

Legislative History for Connecticut Act

HB 8086 PA 455 Scanned FAY 1973

Orig: 0

Senate: 3582 - 3580

House: 5129 - 5141

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HB 8086

PA 455

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1973

Orig: 0

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Proceedings / Connecticut General Assembly, House. 1973v.16:pt.10

Proceedings / Connecticut General Assembly, Senate. 1973 v.16:pt.8

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THE CLERK:

Returning to your Calendar. On page 8 of your Calendar, Calendar No. 553, your File No. 570, substitute for House Bill 8086, An Act Concerning a Model Anti-Gambling Act. Favorable Report of the Committee on Judiciary.

DEPUTY SPEAKER:

Col. Bingham from the 147th.

REP. BINGHAM(147th):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance and passage of the Joint Committee's Favorable Report.

DEPUTY SPEAKER:

Question's on acceptance and passage. Will you remark.

REP. BINGHAM:

Yes, Mr. Speaker. The Clerk has an amendment.

DEPUTY SPEAKER:

The Clerk please read the amendment.

THE CLERK:

House Amendment Schedule A offered by Representative Ratchford of the 109th, to your File No. 570. You would like to have me read the amendment, sir?

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REP. RATCHFORD:

Would the Clerk please read the amendment.

THE CLERK:

In line 154, after the word "fixture" delete the words "construction or installation."

REP. RATCHFORD:

I move adoption of the amendment.

DEPUTY SPEAKER:

Question is on the adoption of the amendment. Will you remark.

REP. RATCHFORD:

Yes, Mr. Speaker. Briefly, in this section we have definitions of gambling devices and gambling premises. And there is a distinction in that gambling devices can be seized and held in connection with prosecutorial activity. The intent of the amendment is to remove from the definition of gambling device two items an installation or construction which basically fits better under the premise definition which is not an area where seizure is possible. And to clear up the language and to make it more distinct, the amendment is offered.

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DEPUTY SPEAKER:

Are there any further remarks. Gentleman from the 147th.

REP. BINGHAM:

Yes, Mr. Speaker. I concur with Representative Ratchford and thank him for his amendment.

DEPUTY SPEAKER:

Question's on the adoption of the amendment. All those in favor of the adoption of House Amendment A will signify by saying "aye". Opposed. House Amendment A is adopted. Gentleman from the 147th.

REP. BINGHAM:

Yes, Mr. Speaker.

DEPUTY SPEAKER:

I will rule it technical in nature. The gentleman from the 147th.

REP. BINGHAM:

This bill was before this House last session and was passed by this House and died in the Senate on the last night of the session. This legislation is the result of long research, first by the Kefauver Investigating Committee into gambling, and then

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continued through Congress for a period of many years beginning almost twenty years ago. We recognize the close relationship between professional gambling and organized crime to restrain all persons from seeking profit activities in the State and to restrain all persons from patronizing such activities when conducted for the profit of any person and to safeguard the public against the evils induced by common gamblers and common gambling houses. This bill provides a co-ordinated attack on illegal gambling by imposing criminal penalties on gamblers and professional gamblers by subjecting all gambling devices to immediate seizure and by providing that public utilities must discontinue to service the gambling facilities. This bill makes the following activities Class A misdemeanors, a maximum imprisonment of one year and/or a maximum fine of one thousand dollars, professional gambling, knowingly transmitting gambling information, knowing, owning, using, or transporting any gambling device, knowingly maintaining a gambling premise. The following activities are made Class B misdemeanors, engaging in or soliciting or inducing another to engage in gambling; knowingly making, possessing, or transporting gambling records. In the bill the

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following was made a Class D felony, any person who violates this bill on maintaining a gambling premise with any locked barricaded or camouflaged place or in connection with any electrical or mechanical alarm or warning system, gambling devices are subject to immediate seizure by police officers and money and equipment used in connection with professional gambling is to be forfeited to the State. Public utilities must discontinue service to gambling premises---

DEPUTY SPEAKER:

Please give your attention to the gentleman from the 147th.

REP. BINGHAM:

When notified in writing by law enforcement agencies that their services are being used to violate this act. All gambling premises are common nuisances and are subject to abatement by injunction. However, State sanctioned betting and promotional drawings for public prizes where the public may participate are exempted. Any person who conducts a promotional drawing for prizes must disclose the actual number and dollar amount of prizes to be awarded and the number of winners per thousand tickets. This act, Mr. Speaker, has been adopted by the States of I

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and Tennessee. This is another one of the series of anti-crime bills which the Judiciary Committee has presented to this Assembly. This is an excellent bill, Mr. Speaker, and I urge its passage.

DEPUTY SPEAKER:

Are there any further remarks. If not, the gentleman from the 104th.

REP. AJELLO:

Mr. Speaker, I rise to ask the distinguished Chairman of Judiciary some questions to make a record complete in some regards that I think he might well want to discuss and have appear. And the questions are asked for the purpose of satisfying the record and myself and others as to what is meant. And the first one is, I'd like him to tell us if he can what present sections of the Statutes relating to gaming are being repealed. If he can tell us by their titles at least.

DEPUTY SPEAKER:

The gentleman from the 147th care to respond.

REP. BINGHAM:

These with which refer to professional gambling and not these

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which refer to authorized gambling or mere play, which is not a professional gambling. If I've answered your question.

REP. AJELLO:

Yes, that's part of it. Through you, Mr. Speaker, are the pool selling and policy playing statutes repealed by this law.

REP. BINGHAM:

Yes, they are.

REP. AJELLO:

Thank you, sir. I note in the definitions area we speak of things are made legal by this act which are valid under the law of contracts. That's in line 14 and 15. And it just occurs to me to wonder to what that refers. I find such terms rather vague and disturbing in criminal statutes.

DEPUTY SPEAKER:

Gentleman from the 147th.

REP. BINGHAM:

Yes, Mr. Speaker, it was the intent of valid under the law of contracts if anyone had any thought that an insurance contract would be gambling, professional gambling, it was meant to be exempted. And in certain legal circles at any rate insurance

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might be considered gambling and that's why this was placed--

DEPUTY SPEAKER:

Please be quiet in the Chamber. The gentleman from the 104th cannot hear the answer, the Speaker can't hear the answer, I would ask that if you continue to have these huddles that you go outside the Chamber.

REP. BINGHAM:

The clear intent, Mr. Speaker, is to make illegal professional gambling and those who practice professional gambling or play at professional gambling, and exempt all others.

REP. AJELLO:

Thank you, sir. Might I ask in line 35 in the definitions area whether or not it's the intent of the statute to make the possession of jars and spindles illegal. I don't know what that refers to precisely. Maybe I'm not reading it correctly.

DEPUTY SPEAKER:

Gentleman from the 147th.

REP. BINGHAM:

If used for professional gambling, yes. It's a method of chance. The use of a jar and spindle is a method of chance.

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REP. AJELLO:

Of course, the point, sir, is in many business establishments there are both jars and spindles. I wouldn't like to think we were trying to make the use and possession of them illegal all by itself. I don't think that's particularly clearly worded and I thank the gentleman for at least giving us some legislative intent. And the other item that disturbed me was in line, in Section 2B, it says any person who engages in professional gambling shall be guilty of a Class A misdemeanor. And my question is, under the definition of professional gambling whether or not every better, every person who bets, would now be guilty by virtue of his activity being solely that of placing a bet of a Class A misdemeanor.

REP. BINGHAM:

Any person who engages in professional gambling. That is correct.

REP. AJELLO:

Does that mean that if my mother is in possession of an Irish Sweepstakes ticket which is found to be illegal that she can be convicted of a Class A misdemeanor. That's my question.

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REP. BINGHAM:

She cannot.

REP. AJELLO:

OK. Would the Chairman care to make the distinction so that we'll know the circumstances under which a person who is betting---

DEPUTY SPEAKER:

Please be quiet.

REP. BINGHAM:

As I understand it, that form is exempted under the statute and it is permitted and legal in this State.

REP. AJELLO:

Well, Mr. Speaker. OK, then; without being specific, is every person who makes a bet now, whether it be for the first time or the fiftieth time and who is not a book maker or not accepting the bet. I'm talking about the people who bet. Somebody bets on a horse with his friendly neighborhood bookie, for instance. Is he now guilty by virtue of this statute of a Class A misdemeanor.

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REP. BINGHAM:

Yes, that's correct.

REP. AJELLO:

Then may I assume that the present statutes relating to betting, to making illegal wagers, and I don't recall the section is repealed.

REP. BINGHAM:

It is repealed. Yes. And incorporated in this statute.

REP. AJELLO:

Thank you, sir. Well, Mr. Speaker, I think that whenever we're adopting such a sweeping statute that we should be more precise and careful in terms of putting things in there in the statute which can well be expected to result in litigation and uncertainty. I don't think it needs any magnification to say that all criminal statutes require rather specific provisions because lawyers being in the nature of their business what it is, will take advantage of any uncertainty to circumvent the provisions of the bills that we adopt. And I say that having been both a prosecutor and a defense counsel. And I think by way of comment that making every person who may make a bet which is

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illegal in and of itself, but perhaps a person who, for instance, has bet for the first time on maybe a horse and risks two dollars which some people do, guilty of a Class A misdemeanor it seems to me is a case of overkill. We have statutes relating to the making of illegal wagers which are rather less severe in their penalties and I don't see how making that person guilty of a Class A misdemeanor attacks the problem that this bill is designed to get at which is professional and organized gambling. However, I would hope that the record can be looked to and that in general the statute will be effective. I intend to support it, but I have some misgivings about its language, frankly.

DEPUTY SPEAKER:

Are there any further remarks. If not, the Chair would ask that all members take their seats. The aisles be cleared. All staff members come to the well of the House. The machine will be opened. The machine will be closed and the Clerk will please take a tally.

THE CLERK:

Total Number Voting.....	137
Necessary for Passage.....	69
These voting Yea.....	135
These voting Nay.....	2
Absent and Not Voting.....	14

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DEPUTY SPEAKER:

The Joint Committee's Favorable Report is accepted and the bill is passed as amended by House Amendment A.

THE CLERK:

Returning to your Calendar. Page 8 of your Calendar, Calendar No. 565, your File No. 602, substitute for House Bill 8358, An Act Concerning Prices for Alcoholic Liquor Charged by Manufacturers and Out-of-State Shippers to Connecticut Wholesalers. Affirmation. Favorable Report of the Committee on Liquor Control.

DEPUTY SPEAKER:

Gentleman from the 134th.

REP. WENZ(134th):

I move the acceptance and passage of the Joint Committee's Favorable Report, Mr. Speaker. There's an amendment.

DEPUTY SPEAKER:

Question's on acceptance and passage of the bill. Will the Clerk please read the amendment.

REP. WENZ:

If I may I'd like to summarize, Mr. Speaker. Mr. Speaker, if I may I'll summarize.

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all that is needed to be said and I would like to associate myself with both of their remarks.

THE CHAIR:

Will you remark further? Senator Cashman.

SENATOR CASHMAN: (20th)

Mr. President, I rarely speak on legislation and this one has been somewhat troubling but as I indicated to Senator Truex I talked today and yesterday with some of the people who were very concerned about the words - by negotiation - and in the final analysis they were willing to agree that on a statewide basis this legislation should pass probably as is, particularly if it means that the alternative would mean no bill at all. And that seems to be the case, we have before us. So, I strongly support the legislation and I hope that many members of the circle will do likewise.

THE CHAIR:

Will you remark further? There being no further remarks all those in favor signify by Aye. Those Opposed. The AYES have it. THE BILL IS PASSED.

THE CHAIR:

SEnator Lyons, will you please lend us your dignity at the Chair, please.

(Senator Lyons of the 25th District in the Chair)

THE CLERK:

Top of Page 3, Cal. 864, File 570. Sub. H.B. 8086. AN ACT CONCERNING A MODEL ANTIGAMBLING ACT, amended by House Amend-

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ment Schedule A. Favorable report of the Committee on Judiciary.

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THE CHAIR:

Senator Guidera.

SENATOR GUIDERA: (26th)

Thank you, Mr. President. I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

Will you remark.

SENATOR GUIDERA:

Yes, Mr. President. Recognizing the close relationship between professional gambling and organized crime, the stated purpose of this bill is to restrain all persons from seeking profit from gambling activities in the State; to restrain all persons from patronizing such activities when conducted for the profit of any person and to safeguard the public against evils induced by common gamblers and common gambling houses. 8086 provides a coordinated attack on illegal gambling by imposing criminal penalties on gamblers and professional gamblers by subjecting all gambling devices to immediate seizure and providing that public utilities must discontinue service to gambling facilities. House Bill 8086 makes the following activities Class A misdemeanors, that is maximum imprisonment of one year and/or maximum fine of one thousand dollars and/or an alternative fine based on defendant's gain: (1) professional gambling (2) knowingly transmitting gambling information, (3) knowingly owning, using or transporting any gambling device, (4) knowingly maintaining a gambling premise.

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The following activities are made Class B misdemeanors, that is the maximum imprisonment is six months and/or a maximum fine of one thousand dollars and/or an alternative fine based on the defendant's gain. These are the Class B misdemeanors: (1) engaging in or soliciting or inducing another to engage in gambling, (2) knowingly making, possessing or transporting gambling records,

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The following was made a Class D felony, that is an indeterminate sentence of not less than one year and not more than five years, and/or a maximum fine of one thousand dollars and/or the alternative fine based on defendant's gain. Any person who violates the subsection on maintaining a gambling premise " within any locked, barricaded or camouflaged place or in connection with any electrical or mechanical alarm or warning system or arrangement". Gambling devices are subject to immediate seizure by peace officers and money and equipment used in connection with professional gambling is to be forfeited to the state. Public utilities must discontinue service to gambling premises when notified in writing by law enforcement agencies that their services are being used to violate this Act. All gambling premises or common nuisances are subject to abatement by injunction by definition in the statute. However, state sanction betting or promotional drawings for prizes where the public may participate without payment are exempted.

Finally, any person who conducts a promotional drawing for prizes must disclose the actual number and dollar amount of prizes being awarded and the number of winners per thousand tickets.

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House Bill 8086 was a model act promulgated by the National Conference of Commissioners on Uniform State Laws and was approved by the American Bar association in 1952. Indiana and Tennessee have already adopted this Model Act. It's effective on October 1, 1973. Mr. President, the Judiciary Committee can't take the credit for drafting the bill. It is a Model Act which means that it has received the greatest amount of care and attention by the commissioners. We think it is a good act and one that Connecticut should adopt to stem illegal gambling activities in the State of Connecticut.

THE CHAIR:

Will you remark further? Senator Fauliso.

SENATOR FAULISO: (1st)

Mr. President, I will support this bill. However, I want to make some comments, some provisions which I think make this particular bill defective and I think also raises some constitutional questions. The chairman alluded to the fact that the police can take a telephone and in effect constitutes confiscation of that particular service. In practice what develops in an operation like that is in this manner. Policeman, armed with a search warrant, goes into a home and while there/a telephone call that may or may not be related but based upon the representations made of the police that an individual made a call and the individual did not converse and hung up, they immediately take the telephone and the service therefore is terminated. Mr. President, that is a very, very serious cessation of a utility and a service

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in a home without due process and the only time that the individual can get back his service is after the completion of his case and only after he pleads and goes to the states attorney's office and presents to him facts which may warrant the return of the service. Now this is before he is found guilty, all this takes place and even after he is found not guilty, Mr. President, there is no guarantee that he gets back his service. Now you are subject to the judgment of the States Attorney. And Mr. President, there is another important section and I read from page 3, lines 112~~7~~ - all gambling devices are common nuisances and if found in a place known or suspected to be a gambling premise are subject to seizure immediately upon detection of any peace officer who shall hold the same subject to confiscation and destruction by order of a court having jurisdiction.

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Again, Mr. President, I point out that this is a violation of due process. And then on the next page, Mr. President, Section B beginning with line 119 - no property ^{right} / and any such gambling device shall exist or be recognized in any person except the possessory right of officers enforcing this act. The only one who has a possessory right in such a situation, after these things are seized are the officers, the individual is left helpless, silenced by the fact that his things are taken and confiscated. And Mr. President, then you read on in Subsection C--all furnishings, fixtures, equipment and stock including without limitation furnishings and fixtures adaptable to nongambling issues and equipment and stock for printing and so forth shall be, unless good cause is shown to the contrary - I am skipping and going

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down to line 135 - and shall unless good cause is shown to the contrary by the owner be forfeited to the state.

Now Mr. President, what does that mean in actual practice. It means this. Again police armed with a search warrant go into a place and they make a judgment that gambling is taking place, they can take, conceivably, all of the man's furniture, take it out of the house. Now let's conceive for a moment an individual who is playing numbers. He perhaps indulges in the, in policy. He is a player. Under this particular provision, Mr. President, he could be deprived of his furnishings, of his furniture. He may have a household filled with children and he wouldn't have a stick of furniture. Mr. President, I mentioned these things because I do think that this is a very serious bill with sweeping provisions. In my opinion, it contravenes the Constitution. And Mr. President, all these sections pertaining to seizure and confiscation is contrary to some of the basic rules of our procedure and I could remember only a short while ago where there was a seizure, the police had to get what they call a retrospective warrant. Mr. President, all this lends itself to arrogance and in some instances abusive power and in our day we have seen too much of it. This could be an instrument of malevolence. Mr. President, the only thing, the only hope that I have that the Police Departments of our State will use sound discretion. I realize and appreciate the nobility of its purpose, but I sometimes shudder when I read provisions of this nature and the enormity of its significance.

THE CHAIR:

Will you remark further? SENator Dinielli.

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SENATOR DINIELLI: (31st)

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Mr. President, I would like to associate myself with the remarks of Senator Fauliso. But unlike Senator Fauliso, because of the problems with confiscation enumerated by him and also the problems with seizure, I feel I must oppose this bill. I endorse the other parts of the bill but do not feel that confiscating proceedings are constitutional or just and must oppose the bill.

THE CHAIR:

Thank you senator. Any further discussions? Senator Scalo.

SENATOR SCALO: (22nd)

Mr. President, when first hearing the presentation, I had intended to vote for the bill but after hearing the brilliant presentation by Senator Fauliso as to some of the constitutional and other problems in the bill, I feel constrained at this point to change my opinion. And so where I had intended to before I must now vote against the bill.

THE CHAIR:

Further comments? Senator Guidera.

SENATOR GUIDERA:

May we have a roll call, Mr. President.

THE CHAIR:

Motion is for a roll call. All in favor signify by saying Aye. More than 20 percent having assented, there will be a roll call vote. Any further discussions? Senator Lenge.

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SENATOR LENGE: (5th)

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Mr. President, through you sir a question to Senator Guidera. My reading of lines 7 through 14 seems to indicate that gambling is defined in a certain way in that there is excluded those things which do not qualify as gambling under the definition. Beginning in 911, legal contests of skill--speed, strength, endurance, et cetera. Is it a correct interpretation to say then that something such as chess or the outcome of a trial or any such thing as that, may be gambled on?

SENATOR GUIDERA:

Through you, Mr. President, to Senator Lenge, I think the intent of lines 11, 12, 13, 14, 15 are that any contests sanctioned by state law or run by the State of Connecticut are valid. I mentioned that in my original presentation. I think that is the intent of that language, Senator.

THE CHAIR:

Any further remarks? If not will the Clerk announce a roll call. Proceed.

THE CLERK:

Senator Fauliso	Yes	Senator Murphy	Yes
Senator Wilbur Smith	Yes	Senator Cashman	Yes
Senator Burke	Abs.	Senator Gunther	Yes
Senator Odegard	Yes	Senator Scalo	No
Senator Lenge	Yes	Senator Caldwell	Yes
Senator Zisk	Yes	Senator Petroni	Yes
Senator Alfano	Yes	Senator Lyons	Yes
Senator Rome	Yes	Senator Guidera	Yes
Senator Truex	Yes	Senator Strada	Yes
Senator Lieberman	Abs ^t	Senator Gormley	Yes
Senator Ciarlone	Yes	Senator Berry	Yes
Senator Page	Yes	Senator Power	Yes
Senator Zajac	Yes	Senator Dinielli	No
Senator Winthrop Smith	Yes	Senator Bozzuto	

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Senator Cutillo	Yes	Senator Costello	Yes
Senator Powanda	Yes	Senator DeNardis	Yes
Senator Hellier	Yes	Senator Carruthers	Yes
Senator Sullivan	Yes	Senator Finney	Yes

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THE CHAIR:

May I have your attention please. Results of roll call vote on Bill 8086:

Total Number Voting	34
Necessary for Passage	18
Those Voting Yea	32
Those Voting Nay	2
Those Absent and Not Voting	2

THE BILL IS PASSED.

(The President, Lt. Gov. Hull, in the Chair)

THE CHAIR:

Senator Rome.

SENATOR ROME:

Mr. President, we passed Cal. 862, Sub. for H.B. 8929, AN ACT CONCERNING ANNUAL EVALUATION OF TEACHERS with amendments from the House. I was on the prevailing side, Mr. President. I move reconsideration. There are members who indicate that it is a serious enough question that it should have been on a roll call and I am sure they are correct and I would move it for that purpose. It was just now, Mr. President.

THE CHAIR:

Is there any objection to reconsideration so that it may be brought up before us for a roll call vote? Hearing none, the matter will be reconsidered. Do you wish to proceed to it now?