

EXHIBIT A

California Bill Analysis, A.B. 1753 Sen., 6/22/2010

California Bill Analysis, Senate Committee, 2009-2010 Regular Session, Assembly Bill 1753

June 22, 2010
California Senate
2009-2010 Regular Session

SENATE COMMITTEE ON PUBLIC SAFETY

Senator Mark Leno, Chair

A 2009-2010 Regular Session B 1 7 5 AB 1753 (Hall) 3 As Amended April 14, 2010

SLOT MACHINES HISTORY Source: Los Angeles County Sheriff's Department Prior Legislation: None Support: Los Angeles County District Attorney's Office; California State Sheriffs' Association; Morongo Band of Mission Indians, Tribal Council (if amended) Opposition: Unknown Assembly Floor Vote: Ayes 71 - Noes 0

KEY ISSUES SHOULD THE PENALTIES FOR SUBSEQUENT CONVICTIONS OF SLOT MACHINE RELATED OFFENSES BE AS FOLLOWS: \$1,000-\$10,000 FINE AND UP TO SIX MONTHS IN JAIL FOR A SECOND OFFENSE; AND \$10,000-\$25,000 FINE AND UP TO ONE YEAR IN THE COUNTY JAIL FOR A THIRD OR SUBSEQUENT OFFENSE" IF A SLOT MACHINE OFFENSE INVOLVES MORE THAN ONE MACHINE OR MORE (More) AB 1753 (Hall) PageB THAN ONE LOCATION, SHOULD THERE BE AN ADDITIONAL FINE OF \$1,000-\$5,000" PURPOSE The purpose of this bill is to increase the fines for repeat slot machine related offenses.

Existing law provides that every person, who has in his possession or under his control or who permits to be placed, maintained or kept in any room, space, inclosure or building owned, leased or occupied by him, or under his management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is staked or hazarded, and which is operated or played by placing or depositing therein coins, checks, slugs, balls, or other articles or device, or in any other manner or as a result of the operation of which any merchandise, money, representative or article of value, checks or tokens, redeemable in or exchangeable for money or other thing of value, is won or lost, or taken from or obtained from such machine, when the result of action or operation of such machine, contrivance, et cetera, is dependant upon hazard or chance, and every person who has in his or her possession or under his or her control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained or kept, in any room, space, inclosure or building, owned, leased or occupied by him, or under his management or control, any card dice, or any dice having more than six faces or bases each, upon the result of action of which any money or other valuable thing is staked or hazarded, or as a result of the operation of which any merchandise, money, representative or article of value, check or token, redeemable in or exchangeable for money or any other thing of value is won or lost or taken when the result of action or operation of such dice is dependant upon hazard or chance is guilty of a misdemeanor punishable by a fine between \$100 and \$1,000 and/or by imprisonment in the county jail not exceeding six months. (Penal Code 330a.) (More) AB 1753 (Hall) PageC

This bill provides that the penalty for a second offense of the above shall be a fine between \$1,000 and \$10,000 and/or up to six months in the county jail.

This bill provides that a third or subsequent offense of the above shall be a fine between \$10,000 and \$25,000 and/or imprisonment in the county jail for up to one year.

This bill provides that if the above offense involved more than one machine or more than one location, an additional fine of \$1,000 to \$5,000 shall be imposed per machine per location.

Existing law provides that 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 permit the operation, placement, maintenance, or keeping of, in any place, room, space, or building owned, leased, or occupied, managed, or controlled by that person, any slot machine or device as defined. It is unlawful for any person to make or to permit the making of an agreement with another person regarding any slot machine or device, by which the user of the slot machine or device, as a result of the element of hazard or chance or other unpredictable outcome, may become entitled to receive money, credit, allowance, or other thing of value or additional chance or right to use the slot machine or device, or to receive any check, slug, token, or memorandum entitling the holder to receive the money, credit, allowance or other thing of value. A violation is a misdemeanor punishable by up to six months in county jail and/or a fine not more than \$1,000. (Penal Code 330b.)

This bill provides that a first violation of the above is punishable by a fine between \$500 and \$1,000 and/or by imprisonment in the county jail for up to 6 months.

This bill provides that the penalty for a second offense of the above shall be a fine between \$1,000 and \$10,000 and/or up to six months in the county jail. (More) AB 1753 (Hall) PageD

This bill provides that a third or subsequent offense of the above shall be a fine between \$10,000 and \$25,000 and/or imprisonment in the county jail for up to one year.

This bill provides that if the above offense involved more than one machine or more than one location, an additional fine of \$1,000 to \$5,000 shall be imposed per machine per location.

Existing law provides that every person who manufactures, owns, stores, keeps, possesses, sells, rents, leases, lets on shares, lend or gives away, transports, or exposes for sale or lease, or offers to sell, rent, lease, lets on shares, lend or give away or who permits the operation of or permits to be placed, maintained, used or kept in any room, space, or building owned, leased, or occupied by him or her or under his or her management or control, any slot machine or device as defined, and every person who makes or permits to be made with any person any agreement with reference to any slot machine or device as defined, pursuant to which agreement with the user thereof, as a result of any element of hazard or chance, may become entitled to receive anything of value or additional chance or right to use that slot machine, or to receive any check, slug, token, or memorandum, whether of value or otherwise, entitling the holder to receive anything of value is a misdemeanor punishable by a fine of not more than \$1,000 and/or up to six months in jail. (Penal Code 330.1.)

This bill provides that the penalty for a second offense of the above shall be a fine between \$1,000 and \$10,000 and/or up to six months in the county jail.

This bill provides that a third or subsequent offense of the above shall be a fine between \$10,000 and \$25,000 and/or imprisonment in the county jail for up to one year.

This bill provides that if the above offense involved more than one machine or more than one location, an additional fine of \$1,000 to \$5,000 shall be imposed per machine per location. (More) AB 1753 (Hall) PageE RECEIVER-SHIP/OVERCROWDING CRISIS AGGRAVATION IMPLICATIONS The severe prison overcrowding problem California has experienced for the last several years has not been solved. In December of 2006 plaintiffs in two federal lawsuits against the Department of Corrections and Rehabilitation sought a court-ordered limit on the prison population pursuant to the federal Prison Litigation Reform Act. On January 12, 2010, a federal three-judge panel issued an order requiring the state to reduce its inmate population to 137.5 percent of design capacity -- a reduction of roughly 40,000 inmates -- within two years. In a prior, related 184-page Opinion and Order dated August 4, 2009, that court stated in part: "California's correctional system is in a tailspin," the state's independent oversight agency has reported. . . . (Jan. 2007 Little Hoover Commission Report, "Solving California's Corrections Crisis: Time Is Running Out"). Tough-on-crime politics have increased the population of California's prisons dramatically while making necessary reforms impossible. . . . As a result, the state's prisons have become places "of extreme peril to the safety of persons" they house, . . . (Governor Schwarzenegger's Oct. 4, 2006 Prison Overcrowding State of Emergency Declaration), while contributing little to the safety of California's residents, . . . California "spends more on corrections than most countries in the world," but the state "reaps fewer public safety benefits." . . . Although California's existing prison system serves neither the public nor the inmates well, the state has for years been unable or unwilling to implement the reforms necessary to reverse its continuing deterioration. (Some citations omitted.) . . . The massive 750% increase in the California prison population since the mid-1970s is the result of political decisions made over three decades, including (More) AB 1753 (Hall) PageF the shift to inflexible determinate sentencing and the passage of harsh mandatory minimum and three-strikes laws, as well as the state's counterproductive parole system. Unfortunately, as California's prison population has grown, California's political decision-makers

have failed to provide the resources and facilities required to meet the additional need for space and for other necessities of prison existence. Likewise, although state-appointed experts have repeatedly provided numerous methods by which the state could safely reduce its prison population, their recommendations have been ignored, underfunded, or postponed indefinitely. The convergence of tough-on-crime policies and an unwillingness to expend the necessary funds to support the population growth has brought California's prisons to the breaking point. The state of emergency declared by Governor Schwarzenegger almost three years ago continues to this day, California's prisons remain severely overcrowded, and inmates in the California prison system continue to languish without constitutionally adequate medical and mental health care.

[FN1]. The court stayed implementation of its January 12, 2010, ruling pending the state's appeal of the decision to the U.S. Supreme Court. On Monday, June 14, 2010, the U.S. Supreme Court agreed to hear the state's appeal in this case.

This bill does not appear to aggravate the prison overcrowding crisis described above. (More) -----

[FN1]. Three Judge Court Opinion and Order, Coleman v. Schwarzenegger, Plata v. Schwarzenegger, in the United States District Courts for the Eastern District of California and the Northern District of California United States District Court composed of three judges pursuant to Section 2284, Title 28 United States Code (August 4, 2009). COMMENTS 1.

Need for This Bill According to the author: Unlicensed slot machines, often disguised as video arcade machines, are being placed in small businesses in largely lower income neighborhoods. These slot machines look and act nearly identical to licensed slot machines found at tribal gaming facilities yet are being placed in bars, restaurants, liquor stores and tobacco shops. Revenues from these machines are unregulated, unreported and untaxed. The profits from these illegal slot machines make the minor penalty for conviction merely a cost of doing business for these offenders. Therefore, law enforcement has had few tools available to stop and deter these machines from operating throughout California.

2. Increased Penalties for Repeat Offenders This bill increases the penalty for repeat offenders of provisions prohibiting slot machine type devices. According to the sponsor: The problem we seek to address is that video slot machines are being placed in small businesses by organized groups. The machines are placed in liquor stores, donut shops, restaurants, video stores, and tobacco shops. The video slot machines are generally placed in businesses located in lower income communities. The profits from these machines are split between the business owner and the group that provides the video slot machines. The money is unreported and untaxed. The machines are unregulated and have high (More) AB 1753 (Hall) PageH retention rates which provide these people with the ability to take advantage of lower income individuals. Sometimes the video slot machines are camouflaged as video arcade games. This allows the illegal machine to be placed in public view without being easily detected. The business owner can switch the machine from an arcade game to a video slot machine by remote control. The penalty for this misdemeanor offense does not discourage the criminal activity. The profits from these illegal machines make the minor penalty for conviction merely a cost of doing business for these offenders. There are many repeat offenders who use multiple machines at each location. Increasingly penalties and fines will better deter people from engaging in this activity and help prevent the victimization of lower income individuals. The penalties for repeat offenders in this bill are: A second offense of the above shall be a fine between \$1,000 and \$10,000 and/or up to six months in the county jail. A third or subsequent offense of the above shall be a fine between \$10,000 and \$25,000 and/or imprisonment in the county jail for up to one year. If the offense involved more than one machine or more than one location, an additional fine of \$1,000 to \$5,000 shall be imposed per machine, per location. With penalty assessments of approximately 270%, a fine of \$1,000 is actually \$3,700, a fine of \$5,000 is actually \$18,500, a fine of \$10,000 is actually \$37,000, and a fine of \$25,000 is AB 1753 (Hall) PageI actually \$92,500.

[FN2]. Are these fines appropriate for repeat offenders? ***** -----

[FN2]. Until the budget year 2002-2003, there was 170% in penalty assessments applied to every fine. The current

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penalty assessments are approximately 270%. (See Penal Code 1464, 1465.7, and 1465.8; Government Code 70372, 7600.5, 76000 et seq, and 76104.6.)

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