S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sens. LARKIN, LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the general municipal law, in relation to charity poker

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 3 of section 186 of the general municipal law, as amended by section 5 of part B of chapter 383 of the laws of 2001, is amended to read as follows:

3. "Games of chance" shall mean and include only the games known as "merchandise wheels", "coin boards", "merchandise boards", "seal cards", "raffles", [and] "bell jars" AND "CHARITY POKER", and such other specific games as may be authorized by the board, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo or lotto" which are controlled under article fourteen-H of this chapter and also not including "bookmaking", "policy or numbers games" and "lottery" as defined in section 225.00 of the penal law. No game of chance shall involve wagering of money by one player against another player.

S 2. Section 186 of the general municipal law is amended by adding a new subdivision 3-e to read as follows:

3-E. "CHARITY POKER" SHALL MEAN A TOURNAMENT CONDUCTED IN ACCORDANCE WITH RULES AND REGULATIONS ADOPTED BY THE BOARD IN WHICH A NUMBER OF CONTESTANTS COMPETE FOR PRIZES AWARDED BY A LICENSED AUTHORIZED ORGANIZATION FOLLOWING A SERIES OF ELIMINATION-STYLE POKER GAMES APPROVED BY THE BOARD IN WHICH ONLY NON-VALUE TOURNAMENT CHIPS SHALL BE USED. SUCH TOURNAMENT CHIPS, WHICH SHALL NOT BE REDEEMABLE FOR CASH, MERCHANDISE OR FOR ANY OTHER THING OF VALUE, SHALL BE USED EXCLUSIVELY TO ESTABLISH POINT TOTALS REPRESENTATIVE OF EACH PLAYER'S ACCUMULATED TOURNAMENT CHIPS THAT, IN TURN, SHALL DETERMINE THE CONTESTANTS' PLACEMENT AND RANK

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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IN A TOURNAMENT, AND THE FINAL WINNER OR WINNERS THEREIN. NO CHARITY POKER GAME APPROVED BY THE BOARD SHALL AUTHORIZE THE WAGERING OF MONEY BY ONE PLAYER AGAINST ANOTHER PLAYER.

S 3. Subdivision 14 of section 186 of the general municipal law, as amended by chapter 637 of the laws of 1999, is amended to read as follows:

14. "One occasion" shall mean the successive operations of any one single type of game of chance which results in the awarding of a series of prizes amounting to five hundred dollars or four hundred dollars during any one license period, in accordance with the provisions of subdivision eight of section one hundred eighty-nine of this article, as the case may be. For purposes of the game of chance known as a merchandise wheel or a raffle, "one occasion" shall mean the successive operations of any one such merchandise wheel or raffle for which the limit on a series of prizes provided by subdivision six of section one hundred eighty-nine of this article shall apply. For purposes of the game of chance known as a bell jar, "one occasion" shall mean the successive operation of any one such bell jar, seal card, coin board, or merchandise board which results in the awarding of a series of prizes amounting to three thousand dollars. For the purposes of the game of chance known as raffle "one occasion" shall mean a calendar year during which successive operations of such game are conducted. FOR THE PURPOSES OF THE GAME KNOWN AS CHARITY POKER, "ONE OCCASION" SHALL MEAN THE CONDUCT OF A SINGLE LICENSE PERIOD AS PRESCRIBED IN SECTION ONE HUNDRED NINETY-FIVE-B OF THIS ARTICLE.

S 4. Subdivisions 5 and 6 of section 189 of the general municipal law, as amended by chapter 337 of the laws of 1998, are amended to read as follows:

5. No single prize awarded by games of chance other than raffle shall exceed the sum or value of three hundred dollars, except that for merchandise wheels, no single prize shall exceed the sum or value of two hundred fifty dollars. No single prize awarded by raffle shall exceed the sum or value of fifty thousand dollars, except that an authorized organization may award by raffle a single prize having a value of up to and including one hundred thousand dollars if its application for a license filed pursuant to section one hundred ninety of this article includes a statement of its intent to award a prize having such value. NO SINGLE PRIZE IN A CHARITY POKER TOURNAMENT SHALL EXCEED TWO THOUSAND DOLLARS. No single wager shall exceed six dollars and for bell jars, coin boards, or merchandise boards, no single prize shall exceed five hundred dollars; provided, however, that such limitation shall not apply to the amount of money or value paid by the participant in a raffle in return for a ticket or other receipt. For coin boards and merchandise boards, the value of a prize shall be determined by its costs to the authorized organization or, if donated, its fair market value. NOT MORE THAN FIFTY DOLLARS SHALL BE CHARGED AS AN ADMISSION FEE ENTITLING A PERSON TO ENTER A CHARITY POKER TOURNAMENT, WHICH SHALL BE RETAINED BY THE LICENSED AUTHORIZED ORGANIZATION AS PROFIT; NOT MORE THAN FIFTY DOLLARS SHALL BE CHARGED FOR A BUY-IN WHICH, IN ITS ENTIRETY, SHALL BE APPLIED TO THE CHARITY POKER TOURNAMENT PRIZE POOL AND SHALL ENTITLE A PERSON FIRST PAYING AN ADMISSION FEE TO A SPECIFIED NUMBER OF NON-VALUE CHARITY POKER TOURNAMENT CHIPS; AND NOT MORE THAN TWO ADDITIONAL BUY-INS, EACH OF WHICH SHALL NOT EXCEED TEN DOLLARS, SHALL BE CHARGED TO ENTITLE A PERSON FIRST PAYING AN ADMISSION FEE AND AN INITIAL BUY-IN TO PURCHASE ADDITIONAL CHARITY POKER TOURNAMENT CHIPS. ALL PROCEEDS DERIVED FROM ADDITIONAL BUY-INS EXCEEDING THE AMOUNT OF THE MONIES

APPLIED TO THE SPECIFIED TOURNAMENT PRIZE POOL SHALL BE RETAINED BY THE LICENSED AUTHORIZED ORGANIZATION AS PROFIT.

6. No authorized organization shall award a series of prizes consisting of cash or of merchandise with an aggregate value in excess of ten thousand dollars during the successive operations of any one merchandise wheel, and three thousand dollars during the successive operations of any bell jar, coin board, or merchandise board. No series of prizes awarded by raffle shall have an aggregate value in excess of one hundred thousand dollars. NO SERIES OF PRIZES AWARDED DURING A CHARITY POKER OCCASION SHALL EXCEED FOUR THOUSAND DOLLARS. For coin boards and merchandise boards, the value of a prize shall be determined by its cost to the authorized organization or, if donated, its fair market value.

S 5. Subdivision 8 of section 189 of the general municipal law, as amended by chapter 550 of the laws of 1994, is amended to read as follows:

8. Except for merchandise wheels [and], raffles AND CHARITY POKER, no series of prizes on any one occasion shall aggregate more than four hundred dollars when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, raffles and bell jars, no series of prizes on any one occasion shall aggregate more than five hundred dollars when the licensed authorized organization conducts less than five single types of games of chance, exclusive of merchandise wheels, raffles [and], bell jars AND CHARITY POKER, during any one license period. No authorized organization shall award by raffle prizes with an aggregate value in excess of one hundred thousand dollars during any one license period.

S 6. Paragraph (a) of subdivision 1 of section 191 of the general municipal law, as amended by chapter 574 of the laws of 1978, is amended to read as follows:

(a) Issuance of licenses to conduct games of chance. If such clerk or department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article; that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon, a certificate of good conduct or a certificate of relief from disabilities; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the board and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this article, and if such clerk or department is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person managing, operating or assisting therein except as in this article otherwise provided; it shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period; OR UPON PAYMENT OF A LICENSE FEE OF ONE HUNDRED DOLLARS FOR EACH LICENSE PERIOD, IT SHALL ISSUE A LICENSE TO THE APPLICANT FOR THE CONDUCT OF CHARITY POKER.

S 7. Subdivision 2 of section 191 of the general municipal law, as amended by chapter 574 of the laws of 1978, is amended to read as follows:

2. On or before the thirtieth day of each month, the treasurer of the municipality in which the licensed property is located shall transmit to the state comptroller a sum equal to fifty percent of all authorized games of chance lessor license fees [and], the sum of fifteen dollars

per license period for the conduct of games of chance, AND THE SUM OF SIXTY DOLLARS PER LICENSE PERIOD FOR THE CONDUCT OF EACH CHARITY POKER TOURNAMENT collected by such clerk or department pursuant to this section during the preceding calendar month.

S 8. The section heading and subdivisions 1, 2, 3, 4, and 5 of section 195-o of the general municipal law, the section heading and subdivisions 2, 3, and 4 as added by chapter 309 of the laws of 1996 and subdivisions 1 and 5 as amended by chapter 637 of the laws of 1999, are amended and a new subdivision 1-b is added to read as follows:

Distributor of bell jars AND CHARITY POKER EQUIPMENT; reports and records. 1. Distribution; distributors. Any distributor licensed in accordance with section one hundred eighty-nine-a of this article to distribute bell jar tickets shall purchase bell jar tickets only from licensed manufacturers and may manufacture coin boards and merchandise boards only as authorized in subdivision one-a of this section. Licensed distributors of bell jar tickets shall sell such tickets only to [not-for-profit, charitable or religious organizations registered by the board] LICENSED AUTHORIZED ORGANIZATIONS. LICENSED DISTRIBUTORS OF CHARITY POKER EQUIPMENT SHALL SELL OR LEASE CHARITY POKER EQUIPMENT ONLY TO DISTRIBUTORS LICENSED BY THE BOARD OR AUTHORIZED ORGANIZATIONS LICENSED TO CONDUCT CHARITY POKER OCCASIONS. Any licensed distributor who willfully violates the provisions of this section shall: (a) upon such first offense, have their license suspended for a period of thirty days; (b) upon such second offense, participate in a hearing to be conducted by the board, and surrender their license for such period as recommended by the board; and (c) upon such third or subsequent offense, have their license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed distributor who violates this section shall be guilty of a class E felony.

1-B. CHARITY POKER EQUIPMENT. DISTRIBUTORS OF CHARITY POKER EQUIPMENT SHALL MANUFACTURE, SELL OR LEASE SUCH EQUIPMENT ONLY IF SUCH EQUIPMENT IS APPROVED BY THE BOARD AND SHALL HAVE PERMANENTLY AFFIXED TO IT AN IDENTIFICATION PLATE OR LABEL SETTING FORTH ALL INFORMATION REQUIRED BY THE BOARD AND, IF REQUIRED BY THE BOARD, A BAR CODE SETTING FORTH ALL INFORMATION THAT THE BOARD REQUIRES.

2. Business records. A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of bell jar tickets held and purchased, AND ALL CHARITY POKER EQUIPMENT SOLD OR LEASED. [The] IN THE CASE OF BELL JAR TICKETS, COIN BOARD, SEAL CARD AND MERCHANDISE BOARDS, records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required, all bell jar tickets on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of bell jar tickets as may be required by the board. IN THE CASE OF CHARITY POKER EQUIPMENT, RECORDS MUST REFLECT THE NAMES, ADDRESSES, BOARD IDENTIFICATION NUMBERS AND LICENSE NUMBERS OF ALL PURCHASERS AND LESSEES, AND ALL OTHER INFORMATION REQUIRED BY THE BOARD. Books, records, itemized invoices, and other papers and documents required by this section shall be kept for a period of at least four years after the date of the documents, or the date of the entries appearing in the records, unless the board authorizes in writing their destruction or disposal at an earlier date. A person who violates this section shall be guilty of a misdemeanor.

3. Sales records. A distributor shall maintain a record of all bell jar tickets AND CHARITY POKER EQUIPMENT that it sells. The record shall include, but need not be limited to:

(a) the identity of the manufacturer from whom the distributor purchased the product;
(b) the serial number of the product;
(c) the name, address, BOARD-ISSUED IDENTIFICATION NUMBER and license [or exempt permit] number of the AUTHORIZED organization or BOARD-LICENSED DISTRIBUTOR, INCLUDING THE NAME OF THE person to which the sale was made;
(d) the date of the sale;
(e) the name of the person who ordered the product;
(f) the name of the person who received the product;
(g) the type of product;
(h) the serial number of the product;
(i) the account number identifying the sale from the manufacturer to distributor and the account number identifying the sale from the distributor to the licensed organization; and
(j) the name, form number, or other identifying information for each game.

4. Invoices. A distributor shall supply with each sale of a bell jar AND CHARITY POKER product an itemized invoice showing the distributor's name and address, the purchaser's OR LESSEE'S name, address, BOARD IDENTIFICATION NUMBER and license number, the date of the sale OR LEASE, the account number identifying the sale from the manufacturer to distributor and the account number identifying the sale from the distributor to the licensed organization, and the description of the deals, including the form number, the serial number and the ideal gross from every deal of bell jar or similar game.

5. Reports. A distributor shall report quarterly to the board, on a form prescribed by the board, its sales of each type of bell jar deal or tickets AND ITS SALE OR LEASE OF ALL CHARITY POKER EQUIPMENT. This report shall be filed quarterly on or before the twentieth day of the month succeeding the end of the quarter in which the sale was made. The board may require that a distributor submit the quarterly report and invoices required by this section via magnetic media or electronic data transfer.

S 9. The section heading and the opening paragraph of section 195-q of the general municipal law, the section heading as added by chapter 309 of the laws of 1996 and the opening paragraph as amended by chapter 337 of the laws of 1998, are amended to read as follows:

Bell jar AND CHARITY POKER compliance and enforcement. In the case of bell jars AND CHARITY POKER, the licensee, upon filing financial statements of bell jar AND CHARITY POKER operations, shall also tender to the board a sum in the amount of five percent of the net proceeds as defined in this paragraph, from the CONDUCT OF CHARITY POKER AND THE sale of bell jar tickets, seal cards, merchandise board, and coin boards, if any, for that portion of license period covered by such statement. For the purposes of this section, BELL JAR "net proceeds" shall mean the difference between the ideal handle from the sale of bell jar tickets, seal cards, merchandise boards, and coin boards less the amount of money paid out in prizes and less the purchase price of the bell jar deal, seal card deal, merchandise board deal, or coin board deal. Additionally, a credit shall be permitted against the net proceeds fee tendered to the board for unsold tickets of the bell jar deal as long as the unsold tickets have the same serial number as the tickets for which the fee is rendered. Such unsold tickets must be kept on file by the selling organization for inspection by the board for a period of one year following the date upon which the relevant financial statement was

received by the board. FOR PURPOSES OF THIS SECTION, CHARITY POKER "NET PROCEEDS" SHALL MEAN THE DIFFERENCE BETWEEN THE MONEYS COLLECTED FROM ADMISSION FEES, PLUS BUY-INS, IN EXCESS OF THE SPECIFIED PRIZE POOL, IF ANY, LESS THE COST TO THE LICENSED AUTHORIZED ORGANIZATION FOR THE LICENSE FEE, THE CHARITY POKER EQUIPMENT RENTAL OR PURCHASE, THE ADDITIONAL LICENSE FEE, AND THE GAMES OF CHANCE LESSOR RENTAL FEE, IF THE TOURNAMENT IS CONDUCTED ON THE PREMISES OF A LICENSED GAMES OF CHANCE LESSOR.

S 10. The general municipal law is amended by adding a new section 195-qq to read as follows:

S 195-QQ. CHARITY POKER COMPLIANCE AND ENFORCEMENT. THE BOARD, PURSUANT TO SECTION ONE HUNDRED EIGHTY-EIGHT-A OF THIS ARTICLE, SHALL PROMULGATE RULES AND REGULATIONS GOVERNING THE LICENSING, OPERATION AND REGULATION OF CHARITY POKER TO ENSURE THAT SUCH GAMES ARE RIGIDLY CONTROLLED. BOARD AGENTS SHALL CONDUCT, ANYWHERE IN THE STATE, INVESTIGATIONS OF THE ADMINISTRATION AND ENFORCEMENT OF CHARITY POKER TO ENSURE THAT SUCH GAMES ARE FAIRLY AND PROPERLY CONDUCTED; THAT ALL LAWS, RULES AND REGULATIONS GOVERNING SUCH OPERATIONS ARE STRICTLY CONSTRUED AND RIGIDLY ENFORCED; THAT CHARITY POKER IS NOT CONDUCTED FOR COMMERCIAL PURPOSES OR PURPOSES OTHER THAN THOSE AUTHORIZED BY THIS ARTICLE, OR ARE PARTICIPATED IN BY CRIMINAL OR OTHER UNDESIRABLE ELEMENTS; AND THAT CHARITY POKER PROCEEDS ARE NOT DIVERTED FROM THE PURPOSES AUTHORIZED BY THIS ARTICLE.

S 11. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately the state racing and wagering board may promulgate any rules and regulations necessary to implement the provisions of this act on its effective date on or before such date.