or supersede a voter-approved law unless the proposed legislation "furthers the purposes" of the initiative or referendum measure and is approved by a three-fourths vote in the House of Representatives and Senate. Ariz. Const. art. 4, pt. 1, § 1(6)(C), (14).

It is doubtful that HB 2813 is consistent with the express terms of Proposition 202 or that it furthers the purposes of Proposition 202. In fact, it would impair tribal interests and rights under existing law and the tribal-state compact.

Conclusion

Arizona legalization and regulation of sports betting and historic racing would jeopardize the policies underlying the tribal-state compact's "mutually beneficial and well-regulated gaming system" as well as on-going, comprehensive negotiations between the Governor and Arizona tribes. Passage of HB 2813 would result in the State losing tribal contributions discussed above.

Tribes in Arizona have a vested interest in the outcome of any proposed legislation regarding sports betting and historic racing as well as Legislative proposals to amend the existing tribal-state compact. Gaming legislation in Arizona needs to be a win-win scenario for both the State and Tribes. The appropriate time and place for those discussions are tribal-state compact negotiations, which are on-going. The Governor has stated his intent to have safe, regulated, and limited gambling in the State. The tribal-state compact negotiation should be allowed to proceed to ensure a comprehensive discussion of gaming in the State rather than piecemeal legislation that could jeopardize the interests and expectations of the State and tribes.

For these reasons, the Legislature must reject HB 2813.

As we say in our Apache language, Ahi'yi'é (thank you) in advance for your consideration of our request.

Sincerely,

SAN CARLOS APACHE TRIBE

Terry Rambler
Chairman

Cc Sen Frank Pratt, Dist. 8, fpratt@azleg.gov
Rep. David L. Cook, Dist. 8, dcook@azleg.gov
Thomas "TJ" Shope, Jr., Dist. 8. tshope@azleg.gov

Carla Johnson, Exec Dir., AIGA, Carla.Johnson@azindiangaming.org

San Carlos Apache Tribe
Tao Etpison, Vice Chairman
San Carlos Council Members
Michelle Young, Treasurer
Matt Olin, CEO, SCAGE
Jolene Noline, Exec. Dir., TGO
A.B. Ritchie, AG, DOJ
Chrono

GWENDENA LEE-GATEWOOD
EXECUTIVE OFFICE OF THE CHAIRWOMAN
WHITE MOUNTAIN APACHE TRIBE

February 16, 2020

House Commerce Committee
Arizona State Capitol Complex
1700 West Washington Street
Phoenix, Arizona 85007

Re: HB 2813 (Rep. Pierce; Senator Borrelli); Sports Betting; Historic Racing - OPPOSED

Dear Commerce Committee Members:

The White Mountain Apache Tribe, a federally recognized Indian tribe opposes HB 2813, which proposes to legalize sports betting and historic racing, and to unilaterally change the existing tribal-state compact's exclusivity provisions. HB 2813 would legalize previously illegal sports betting and historic racing gambling in the State of Arizona.

In short, this bill would violate the Indian Gaming Regulatory Act; disrupt on-going tribal-state compact negotiations; trigger the existing "poison pill" provisions of the tribal-state compact upon enactment; require a three-fourths vote of the Legislature; and could impair the interests of gaming tribes under the existing tribal-state compact in violation of the Arizona Constitution. HB 2813 does not demonstrate considered public policy regarding gaming in the State of Arizona and is inconsistent with the voters' will expressed through the passage of Proposition 202 in 2002.

General Overview

This bill requires the Arizona Department of Gaming (ADOG) to adopt rules to allow historic racing to be conducted at racetracks and additional wagering facilities. The bill would allow for manual and electronic forms of wagering and defines "historic racing."

The bill would also authorize sports betting in the state and direct ADOG to adopt rules regarding the conduct of sports betting at racetracks, additional wagering facilities,

and casinos, and licensing of tribal gaming operators. Further, the bill would impose a tax on operators and allocates sports betting revenues to a "Racing Purse Enhancement Fund."

The bill would also unilaterally attempt to modify the existing tribal-state compact exclusivity provisions and strike the "poison pill" remedies. It would also remove the reference to exclusivity being consideration for payments by the compact tribes, but would still require tribes to make tribal contributions in accordance with the existing contributions.

Historic Racing

Arizona's current horse racing rules do not encompass pari-mutuel historic racing. The term "historic racing" refers to the use of an electronic device or terminal (*e.g.*, a slot machine) to place bets on completed horse races in which the bettors do not know the outcome of the race. *Wyoming Downs Rodeo Events, LLC v. State,* 134 P.3d 1223, 1229-30 (Wyo. 2006). Historic racing is also known as "historical horse racing," "Instant Racing" (RaceTech, LLC's registered trademark for its patented system), "racing replay," or "replayed races." *Id.* at 1224-25; *Racetech, LLC v. Kentucky Downs, LLC,* 169 F. Supp. 3d 709, 711 (W.D. Ky. 2016); *State ex rel. Loontjer v. Gale,* 853 N.W.2d 494, 499-500 (Neb. 2014); Col. Rev. Stat. Ann. § 44-32-605 (2018); *see also Wyoming Downs,* 134 P.3d at 1225 (historic racing also encompasses completed dog races).

The Supreme Court of Kentucky has described historic racing as follows:

> The bettor inserts money or its equivalent into the Instant Racing terminal and then chooses a horse identified by a number. The terminal then displays a video recording of the race for the better [sic] to watch, or, as the name "Instant Racing" implies, the bettor may forego the excitement of the actual race by opting to see immediately the results of the race and the outcome of his wager. Bettors are not given information from which they might identify the specific time and place of the actual running of the race, or the identity of the horse, but some statistical data regarding the horses is provided for bettors who wish to place their bets with some degree of deliberation.

Appalachian Racing, LLC v. Family Tr. Found. of Kentucky, Inc., 423 S.W.3d 726, 730 (Ky. 2014). The terminals also allow a player to make wagers on several races at the same time, as opposed to traditional horse wagering, which generally only allows bets on one race at a time. *State ex rel. Loontjer*, 853 N.W.2d at 500.

Impact on Tribal-State Compact

"In conclusion, because pari-mutuel historic race wagering was not legal at the time of the Compact, if Arizona allowed it, the tribal signatories to the Compact could

initiate action under § 3(h)(1) to abrogate portions of the Compact." August 2018 Attorney General Opinion issued by Mark Brnovich.

According to an August 2018 Attorney General Opinion issued by Mark Brnovich:

> "Wagering on historic racing through the use of player terminals has been prohibited in Arizona since before May 1, 2002. Any change to Arizona's pre-May 1, 2002 gaming laws could cause one of the signatories to the Arizona Tribal-State Gaming Compact (the "Compact") to initiate action under Compact section 3(h)(1), which would limit the State's ability to regulate some aspects of tribal gaming and dramatically decrease the revenues the tribes must provide to the State. Accordingly, Arizona's Indian Gaming Compact could be in jeopardy if the State permits historic pari-mutuel wagering."

Sports Betting; Tax on Indian Tribe; State Law v. Federal Law Gaming

This proposal is very similar to earlier proposals by Senator Borrelli, i.e., off-reservation sports betting being offered by Indian tribes or tribal gaming operators.

IGRA provides that Indian gaming can only be conducted on Indian lands. The bets or wagers at kiosks or by other methods by the language of the bill could take place off-reservation, i.e., not on Indian lands.

Hence, the question is whether this gaming is really going to be conducted by tribes or tribal operators (i.e., third parties) under state law. Importantly, the bill includes a tax provision, which imposes a tax on the gross income or gross proceeds of sales related to the sports betting. IGRA would prohibit the imposition of such a tax if this gaming is considered Indian gaming. If the sports betting is operated under State law, then the tax may be permissible because the operator (a third party) would be offering the sports betting under State law.

The ambiguity in HB 2813 is unacceptable and will result in a potential State violation of federal law as well as triggering the "poison pill" provisions of the existing tribal-state compact.

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The Legislature should reject HB 2813. Arizona legalization and regulation of sports betting and historic racing would jeopardize the policies underlying the tribal-state compact's "mutually beneficial and well-regulated gaming system" as well as on-going, comprehensive negotiations between the Governor and Arizona tribes. Passage of HB 2813 would result in the State losing tribal contributions discussed above.

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Governor has stated his intent to have safe, regulated, and limited gambling in the State. The tribal-state compact negotiation should be allowed to proceed to ensure a comprehensive discussion of gaming in the State rather than piecemeal legislation that could jeopardize the interests and expectations of the State and tribes.

Thank you for your consideration of the White Mountain Apache Tribe's comments.

Sincerely,



Gwendena Lee-Gatewood, Chairwoman

C: file
AIGA

Val R. Panteah Sr.
Governor

Carleton R. Bowekaty
Lt. Governor

Virginia R. Chavez
Head Councilwoman

Clyde Yatsattie
Councilman

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Arlen P. Quetawki Sr.
Councilman

Eric Bobelu
Councilman

Ricky R. Penketewa, Sr.
Councilman

Arden Kucate
Councilman

Officially known as the Zuni Tribe of the Zuni Indian Reservation

February 18, 2020

House Commerce Committee
Arizona State Capitol Complex
1700 West Washington Street
Phoenix, Arizona 85007

Re: HB 2813 (Rep. Pierce; Senator Borrelli); Sports Betting; Historic Racing

Dear Commerce Committee Members:

The Zuni Tribe, a federally recognized Indian tribe ("Tribe") opposes HB 2813, which proposes to legalize sports betting and historic racing, and to unilaterally change the existing tribal-state compact's exclusivity provisions. HB 2813 would legalize previously illegal sports betting and historic racing gambling in the State of Arizona.

In short, this bill would violate the Indian Gaming Regulatory Act; disrupt on-going tribal-state compact negotiations; trigger the existing "poison pill" provisions of the tribal-state compact upon enactment; require a three-fourths vote of the Legislature; and could impair the interests of gaming tribes under the existing tribal-state compact in violation of the Arizona Constitution. HB 2813 does not demonstrate considered public policy regarding gaming in the State of Arizona and is inconsistent with the voters' will expressed through the passage of Proposition 202 in 2002.

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Thank you for your consideration of the Zuni Tribe's comments.

Sincerely,

Val R. Panteah, Sr.
Governor
Zuni Tribe

QUECHAN INDIAN TRIBE
Ft. Yuma Indian Reservation
Office of Tribal Administration
P.O. Box 1899
Yuma, Arizona 85366-1899
Phone (760) 572-0213
Fax (760) 572-2102

February 18, 2020

House Commerce Committee
Arizona State Capitol Complex
1700 West Washington Street
Phoenix, Arizona 85007

Re: HB 2813 (Rep. Pierce; Senator Borrelli); Sports Betting; Historic Racing

Dear Commerce Committee Members:

The Ft. Yuma Quechan Tribe, a federally recognized Indian tribe ("Tribe"), opposes HB 2813, which proposes to legalize sports betting and historic racing, and to unilaterally change the existing tribal-state compact's exclusivity provisions. HB 2813 would legalize previously illegal sports betting and historic racing gambling in the State of Arizona.

In short, this bill would violate the Indian Gaming Regulatory Act; disrupt on-going tribal-state compact negotiations; trigger the existing "poison pill" provisions of the tribal-state compact upon enactment; require a three-fourths vote of the Legislature; and could impair the interests of gaming tribes under the existing tribal-state compact in violation of the Arizona Constitution. HB 2813 does not demonstrate considered public policy regarding gaming in the State of Arizona and is inconsistent with the voters' will expressed through the passage of Proposition 202 in 2002.

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remove the reference to exclusivity being consideration for payments by the compact tribes, but would still require tribes to make tribal contributions in accordance with the existing contributions.

Historic Racing

Arizona's current horse racing rules do not encompass pari-mutuel historic racing. The term "historic racing" refers to the use of an electronic device or terminal (*e.g.*, a slot machine) to place bets on completed horse races in which the bettors do not know the outcome of the race. *Wyoming Downs Rodeo Events, LLC v. State*, 134 P.3d 1223, 1229-30 (Wyo. 2006). Historic racing is also known as "historical horse racing," "Instant Racing" (RaceTech, LLC's registered trademark for its patented system), "racing replay," or "replayed races." *Id.* at 1224-25; *Racetech, LLC v. Kentucky Downs, LLC*, 169 F. Supp. 3d 709, 711 (W.D. Ky. 2016); *State ex rel. Loontjer v. Gale*, 853 N.W.2d 494, 499-500 (Neb. 2014); Col. Rev. Stat. Ann. § 44-32-605 (2018); *see also Wyoming Downs*, 134 P.3d at 1225 (historic racing also encompasses completed dog races).

The Supreme Court of Kentucky has described historic racing as follows:

> The bettor inserts money or its equivalent into the Instant Racing terminal and then chooses a horse identified by a number. The terminal then displays a video recording of the race for the better [sic] to watch, or, as the name "Instant Racing" implies, the bettor may forego the excitement of the actual race by opting to see immediately the results of the race and the outcome of his wager. Bettors are not given information from which they might identify the specific time and place of the actual running of the race, or the identity of the horse, but some statistical data regarding the horses is provided for bettors who wish to place their bets with some degree of deliberation.

Appalachian Racing, LLC v. Family Tr. Found. of Kentucky, Inc., 423 S.W.3d 726, 730 (Ky. 2014). The terminals also allow a player to make wagers on several races at the same time, as opposed to traditional horse wagering, which generally only allows bets on one race at a time. *State ex rel. Loontjer*, 853 N.W.2d at 500.

Impact on Tribal-State Compact

"In conclusion, because pari-mutuel historic race wagering was not legal at the time of the Compact, if Arizona allowed it, the tribal signatories to the Compact could initiate action under § 3(h)(1) to abrogate portions of the Compact." August 2018 Attorney General Opinion issued by Mark Brnovich.

According to an August 2018 Attorney General Opinion issued by Mark Brnovich:

> "Wagering on historic racing through the use of player terminals has been prohibited in Arizona since before May 1, 2002. Any change to Arizona's pre-May 1, 2002 gaming laws could cause one of the signatories to the Arizona Tribal-State Gaming Compact (the "Compact") to initiate action under Compact section 3(h)(1), which would limit the State's ability to regulate some aspects of tribal gaming and dramatically decrease the revenues the tribes must provide to the State. Accordingly, Arizona's Indian Gaming Compact could be in jeopardy if the State permits historic pari-mutuel wagering."

Sports Betting; Tax on Indian Tribe; State Law v. Federal Law Gaming

This proposal is very similar to earlier proposals by Senator Borrelli, i.e., off-reservation sports betting being offered by Indian tribes or tribal gaming operators.

IGRA provides that Indian gaming can only be conducted on Indian lands. The bets or wagers at kiosks or by other methods by the language of the bill could take place off-reservation, i.e., not on Indian lands.

Hence, the question is whether this gaming is really going to be conducted by tribes or tribal operators (i.e., third parties) under state law. Importantly, the bill includes a tax provision, which imposes a tax on the gross income or gross proceeds of sales related to the sports betting. IGRA would prohibit the imposition of such a tax if this gaming is considered Indian gaming. If the sports betting is operated under State law, then the tax may be permissible because the operator (a third party) would be offering the sports betting under State law.

The ambiguity in HB 2813 is unacceptable and will result in a potential State violation of federal law as well as triggering the "poison pill" provisions of the existing tribal-state compact.

IGRA; Unilateral Amendment of Compact; Exclusivity

HB 2813 would contravene the Indian Gaming Regulatory Act. IGRA anticipates that a tribal-state compact will be negotiated and entered mutually by a state and a tribe. That is what happened as a result of Proposition 202. A unilateral amendment to the tribal-state compact would be inconsistent with the requirements of a mutually negotiated tribal-state compact under IGRA. Likewise, it is doubtful that the Secretary of the Interior (or his delegate) would approve such an amendment as required by IGRA.

This bill would trigger the "poison pill" provisions of the existing tribal-state compact. This bill would both authorize new gaming and gaming devices in violation of the exclusivity provisions. The Compact provides at Section 3(h):

> If, on or after May 1, 2002, State law changes or is interpreted in a final judgment of a court of competent jurisdiction or in a final order of a State administrative agency to permit either a Person or entity other than an Indian tribe to operate Gaming Devices; any form of Class III Gaming (including Video Lottery Terminals) that is not authorized under this Compact, other than gambling that is lawful on May 1, 2002 pursuant to A.R.S. § 13-3302; or poker, other than poker that is lawful on May 1, 2002 pursuant to A.R.S. § 13-3302 . . . then, upon the effective date of such State law, final judgment, or final order: (A) [t]he Tribe shall be authorized under this Compact to operate Class III Gaming Devices without limitations . . . and without the need to amend this Compact (B) [t]he Tribe shall be authorized under this Compact to operate table games, without limitations . . . and without the need to amend this Compact . . . and (C) . . . the Tribe's obligation under Section 12 to make contributions to the State shall be immediately reduced . . . .

Compact § 3(h)(1)(A)-(C) (2003), *available at* https://gaming.az.gov/sites/default/files/documents/files/compact.final_.pdf (emphasis added).

The Compact further provides:

> The provisions of this Section 3(h) shall not apply to casino nights operated by non-profit or charitable organizations pursuant to and qualified under A.R.S. § 13-3302(B); to social gambling as defined in A.R.S. § 13-3301(7); to any paper product lottery games, including ticket dispensing devices of the nature used prior to May 1, 2002, by the Arizona lottery; or to low-wager, non-banked recreational pools or similar activities operated by and on the premises of retailers licensed under Title 4, Arizona Revised Statutes, as may be authorized by State law.

Id. at § 3(h)(2) (emphasis added).

Authorizing new sports betting and historic racing would trigger the "poison pill" because the State would authorize a person or entity to offer new gaming that was not authorized on May 1, 2002 and both forms of gaming would be considered Class III gaming under IGRA. Hence, the State would lose approximately $98 million per year in contributions to the Arizona Benefits Fund.

Voter Protection Act

This bill would unilaterally amend the existing tribal-state compacts to remove the exclusivity provision and acknowledgment that exclusivity is consideration for payments.

Proposition 202 directed the Governor to enter into tribal gaming compacts allowing Indian tribes to operate slot machines and card and table games on tribal land. In return, tribes would contribute 1% to 8% of "gross gaming revenue" (defined as the difference between gaming wins and losses, before deducting costs and expenses) to the state to fund programs for problem gambling, classroom size reduction, teacher salary increases, dropout prevention, instructional improvement, trauma and emergency services, wildlife conservation, tourism and local government programs benefiting the general public. These distributions are outside the regular legislative process.

Proposition 202 expressly directs the Governor to enter into a new gaming compact with each Indian tribe that requests it.

Proposition 202 also expressly provides the Governor with authority to amend a gaming compact consistent with the terms of Proposition 202.

The Voter Protection Act ("VPA") limited the Legislature's authority to modify voter initiatives and referenda such as Proposition 202. When the Legislature deviates from a voter-approved law, the constitutional limitations of the VPA apply and qualify the Legislature's otherwise plenary authority. A.R.S. Const. Art. 4, Pt. 1, § 1(6)(B, C), (14). Nor may it amend or supersede a voter-approved law unless the proposed legislation "furthers the purposes" of the initiative or referendum measure and is approved by a three-fourths vote in the House of Representatives and Senate. Ariz. Const. art. 4, pt. 1, § 1(6)(C), (14).

It is doubtful that HB 2813 is consistent with the express terms of Proposition 202 or that it furthers the purposes of Proposition 202. In fact, it would impair tribal interests and rights under existing law and the tribal-state compact.

Conclusion

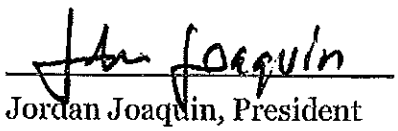
The Legislature should reject HB 2813. Arizona legalization and regulation of sports betting and historic racing would jeopardize the policies underlying the tribal-state compact's "mutually beneficial and well-regulated gaming system" as well as on-going, comprehensive negotiations between the Governor and Arizona tribes. Passage of HB 2813 would result in the State losing tribal contributions discussed above.

Tribes in Arizona have a vested interest in the outcome of any proposed legislation regarding sports betting and historic racing as well as Legislative proposals to amend the existing tribal-state compact. Gaming legislation in Arizona needs to be a win–win scenario for both the State and Tribes. The appropriate time and place for those discussions are tribal-state compact negotiations, which are on-going. The Governor has stated his intent to have safe, regulated, and limited gambling in the State. The tribal-state compact negotiation should be allowed to proceed to ensure a

comprehensive discussion of gaming in the State rather than piecemeal legislation that could jeopardize the interests and expectations of the State and tribes.

Thank you for your consideration of the FT. Yuma Quechan Tribe's comments.

Sincerely,
Ft. Yuma Quechan Tribe



Jordan Joaquin, President

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2446: simulcast dog racing; wagering; time
Sponsor: Representative Pierce, LD 1
Committee on Commerce

Overview

Amends the time in which simulcast dog racing is permitted.

History

Simulcast is defined as the telecast shown within this state of live audio and visual signals of horse, harness or dog races conducted at an out-of-state track or the telecast shown outside this state of live audio and visual signals of horse or harness races originating within this state for the purpose of pari-mutuel wagering (A.R.S. § 5-101).

The Department of Gaming may grant the racetrack permittee permission to receive electronically televised simulcasts of horse, harness or dog races. Additionally, allow the permittee to transmit the live horse or harness race from the racetrack to a facility in another state (A.R.S. § 5-112).

Live racing and wagering on simulcast races are permitted at anytime except, on the days that there is live daytime horse or harness racing in any county wagering on simulcast dog racing is only permitted after 4:15 p.m. mountain standard time (A.R.S. § 5-110).

Provisions

1. Changes the time that wagering on simulcast dog racing may begin on the same day that there is live daytime horse or harness racing from 4:15 p.m. to 4:15 a.m. (Sec. 1)

☐ Prop 105 (45 votes) ☐ Prop 108 (40 votes) ☐ Emergency (40 votes) ☐ Fiscal Note

Fifty-fourth Legislature
Second Regular Session

Commerce
H.B. 2446

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2446

(Reference to printed bill)

Page 1, line 36, after "before" insert ":

1."

Line 39, after the period insert:

"2. 4:15 P.M., MOUNTAIN STANDARD TIME, ON DAYS DURING WHICH LIVE HORSE RACES OF THE BREEDERS CUP, KENTUCKY DERBY, PREAKNESS STAKES AND BELMONT STAKES ARE TAKING PLACE.

D."

Reletter to conform

Amend title to conform

JEFF WENINGER

2446WENINGER1
02/17/2020
10:40 AM
H: PRB/ls

Attachment 29

Adopted ✓ # of Verbals ____
Failed ____ Withdrawn ____
Not Offered ____ Analysts Initials PB

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2446

DATE February 18, 2020 MOTION: DPA

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez					✓
Epstein		✓			
Kern		✓			
Meza					✓
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		7	0	0	2

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 30

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2635: mobile home parks; caregivers
Sponsor: Representative Blackman, LD 6
Committee on Commerce

Overview
Amends the qualifications to act as a caregiver for a mobile home resident.

History
The Mobile Home Parks Residential Landlord and Tenant Act simplifies, clarifies and establishes laws governing the rental of mobile home spaces, rights and obligation of the landlord and tenant. (Title 33, Chapter 11)

Current law allows a person who is at least 18 to act as a caregiver and provide necessary live-in health care to a mobile home resident as instructed by a written treatment plan prepared by the resident's physician. (A.R.S. § 33-1413.03)

Federal law defines *live-in aide* as a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

1) Is determined to be essential to the care and well-being of the persons;
2) Is not obligated for the support of the persons; and
3) Would not be living in the unit except to provide the necessary supportive services. (24 CRF Subtitle A § 5.403)

Provisions

1. Requires a person to qualify as a *live-in aide* as prescribed by federal law in order to reside in and provide necessary live-in health care to a mobile home resident. (Sec. 1)
2. Removes language permitting a person to provide necessary live-in health care to the mobile home resident pursuant to a physician's written treatment plan. (Sec. 1)
3. Removes language requiring a resident to provide a physician's written treatment plan to the landlord every six months. (Sec. 1)

Fifty-fourth Legislature
Second Regular Session

Commerce
H.B. 2635

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2635

(Reference to printed bill)

Page 1, strike line 5, insert "PURSUANT TO ARIZONA AND FEDERAL FAIR HOUSING LAWS, A RESIDENT WHO HAS A DISABILITY, AS DEFINED IN SECTION 41-1491, MAY HAVE A PERSON OR PERSONS OCCUPY"

Line 6, strike "on a temporary basis"

Line 7, after "care" insert ", PERSONAL CARE OR SUPPORTIVE SERVICES, IF SUCH SERVICES ARE NECESSARY TO AFFORD THE DISABLED RESIDENT EQUAL OPPORTUNITY TO USE AND ENJOY THE DWELLING,"

Line 13, strike the first "care" insert "LIVE-IN HEALTH CARE, PERSONAL CARE OR SUPPORTIVE SERVICES"; strike the second "care" insert "HEALTH CARE, PERSONAL CARE OR SUPPORTIVE SERVICES"

Lines 14 and 16, strike "care" insert "HEALTH CARE, PERSONAL CARE OR SUPPORTIVE SERVICES"

Amend title to conform

JEFF WENINGER

2635WENINGER
02/17/2020
11:44 AM
H: PRB/ls

Attachment 32

Adopted ✓ # of Verbals _____
Failed _____ Withdrawn _____
Not Offered _____ Analysts Initials PB

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2635

DATE February 18, 2020 MOTION: DPA

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler		✓			
Chávez					✓
Epstein		✓			
Kern		✓			
Meza					✓
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		7	0	0	2

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 33

ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fourth Legislature
Second Regular Session

HB 2841: municipal zoning; housing overlay
Sponsor: Representative Kern, LD 20
Committee on Commerce

Overview

Requires a municipality to adopt by ordinance a Housing Affordability Zoning Overlay District.

History

Municipalities have the authority to regulate the use of buildings, structures and land within its jurisdiction by ordinance to conserve and promote the public health, safety and general welfare. All municipal zoning regulations must be uniform to each class or kind of building, but the regulations in one type of zone may differ from those in other types of zones (A.R.S. § 9-462.01).

Provisions

Housing Affordability Zoning Overlay District (District) (Sec. 1)

1. Declares housing affordability is a matter of statewide concern.
2. Specifies the regulation of housing within the designated District is not subject to further regulation by a city, town or political subdivision of this state, including a charter city.
3. Requires a municipality to adopt by ordinance, prior to July 1, 2021, a District over at least 30% of all vacant land that is zoned for single-family residential use.
4. Specifies the District may allow a subdivider to construct a qualifying development of not more than 15 dwelling units per acre for sale.
5. Instructs the municipality to update the ordinance with each successive general plan to ensure compliance.
6. Prohibits a municipality from:
   a) Denying a building permit or approval that is required as a condition of development or construction for failure to comply with; and
   b) Enforcing any code, ordinance, standard, or any other legal requirement relating to or regulating dwelling design elements or the location and size of open space, with exception.
7. Allows a municipality:
   a) To limit landscaping material to approved drought-tolerant trees and plants; and
   b) Require applicable state and federal law regarding sidewalk placement and design.
8. Exempts a code, ordinance, standard or other legal requirement that meets specified criteria from certain District requirements.
9. Requires a municipality to grant or deny a building permit or approval that is required as a condition of development or construction within 90 days after a subdivider submits a completed application.
   a) Allows a subdivider to proceed with the development or construction without a permit or approval if the municipality does not grant or deny the application.

☐ Prop 105 (45 votes)	☐ Prop 108 (40 votes)	☐ Emergency (40 votes)	☐ Fiscal Note

10. Allows the municipality to adopt a reasonable reporting requirement to determine if the subdivider that is selling newly constructed dwellings within the qualifying development continues to meet the certification requirement.
    a) Stipulates the municipality may request the Real Estate Department revoke the subdivider's public report if it is determined that the subdivider is not in compliance.
    b) Stipulates if the subdivider fails to demonstrate to the Department, within 60 days of receiving the request, that the subdivider is in compliance, the Department must revoke the public report.
11. Allows any action of enforcement to be brought before the superior court.
12. Specifies the requirements and limitations placed on a municipality must be broadly construed to ensure that the municipality is not enacting regulations that discourage the development of qualifying developments through unreasonable cost or delay.
13. Requires any District ordinance be adopted following the procedure prescribed in the citizen review process relating to public hearings.
14. Specifies the requirements for a District does not:
    a) Prohibit a municipality from allowing the development and construction of dwelling units in accordance with the underlying zoning district or approving a rezoning request under a zoning ordinance; or
    b) Affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling design elements.
15. Defines *dwelling, dwelling design elements, housing organization, minimum standard building code, objective, qualifying development* and *subdivider.*
16. Makes a conforming change. (Sec. 2)

Fifty-fourth Legislature
Second Regular Session

Commerce
H.B. 2841

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2841

(Reference to printed bill)

Page 1, line 36, strike "OR"

Strike lines 37 and 38, insert "THAT COMPLIES WITH SECTION 9-807 AND 9-808 INCLUDING ANY ADOPTED LOCAL AMENDMENTS THAT ARE NOT RELATED TO A DWELLING DESIGN ELEMENT"

Page 2, line 2, after "CONSTRUCTION" insert "OF A QUALIFYING DEVELOPMENT"

Line 3, strike "NINETY" insert "ONE HUNDRED TWENTY"

Line 5, after "CONSTRUCTION" insert "OF A QUALIFYING DEVELOPMENT"; strike "NINETY" insert "ONE HUNDRED TWENTY"

Line 7, after "CONSTRUCTION" insert "OF A QUALIFYING DEVELOPMENT"

Line 8, after the period insert "A MUNICIPALITY MAY WITHHOLD A CERTIFICATE OF OCCUPANCY OR FINAL APPROVAL FOR FAILURE TO COMPLY WITH ANY OBJECTIVE HEALTH OR SAFETY REQUIREMENT."

Between lines 43 and 44 insert:

"3. CREATE ANY NEW STATUTORY AUTHORITY TO REGULATE RESIDENTIAL SUBDIVISION DEVELOPMENT OR THE DESIGN OR CONSTRUCTION OF RESIDENTIAL DWELLINGS."

Page 3, line 33, strike "ELECTRIC" insert "ELECTRICAL"

Amend title to conform

JEFF WENINGER

2841WENINGER
02/17/2020
08:15 AM
H: PRB/ls

Attachment 35

Adopted ✓ # of Verbals ____
Failed ____ Withdrawn ____
Not Offered ____ Analysts Initials PB

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-fourth Legislature - Second Regular Session

ROLL CALL VOTE

COMMITTEE ON Commerce BILL NO. HB 2841

DATE February 18, 2020 MOTION: DPA

	PASS	AYE	NAY	PRESENT	ABSENT
Biasiucci		✓			
Butler			✓		
Chávez					✓
Epstein			✓		
Kern		✓			
Meza					✓
Roberts		✓			
Grantham, Vice-Chairman		✓			
Weninger, Chairman		✓			
		5	2	0	2

Iris McMahon
COMMITTEE SECRETARY

APPROVED:

JEFF WENINGER, Chairman
TRAVIS W. GRANTHAM, Vice-Chairman

ATTACHMENT 36