

No. S 217896

(Court of Appeal No. F065450, consolidated with F065451 and F065689

(Kern County Superior Court Nos. CV-276959 and CV-276961)

**IN THE SUPREME COURT OF
THE STATE OF CALIFORNIA**

PEOPLE OF THE STATE OF CALIFORNIA
Plaintiff/Respondent

v.

KIRNPAL GREWAL, *et al.*,
Defendant and Appellant

SUPREME COURT
FILED

SEP 25 2014

Frank A. McGuire Clerk

Deputy

**MOTION BY APPELLANTS GREWAL AND WALKER TO
TAKE JUDICIAL NOTICE; SUPPORTING DECLARATION
OF G. RANDALL GARROU; ORDER**

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*Attorneys for Defendants/Appellants Kirnpal Grewal (F065451)
and Phillip Ernest Walker (F065452)*

MOTION TO TAKE JUDICIAL NOTICE

Pursuant to CRC 8.252 and Evidence Code §§ 459(a) and 452(h), Appellants move the Court to take judicial notice of the legislative history of the 2003 amendment to Penal Code § 330b. This is relevant to the appeal because it demonstrates that the Court of Appeal was correct in concluding that the amendment was intended to effect no *substantive* change in that section's definition of a slot machine.

Appellants also move the court to take judicial notice of the existence of a variety of websites which allow users to participate in sweepstakes and other games or contests which award chance prizes. This is relevant to the appeal because Appellants contend that any device used to play or participate in these games or contests is now a "slot machine" under Penal Code § 330b as that term has been redefined by the Court of Appeal below. That, in turn, is relevant to Appellants' argument that the construction of that statute by the Court of Appeal is barred by the doctrine that statutes should not be construed to cause absurd consequences which could not have been intended by the Legislature.

These matters were not previously presented in a judicial notice request to the trial court.

These matters are now subject to judicial notice because they became germane only after the Court of Appeal unexpectedly rejected the existing authoritative construction of the slot machine definition in Penal Code § 330b (provided in *Trinkle v. California State Lottery*, 105 Cal.App.4th 1401 (2003)) and established its own new definition. Appellants believe that judicial notice of the items discussed herein will provide relevant evidence of the impropriety of this new re-construction of the statute.

A. Judicial notice of legislative history

Appellants hereby move the Court, pursuant to Evidence Code §§ 459(a) and 452(h), to take judicial notice of the following **legislative records** pertinent to this appeal, copies of which are attached to the accompanying Declaration of G. Randall Garrou (copies of (1) through (7) below can also be found by searching for AB 360 in the 2003-2004 legislative session at <http://www.legislature.ca.gov/port-bilinfo.html>):

(1) February 14, 2003, redlined version of AB 360 as originally introduced, showing changes from prior legislation.

(2) May 5, 2003, analysis of AB 360 prepared for Assembly Committee on Governmental Organization.

(3) May 8, 2003 analysis of AB 360 prepared for Assembly Floor.

(4) June 17, 2003, analysis of AB 360 prepared for Senate Committee on Governmental Organization

(5) June 18, 2003 analysis of AB 360 prepared for Senate Floor.

(6) July 11, 2003, analysis of AB 360 prepared for Senate Floor.

(7) July 25, 2003, analysis of AB 360 prepared for Assembly Floor.

(8) Final summary of AB 360 after enactment as a 2003 statute amending Penal Code § 330b, as appearing in the Legislative Counsel's Summary Digest.

B. Judicial notice of other relevant facts and propositions

By this motion, Appellants also ask the Court, pursuant to Evidence Code §§ 459(a) and 452(h), to take judicial notice of the following **other facts and/or propositions** pertinent to this appeal:

(1) There are a wide variety of websites and applications, the use of which affords every Internet portal, e.g., computer, laptop, tablet, "smart TV," or cell phone, the ability to play games of chance or reveal contest

outcomes, where prizes or free games are awarded based on outcomes unpredictable to the user. All that is required to play is the inputting of a code or password or other form of Log In into the device. Such websites and applications come in a variety of forms, including: (a) sweepstakes websites; (b) lawful Government-sponsored lottery websites where lawful gambling is conducted; and (c) fantasy sports leagues.

MEMORANDUM OF LAW

Evidence Code § 459(a) provides:

“(a) . . . The reviewing court may take judicial notice of any matter specified in Section 452. The reviewing court may take judicial notice of a matter in a tenor different from that noticed by the trial court.”

Evidence Code § 452(a) provides:

“Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:

...

“(h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

Additionally, a court may always taking judicial notice of legislative history. *Monk v. Ehret*, 192 Cal. 186, 193 (1923).

For the reasons provided in the accompanying Declaration of G. Randall Garrou, each of the facts and propositions which Appellants request the Court to judicially notice are “facts and propositions that are not

reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.”

For all these reasons, Appellants’ judicial notice request is appropriate and Appellants believe judicial notice should be taken to assist in resolution of this appeal.

Respectfully submitted,

Dated: September 24, 2014

John H. Weston
G. Randall Garrou
Jerome H. Mooney
Weston, Garrou & Mooney

by 
G. Randall Garrou

Attorneys for Appellants Grewal
and Walker

**DECLARATION OF G. RANDALL GARROU IN
SUPPORT OF MOTION TO TAKE JUDICIAL NOTICE
(C.C.P. § 2015.5)**

I, G. Randall Garrou, hereby declare as follows:

1. I am one of the counsel for Appellants Grewal and Walker and make this Declaration in support of their Motion for the Court to Take Judicial Notice.

2. In preparation of this appeal, I went to both the Official California Legislative Information website (<http://www.leginfo.ca.gov/>) and the Bill Search website of the California State Legislature (<http://www.legislature.ca.gov/port-bilinfo.html>), attempting to find all material therein pertinent to AB 360 (2003), the bill which amended Penal Code § 330b in 2003, enacted as Stats. 2003, c. 264. The items below are pdf copies of material I found on those websites and they include all analyses I could find of the drafts of the bill as it went through the various committees and floors of each house of the Legislature. These items are all attached as exhibits to this Declaration:

(1) February 14, 2003, redlined version of AB 360 as originally introduced, showing changes from prior legislation. (Exhibit A-1.)

(2) May 5, 2003, analysis of AB 360 prepared for Assembly Committee on Governmental Organization. (Exhibit A-2.)

(3) May 8, 2003 analysis of AB 360 prepared for Assembly Floor. (Exhibit A-3.)

(4) June 17, 2003, analysis of AB 360 prepared for Senate Committee on Governmental Organization. (Exhibit A-4.)

(5) June 18, 2003 analysis of AB 360 prepared for Senate Floor. (Exhibit A-5.)

(6) July 11, 2003, analysis of AB 360 prepared for Senate Floor. (Exhibit A-6.)

(7) July 25, 2003, analysis of AB 360 prepared for Assembly Floor. (Exhibit A-7.)

3. I also found a final summary of AB 360 after its enactment as a 2003 statute amending Penal Code § 330b, appearing in the Legislative Counsel's Summary Digest. (Exhibit A-8.)

4. In addition to my review of the legislative history, I also directed an online search of websites affording those with any device providing Internet access, e.g., any computer, laptop, tablet, "smart TV," or smart phone, the ability to log in with a code or password and then play games of chance with the potential of winning prizes. We found at least three different categories of such websites:

a. **Sweepstakes websites.** We found a large variety of sweepstakes websites hosted by sellers of products. The common theme is that sweepstakes entries would be provided both for free and also to those who make product purchases. The participant would be assigned a code or password to login with, and then play a game online which, upon its conclusion, would reveal whether they had won anything. We found that companies will typically run their sweepstakes for defined periods, but typically start new contests at some point after the prior contest has ended. Examples of companies with these types of sweepstakes websites include: Gillette (Grand Prize winner will received a 50" television and home theater system, see <https://yahoo.promo.eprize.com/gillette/>), Coca-Cola (prizes

include \$500 Visa gift card, groceries for a year and more, see <http://www.mycokerewards.com/catalog/sweepstakes>), McDonalds (Grand Prize includes a trip for 2 people to Las Vegas and tickets to see the Latin Grammy's in person, see <https://mcdlgsweeps.com/>) and Victoria's Secret (The Angels Get More Sweepstakes Grand Prize winner receives round trip first class airfare to London, hotel accommodations and tickets to Victoria's Secret Fashion Show, see <https://www.victoriassecret.com/popups/1267035341683>)

- b. **Lawful gambling websites.** We also found that there are lawful government-sponsored gambling sites available online where customers may login, after having first paid to play, and then use their Internet connection to see if they have won any type of lottery game. One such example is from the California State Lottery itself. Specifically, one of the games offered by the CSL is called "2nd Chance." To play that game, one first goes to an SVM or clerk and pays for an "eligible ticket" (defined as any Scratchers card and any ticket for the Fantasy 5 and Super Lotto Plus lottery games). Each such ticket will have a "ticket code." The participant then goes online to the CSL website and enters the 2nd Chance lottery game by inputting that ticket code on the CSL website. That code becomes a draw entry into one of three different types of draws. After the drawing occurs, "all 2nd Chance winners are posted" on the CSL website. The link

below is to the CSL's "How It Works" screen explaining the process described above:

<http://www.calottery.com/play/second-chance/how-it-works>

c. **Fantasy league sports websites.** We also found multiple sites for fantasy sports leagues where a customer pays an entry fee and then picks his or her fantasy sports team, which team is then entered into a fantasy sports league competition where the results are determined by the future success or failure of real athletes who the customer has selected to be on his or her team. Winning teams advance to higher rounds of play and ultimately become eligible for cash prizes. The two most prominent such websites we found, both connected to ESPN, were the following:

- i. <http://games.espn.go.com/ffl/resources/help/content?name=prizes> (where Grand Prize winners of ESPN's Fantasy Football League receive a Best Buy gift card valued at \$3,500); and
- ii. http://www.tsn.ca/fantasyfootball/rules/TSN_Fantasy_Football_Contest_2014.pdf (where Grand Prize winners of Coors Light & ESPN's Fantasy Football League will be awarded roundtrip airfare, hotel accommodations, food, and transportation for two people to a "mystery football experience" at an unknown U.S. city in January 2015)

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 24th day of September, 2014.


G. Randall Garrou

EXHIBIT A-1

February 14, 2003, redlined version of AB 360 as originally introduced, showing changes from prior legislation

BILL NUMBER: AB 360 INTRODUCED
 BILL TEXT

INTRODUCED BY Assembly Member Jerome Horton

FEBRUARY 14, 2003

An act to amend Section 330b of the Penal Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 360, as introduced, Jerome Horton. Slot machines or devices.

Existing law prohibits possession and sale of slot machines or devices, except in limited instances.

This bill would create an exception to this prohibition for manufacturers that are licensed pursuant to tribal-state gaming compacts and that satisfy specified conditions. The bill would also make various technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 330b of the Penal Code is amended to read:

330b. Possession or keeping of slot machines or devices.

(1) It is unlawful for any person to manufacture, repair, own, store, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to repair, sell, rent, lease, let on shares, lend or give away, or ~~to~~ permit the operation , placement, maintenance, or keeping of, ~~or for any person to permit to be placed, maintained or kept~~ in any place, room, space , or building owned, leased , or occupied ~~by him or under his management or control~~ , managed, or controlled by that person , any slot machine or device , as ~~hereinafter~~ defined ~~, or~~ in this section.

(2) ~~It is unlawful for any person to make or to permit to be made with any person any the making of an agreement with reference to another person regarding any slot machine or device, as hereinafter defined, pursuant to~~ by which the user ~~thereof~~ of the slot machine or device , as a result of ~~any~~ the element of hazard or chance or other *unpredictable* outcome ~~unpredictable by him~~ , may become entitled to receive ~~any~~ money, credit, allowance, or other thing of value or additional chance or right to use

~~such~~ the slot machine or device, or to receive any check, slug, token, or memorandum entitling the holder to receive ~~any~~ money, credit, allowance, or other thing of value ~~;~~ ~~provided,~~ however, that this section, insofar as it relates to owning, storing, possessing, or transporting any slot machine or device as hereinafter defined, shall not apply to.

(3) The limitations of paragraphs (1) and (2) do not apply in the following instances:

(A) To any slot machine or device ~~as hereinafter defined,~~ located upon or being transported by any vessel regularly operated and engaged in interstate or foreign commerce, so long as ~~such~~ the slot machine or device is located in a locked compartment of the vessel, is not accessible for use, and is not used or operated within the territorial jurisdiction of this state.

~~(2) Any machine, apparatus, or device is a slot machine or device within the provisions~~

(B) To a manufacturer licensed pursuant to the tribal-state gaming compacts entered into in accordance with the Indian Gaming Regulatory Act (18 U.S.C. Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.) by a tribal gaming agency if the manufacturer's application for a determination of suitability has been properly submitted to the State Division of Gambling Control, and has not been found to be unsuitable by the Division of Gambling Control.

(4) For purposes of this section ~~if it is one~~, "slot machine or device" means a machine, apparatus, or device that is adapted, or may readily be converted ~~into one that is adapted~~, for use in ~~such~~ a way that, as a result of the insertion of any piece of money or coin or other object, or by any other means, ~~such~~ the machine or device is caused to operate or may be operated, and by reason of any element of hazard or chance or of other outcome of ~~such~~ operation unpredictable by him or her, the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value or additional chance or right to use ~~such~~ the slot machine or device, or any check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance or thing of value, or which may be given in trade, irrespective of whether it may, apart from any element of hazard or chance or unpredictable outcome of ~~such~~ operation, also sell, deliver or present some merchandise, indication of weight, entertainment or other thing of value.

~~(3)~~

(5) Every person who violates this section is guilty of a misdemeanor.

~~(4) It is expressly provided that with respect to the provisions of Section 330b only of this code, pin~~

(6) Pin ball ~~and~~ other amusement machines or devices, which are predominantly games of skill, whether affording the opportunity of additional chances or free plays or not, are not ~~intended to be and are not~~ included within the term slot machine or device,

as defined in ~~said Section 330b of this~~
~~code~~ section .

_____ CORRECTIONS Text -- Page 2.

EXHIBIT A-2

May 5, 2003, analysis of AB 360 prepared for Assembly
Committee on Governmental Organization



AB 360

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Date of Hearing: May 5, 2003

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION
Jerome Horton, Chair

AB 360 (J. Horton) - As Introduced: February 14, 2003

SUBJECT : Slot machines or devices.

SUMMARY : Allows the possession and sale of slot machines in California by tribal-licensed manufacturers. Specifically, this bill creates an exception to the statutory prohibition on the possession and sale of slot machines in the state for manufacturers licensed pursuant to the tribal-state gaming compacts that have not been found unsuitable by the Division of Gambling Control.

EXISTING LAW :

- 1) Generally prohibits the use or sale of slot machines in California. An exception to this ban is made for any slot machine being transported by any vessel engaged in interstate or foreign commerce, so long as the slot machine is in a locked compartment and is not used within the territorial jurisdiction of the state.
- 2) Provides that, pursuant to tribal-state gaming compacts entered into by the Governor and Indian Tribes, tribal casinos may operate slot machines.

FISCAL EFFECT : Unknown.

COMMENTS : The author indicates that the current state prohibition on the sale or possession of slot machines: (1) is obsolete, since it was based on no person or entity being able to legally possess or operate slot machines under any circumstances (Indian Tribes can now do so subject to the gaming compacts); and (2) subjects California slot machine manufacturers to unnecessary shipping and storage expenses made in order to comply with the law.

The sponsor of this bill, Gamecraft, explains that AB 360 seeks to update California law by allowing California manufacturers of slot machines to ship machines directly from the production site in California to legal purchasers at tribal casinos. Currently, Gamecraft must ship machines out of state then back into the

AB 360

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state to the purchaser, putting the company at a competitive disadvantage to out of state manufacturers.

Previous Legislation: In 2002, AB 817 (Firebaugh) and AB 651 (Horton) both had provisions similar to this bill. Both bills failed, primarily because of technical issues that were not resolved with the California Gambling Control Commission and the Indian Tribes.

REGISTERED SUPPORT / OPPOSITION :Support

None on file.

Opposition

None on file.

Analysis Prepared by : Alva Johnson / G. O. / (916) 319-2531

EXHIBIT A-3

May 8, 2003 analysis of AB 360 prepared for Assembly Floor

ASSEMBLY THIRD READING
AB 360 (Horton)
As Introduced February 14, 2003
Majority vote

GOVERNMENTAL ORGANIZATION 23-0

Ayes:	Jerome Horton,		
	Strickland, Bermudez,		
	Canciamilla, Chavez,		
	Cohn, Corbett, Dynally,		
	Firebaugh, Frommer,		
	Harman, La Suer, Levine,		
	Liu, Maddox, McCarthy,		
	Negrete McCleod, Nunez,		
	Oropeza, Samuelian,		
	Wiggins, Wyland, Yee		

SUMMARY : Allows the possession and sale of slot machines in California by tribal-licensed manufacturers. Specifically, this bill creates an exception to the statutory prohibition on the possession and sale of slot machines in the state for manufacturers licensed pursuant to the tribal-state gaming compacts that have not been found unsuitable by the Division of Gambling Control.

EXISTING LAW :

- 1) Prohibits, generally, the use or sale of slot machines in California. An exception to this ban is made for any slot machine being transported by any vessel engaged in interstate or foreign commerce, so long as the slot machine is in a locked compartment and is not used within the territorial jurisdiction of the state.
- 2) Provides that, pursuant to tribal-state gaming compacts entered into by the Governor and Indian Tribes, tribal casinos may operate slot machines.

FISCAL EFFECT : None

COMMENTS : The author indicates that the current state prohibition on the sale or possession of slot machines: 1) is

obsolete, since it was based on no person or entity being able to legally possess or operate slot machines under any circumstances (Indian Tribes can now do so subject to the gaming compacts); and 2) subjects California slot machine manufacturers to unnecessary shipping and storage expenses made in order to comply with the law.

The sponsor of this bill, Gamecraft, explains that this bill seeks to update California law by allowing California manufacturers of slot machines to ship machines directly from the production site in California to legal purchasers at tribal casinos. Currently, Gamecraft must ship machines out of state then back into the state to the purchaser, putting the company at a competitive disadvantage to out of state manufacturers.

Previous Legislation: In 2002, AB 817 (Firebaugh), which died in the Assembly, and AB 651 (Jerome Horton), which died in the Senate, both had provisions similar to this bill. Both bills failed, primarily because of technical issues that were not resolved with the California Gambling Control Commission and the Indian Tribes.

Analysis Prepared by : Alva Johnson / G. C. / (916) 319-2531
FN: 0000764

EXHIBIT A-4

**June 17, 2003, analysis of AB 360 prepared for Senate Committee
on Governmental Organization**

Bill No: AB

360

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
 Senator Edward Vincent, Chair
 2003-2004 Regular Session
 Staff Analysis

AB 360 Author: J. Horton
 As Amended: May 27, 2003
 Hearing Date: June 17, 2003
 Consultant: Steve Hardy

SUBJECT

Possession of Slot Machines

DESCRIPTION

AB 360 would allow the possession and sale of slot machines in California by tribal-licensed manufacturers. This bill creates an exception to the statutory prohibition on the possession and sale of slot machines in California for manufacturers licensed pursuant to the tribal-state gaming compacts as specified.

PRIOR LEGISLATION

AB 651 (Horton) 2002 Session Similar to this measure.
 (Died on Senate Inactive File)

EXISTING LAW

1. Prohibits, generally, the use or sale of slot machines in California. An exception to this ban is made for any slot machine being transported by any vessel engaged in interstate or foreign commerce, so long as the slot machine is in a locked compartment and is not used within the territorial jurisdiction of the state.
2. Provides that, pursuant to tribal-state gaming compacts entered into by the Governor and Indian Tribes, tribal casinos may operate slot machines.

AB 360 (J. Horton) continued
Page 2

BACKGROUND

The author indicates that the current state prohibition on the sale or possession of slot machines: 1) is obsolete, since it was based on no person or entity being able to legally possess or operate slot machines under any circumstances (Indian Tribes can now do so subject to the gaming compacts); and 2) subjects California slot machine manufacturers to unnecessary shipping and storage expenses made in order to comply with the law.

The author's office states that this bill seeks to update California law by allowing California manufacturers of slot machines to ship machines directly from the production site in California to legal purchasers at tribal casinos. Currently, a California manufacturer must ship machines out of state then back into the state to the purchaser, putting the company at a competitive disadvantage to out of state manufacturers.

Previous Legislation: In 2002, AB 651 (Jerome Horton), which died in the Senate, had provisions similar to this bill. The bill failed, primarily because of technical issues that were not resolved with the California Gambling

7/11/2014

AB 360 Assembly Bill - Bill Analysis

Control Commission and the Indian Tribes. There is no known opposition to this bill.

SUPPORT: Gamecraft
Aqua Caliente Band of Cahuilla Indians

OPPOSE: None registered as of 6/13/03

FISCAL COMMITTEE: None

SMH:bkh

EXHIBIT A-5

June 18, 2003 analysis of AB 360 prepared for Senate Floor


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|SENATE RULES COMMITTEE | AB 360|
|Office of Senate Floor Analyses | |
|1020 N Street, Suite 524 | |
|(916) 445-6614 Fax: (916) | |
|327-4478 | |
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CONSENT

Bill No: AB 360
 Author: J. Horton (D)
 Amended: 5/27/03 in Senate
 Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE : 10-0, 6/17/03
 AYES: Vincent, Johnson, Battin, Brulte, Cedillo, Dunn,
 Karmette, Margett, Morrow, Soto
 ABSENT/ABSTAINING/NOT VOTING: Chesbro, Machado, Murray

ASSEMBLY FLOOR : 72-0, 5/12/03 - See last page for vote

SUBJECT : Slot machines or devices

SOURCE : Gamecraft

DIGEST : This bill allows the possession and sale of slot machines in California by tribal-licensed manufacturers. This bill creates an exception to the statutory prohibition on the possession and sale of slot machines in California for manufacturers licensed pursuant to the tribal-state gaming compacts as specified.

ANALYSIS : Existing law:

1. Prohibits, generally, the use or sale of slot machines in California. An exception to this ban is made for any slot machine being transported by any vessel engaged in interstate or foreign commerce, so long as the slot machine is in a locked compartment and is not used within the territorial jurisdiction of the state.

CONTINUED

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2. Provides that, pursuant to tribal-state gaming compacts entered into by the Governor and Indian Tribes, tribal casinos may operate slot machines.

The author indicates that the current state prohibition on the sale or possession of slot machines: (1) is obsolete, since it was based on no person or entity being able to legally possess or operate slot machines under any circumstances (Indian Tribes can now do so subject to the gaming compacts); and (2) subjects California slot machine manufacturers to unnecessary shipping and storage expenses made in order to comply with the law.

The author's office states that this bill seeks to update California law by allowing California manufacturers of slot machines to ship machines directly from the production site in California to legal purchasers at tribal casinos. Currently, a California manufacturer must ship machines out of state then back into the state to the purchaser, putting the company at a competitive disadvantage to out of state manufacturers.

Prior legislation

In 2002, AB 651 (J. Horton), 2001-02, which died in the Senate, had provisions similar to this bill. The bill failed, primarily because of technical issues that were not

resolved with the California Gambling Control Commission
and the Indian Tribes.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

SUPPORT : (Verified 6/17/03)

Gamecraft (source)
Agua Caliente Band of Cahuilla Indians

ASSEMBLY FLOOR :
AYES: Aghazarian, Bates, Benoit, Berg, Bermudez, Bogh,
Calderon, Campbell, Canciamilla, Chavez, Chu, Cogdill,
Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dutra, Dutton,

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Dymally, Firebaugh, Frommer, Garcia, Harman, Haynes,
Jerome Horton, Shirley Horton, Houston, Keene, Kehoe,
Koretz, La Malfa, La Suer, Laird, Leno, Leslie, Levine,
Lieber, Liu, Longville, Lowenthal, Maddox, Maldonado,
Matthews, Maze, McCarthy, Montanez, Mullin, Nakanishi,
Nakano, Nation, Negrete McLeod, Nunez, Oropeza, Pacheco,
Parra, Pavley, Reyes, Richman, Ridley-Thomas, Salinas,
Samuelian, Spitzer, Steinberg, Strickland, Vargas,
Wiggins, Wolk, Wyland, Yee, Wesson

TSM:nl 6/18/03 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

EXHIBIT A-6

July 11, 2003, analysis of AB 360 prepared for Senate Floor


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|SENATE RULES COMMITTEE | | AB 360|
|Office of Senate Floor Analyses | | |
|11020 N Street, Suite 524 | | |
| (916) 445-6614 Fax: (916) | | |
|327-4478 | | |
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THIRD READING

Bill No: AB 360
 Author: J. Horton (D)
 Amended: 5/27/03 in Senate
 Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE : 10-0, 6/17/03
 AYES: Vincent, Johnson, Battin, Brulte, Cedillo, Dunn,
 Karnette, Margett, Morrow, Soto
 ABSENT/NO VOTE RECORDED: Chesbro, Machado, Murray

ASSEMBLY FLOOR : 72-0, 5/12/03 - See last page for vote

SUBJECT : Slot machines or devices

SOURCE : Gamecraft

DIGEST : This bill allows the possession and sale of slot machines in California by tribal-licensed manufacturers. This bill creates an exception to the statutory prohibition on the possession and sale of slot machines in California for manufacturers licensed pursuant to the tribal-state gaming compacts as specified.

ANALYSIS : Existing law:

1. Prohibits, generally, the use or sale of slot machines in California. An exception to this ban is made for any slot machine being transported by any vessel engaged in interstate or foreign commerce, so long as the slot machine is in a locked compartment and is not used within the territorial jurisdiction of the state.

CONTINUED

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2. Provides that, pursuant to tribal-state gaming compacts entered into by the Governor and Indian Tribes, tribal casinos may operate slot machines.

The author indicates that the current state prohibition on the sale or possession of slot machines: (1) is obsolete, since it was based on no person or entity being able to legally possess or operate slot machines under any circumstances (Indian Tribes can now do so subject to the gaming compacts); and (2) subjects California slot machine manufacturers to unnecessary shipping and storage expenses made in order to comply with the law.

The author's office states that this bill seeks to update California law by allowing California manufacturers of slot machines to ship machines directly from the production site in California to legal purchasers at tribal casinos. Currently, a California manufacturer must ship machines out of state then back into the state to the purchaser, putting the company at a competitive disadvantage to out of state manufacturers.

Prior legislation

In 2002, AB 651 (J. Horton), 2001-02, which died in the Senate, had provisions similar to this bill. The bill failed, primarily because of technical issues that were not

resolved with the California Gambling Control Commission
and the Indian Tribes.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

SUPPORT : (Verified 6/17/03)

Ganecraft (source)
Agua Caliente Band of Cahuilla Indians

ASSEMBLY FLOOR :
AYES: Aghazarian, Bates, Benoit, Berg, Bermudez, Bogh,
Calderon, Campbell, Canciamilla, Chavez, Chu, Cogdill,
Cohn, Corbett, Correa, Cox, Daucher, Diaz, Dutra, Dutton,
Dymally, Firebaugh, Frommer, Garcia, Harman, Haynes,

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Jerome Horton, Shirley Horton, Houston, Keene, Kehoe,
Koretz, La Malfa, La Suer, Laird, Leno, Leslie, Levine,
Lieber, Liu, Longville, Lowenthal, Maddox, Maldonado,
Matthews, Maze, McCarthy, Montanez, Mullin, Nakanishi,
Nakano, Nation, Negrete McLeod, Nunez, Oropeza, Pacheco,
Parra, Pavley, Reyes, Richman, Ridley-Thomas, Salinas,
Samuelian, Spitzer, Steinberg, Strickland, Vargas,
Wiggins, Wolk, Wyland, Yee, Wesson

TSM:nl 7/11/03 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

EXHIBIT A-7

July 25, 2003, analysis of AB 360 prepared for Assembly Floor

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CONCURRENCE IN SENATE AMENDMENTS
AB 360 (Jerome Horton)
As Amended May 27, 2003
Majority vote

| ASSEMBLY: 172-0 | (May 22, 2003) | SENATE: 135-0 | (July 21, |
| | | | | 2003) | |

Original Committee Reference: G. O.

SUMMARY : Allows the possession and sale of slot machines in California by tribal-licensed manufacturers.

The Senate amendments provide that the exception to the statutory ban on the possession and sale of slot machines is based on a manufacturer's business activities that are conducted in accordance with the terms of a license issued by a tribal gaming agency pursuant to the tribal-state gaming compacts.

EXISTING LAW :

- 1) Prohibits, generally, the use or sale of slot machines in California. An exception to this ban is made for any slot machine being transported by any vessel engaged in interstate or foreign commerce, so long as the slot machine is in a locked compartment and is not used within the territorial jurisdiction of the state.
- 2) Provides that, pursuant to tribal-state gaming compacts entered into by the Governor and Indian Tribes, tribal casinos may operate slot machines.

AS PASSED BY THE ASSEMBLY , this bill created an exception to the statutory prohibition on the possession and sale of slot machines in the state for manufacturers licensed pursuant to the tribal-state gaming compacts that have not been found unsuitable by the Division of Gambling Control.

FISCAL EFFECT : None

COMMENTS : The author indicates that the current state prohibition on the sale or possession of slot machines: 1) is obsolete, since it was based on no person or entity being able

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to legally possess or operate slot machines under any circumstances (Indian Tribes can now do so subject to the gaming compacts); and, 2) subjects California slot machine manufacturers to unnecessary shipping and storage expenses made in order to comply with the law.

Analysis Prepared by : Alva Johnson / G. O. / (916) 319-2531

FN: 0001969

EXHIBIT A-8

Final summary of AB 360 after its enactment as a 2003 statute
amending Penal Code § 330b, appearing in the Legislative
Counsel's Summary Digest

punished by imprisonment in the state prison for 2, 3, or 4 years, or in a county jail for one year, or by a fine of up to \$10,000, or by both that imprisonment and fine.

Because this bill would increase the number of persons sentenced to a term of imprisonment in a county jail, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Ch. 263 (AB 355) Pacheco. Juveniles: escape from custody.

Existing law makes it a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall or who is committed to, or being transported to or from, a county juvenile ranch, camp, or forestry camp to escape or attempt to escape from that place or during transportation to or from that place.

This bill would revise and recast that provision. In addition, the bill would make it a misdemeanor for any person who is under the custody of a probation officer or any peace officer in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility, as defined, to escape or attempt to escape while outside or away from such an institution or facility while under the custody of a probation officer or any peace officer. By creating a new crime, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Ch. 264 (AB 360) Jerome Horton. Slot machines or devices.

Existing law prohibits the possession and sale of slot machines or devices, except in limited instances.

This bill would create an exception to this prohibition for manufacturers that are licensed pursuant to tribal-state gaming compacts and that satisfy specified conditions. The bill would also make various technical, nonsubstantive changes to that provision.

Ch. 265 (AB 542) Dutra. Military artifacts: loan by California State Military Museum.

(1) Existing law requires all escheated property delivered to the Controller to be sold by the Controller to the highest bidder at public sale, as specified. Existing law exempts from this requirement escheated property consisting of military awards and decorations, which are to be held in trust for the Controller at the California National Guard Museum and Resource Center.

This bill would provide that other items relating to the military history of California and Californians are also to be exempted from the public sale requirement described above, and would provide that the California State Military Museum and Resource Center shall hold these items in trust for the Controller. The bill would require that the escheated property that is held by the California State Military Museum and Resource Center be subject to specified regulations for Army museums and would require that the museum be responsible for the storage and maintenance costs for that property.

(2) Existing law requires the Adjutant General to establish the California State Military Museum as a repository for military artifacts, and permits the Adjutant General and the California State Military Museum to solicit, receive, and administer donations for the support and improvement of the museum. Existing law permits the California State Military Museum to dispose of property determined by it to be in excess of the needs of the museum, as specified, with the benefits from these dispositions to be applied to the museum.

NOTE: Superior numbers appear as a separate section at the end of the digests.

PROOF OF SERVICE BY U.S. MAIL AND ELECTRONIC SERVICE

I am a resident of and also employed in the County of Los Angeles, State of California. I am over the age of eighteen years and am not a party to the within entitled action. I work at the law firm of Weston, Garrou & Mooney located at 12121 Wilshire Boulevard, Suite 525, Los Angeles, CA 90025.

I am readily familiar with this law firm's practice for the collecting and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, any correspondence delivered to our firm's mail room employee(s) is routinely stamped with postage and then deposited for mailing on the same day with the United States Postal Service.

MOTION BY APPELLANTS GREWAL AND WALKER TO TAKE JUDICIAL NOTICE; SUPPORTING DECLARATION OF G. RANDALL GARROU; ORDER

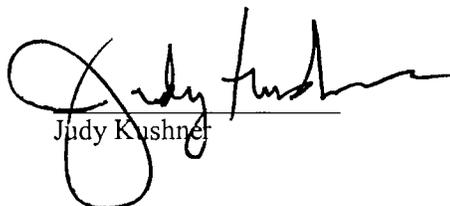
- SERVICE BY U.S. MAIL.** On the date shown below, I served the foregoing document on the interested parties in this action by delivering to our firm's mail room employee a true copy thereof in a sealed envelope for delivery by U.S. Mail, addressed as follows:

See attached service list.

- ELECTRONIC SERVICE.** On the date shown below, in satisfaction of the requirements of California Business and Professions Code §17209 for service of designated Appellate Briefs in the State of California on the Attorney General, I served a true copy of the foregoing document on Kamala Harris, the Attorney General of California by uploading it via the Attorney General's California government website, in an area specifically designated for Electronic Service of Civil Appellate Briefs; it was electronically served utilizing the following URL: <https://oag.ca.gov/services-info/17209-brief/add>
- ELECTRONIC FILING.** On the date shown below, in satisfaction of the requirements for service of Appellate Briefs in the State of California, a true copy of the foregoing document has been filed with the Supreme Court of California via its California government website, in an area specifically designated for Electronic Service of Civil Appellate Briefs.
- FILING PARTIALLY BY FEDERAL EXPRESS.** On the date shown below, in satisfaction of the requirements for service of Appellate Briefs in the State of California, an original of the foregoing document and eight copies have been sent to the Supreme Court of California for filing via Priority Federal Express.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: September 24, 2014


Judy Kushner

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