

# Senate Ways and Means Committee

*Sonja Caldwell 271-2117*

**SB 37**, relative to game operators and tip pooling.

**Hearing Date:** January 25, 2017

**Members of the Committee Present:** Senators Sanborn, Daniels, D'Allesandro and Feltes

**Members of the Committee Absent :** Senator Giuda

**Bill Analysis:** This bill prohibits employers who are game operators from receiving any distribution from any employee tip pool.

**Sponsors:**

Sen. Daniels

Sen. French

Sen. Lasky

Rep. D. Sullivan

Rep. O'Brien

Rep. Sylvia

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**Who supports the bill:** Sen. Daniels, Sen. Lasky, Ashley Furco (Ocean Gaming), Rick Newman (The River Casino), Sen. French

**Who opposes the bill:** No one

**Who is neutral on the bill:** No one

**Summary of testimony presented:**

**Sen. Daniels** said this was a request of the River Card Room. It will allow people in supervisory positions to participate in tip pooling (if that establishment has a pool) while they are working at a table.

**Sen. Sanborn** declared a potential conflict and still intends to participate.

**Rick Newman** – representing River Casino.

- On line 5 of the bill, he suggests inserting the word “directly” between “is” and “tipped.”
- River Casino does not have tip pooling in their facility but employees have talked to ownership about wanting to do it.
- RSA 287d defines primary game operators; one of the things in the definitions says a person may be acting in a supervisory capacity. It’s uncertain in this definition if they can be part of a tip pool. This bill is trying to make it clear that a primary game operator could participate in a tip pool. It also makes clear that no primary game operator employer could participate.
- When he ran the Belmont facility, his company was the game operator, and he hired and fired people. Under this bill, he could not participate in the tip pool.
- RSA287d requires people in his position to have all employees licensed. It requires at least

one primary (red badge) to be present whenever you're operating. These folks aren't necessarily managing, but rather fulfilling the requirement of the statute. The purpose of the bill is to allow them to participate in a tip pool. A boss still clearly cannot participate, but the fact that you're solely a primary game operator shouldn't exclude you from being in tip pool.

- In terms of the charity game operators, about half use tip pooling and half just have employees keep their tips.
- Tip pools are the industry standard.

**Sen. Sanborn** asked if the red badges are authorized to hire, fire, or discipline.

**Mr. Newman** said no but added that he couldn't say that under no circumstances a red badge would have that authority, but if they did, they would be considered a boss and therefore could not participate.

There is a prohibition on mandatory tip pooling. An employer can't require tip pooling; it has to be voluntary and by the agreement of employees.

**Sen. Feltes** asked if anyone got input from the DOL.

**Mr. Newman** said he talked to them about the bill itself. Their response was you wouldn't be able to put your primary game operators in the pool under current law. He doesn't know how they feel about changing the law.