

# HOUSE BILL REPORT

## HB 1975

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### As Reported by House Committee On: Commerce & Gaming

**Title:** An act relating to authorizing sports wagering subject to the terms of tribal-state gaming compacts.

**Brief Description:** Authorizing sports wagering subject to the terms of tribal-state gaming compacts.

**Sponsors:** Representatives Pettigrew, Walsh, Kirby, Riccelli, Fitzgibbon, Stonier, Tharinger and Pollet.

#### **Brief History:**

##### **Committee Activity:**

Commerce & Gaming: 2/14/19, 2/21/19 [DP].

#### **Brief Summary of Bill**

- Authorizes sports wagering under the terms of tribal-state gaming compacts expressly addressing how sports wagering will be conducted and regulated.
- Provides that gambling information related to authorized sports wagering may be transmitted over the Internet, but requires a wager to be placed and accepted only while the customer is physically at the gaming facility.
- Defines terms including "sports wagering," "professional sport or athletic event," and "collegiate sport or athletic event."

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### HOUSE COMMITTEE ON COMMERCE & GAMING

**Majority Report:** Do pass. Signed by 8 members: Representatives Stanford, Chair; Reeves, Vice Chair; MacEwen, Ranking Minority Member; Blake, Kirby, Morgan, Vick and Young.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Chambers, Assistant Ranking Minority Member; Kloba.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Jenkin.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Peter Clodfelter (786-7127).

**Background:**

In May 2018, in the case of *Murphy v. National Collegiate Athletic Association*, the United States Supreme Court ruled that the federal Professional and Amateur Sports Protection Act (1992) violates the Tenth Amendment to the United States Constitution by prohibiting states from authorizing sports betting. In the wake of this court decision ending the decades-long federal ban on sports betting, states throughout the country are examining their laws and policies pertaining to betting on sporting events. In anticipation of the court's decision, several states enacted legislation to legalize various forms of sports betting and began implementing that legislation as soon as the court issued its ruling. Since the court's ruling, additional states have enacted forms of sports betting or legislation proposing to do so is under consideration. States with legalized sports betting currently operating include Delaware, Mississippi, New Jersey, Nevada, West Virginia, Rhode Island, and Pennsylvania.

The federal Indian Gaming Regulatory Act (1988) (IGRA) affirmed tribal gaming rights and provides a framework for Indian tribes and states to negotiate, on a government-to-government basis, for how class III gaming will be conducted within a state and tribal lands. Types of gaming are separated into three classes under IGRA. Class III gaming is casino-style gaming including lotteries, roulette, and house-banked card games such as blackjack and baccarat. Whereas tribes and the state negotiate regarding Class III gaming and how it will be authorized and regulated, Class I and II gaming is regulated by tribes only. Class I gaming includes social games for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations. Class II gaming includes bingo and certain non-house banked card games.

In Washington, the Washington State Gambling Commission (WSGC) negotiates compacts for Class III gaming with federally recognized Indian tribes. There are 29 federally recognized Indian tribes in Washington, all of whom have a gaming compact with the state. When a tentative agreement on a proposed compact is reached, the Director of the WSGC immediately transmits a copy to all voting and ex officio members of the WSGC and to the appropriate standing committees of the Legislature. Additionally, within 30 days after receiving a proposed compact from the Director of the WSGC (Director), one standing committee from each house of the Legislature must hold a public hearing on the proposed compact and forward its respective comments to the WSGC.

The WSGC may also hold public hearings on the proposed compact any time after receiving a copy of the compact from the Director. Within 45 days after receiving the proposed compact from the Director, the WSGC, including the four ex officio members, votes on whether to return the proposed compact to the Director with instructions for further negotiation or to forward the proposed compact to the Governor for review and final execution. If the Director forwards a proposed compact to the WSGC and the designated standing committees within 10 days before the beginning of a regular session of the Legislature, or during a regular or special session of the legislature, the 30-day time limit and the 45-day limit are each 45 days and 60 days, respectively.

Under Washington law, transmitting or receiving gambling information by means of the Internet is illegal and punishable as a class C felony. Additionally, operating an unauthorized bookmaking operation is punishable by up to a class B felony. "Bookmaking" is defined as accepting bets, upon the outcome of future contingent events, as a business or in which the bettor is charged a fee or vigorish for the opportunity to place a bet.

Since 1976 a limited form of sports wagering called sports pools has been legal in Washington. To conduct sports pools no license is required. Sports pools are limited to a board or piece of paper divided into 100 equal squares, each of which constitutes a chance to win in the sports pool and each of which is offered to contestants for \$1 or less. The purchaser of each chance or square signs their name on the face of each chance or square purchased. After the subject athletic contest starts and the sports pool closes, a prospective score is assigned by random drawing to each square. All money paid by participants less taxes is paid out as the prize to the person holding squares assigned the winning score or scores from the subject athletic contest.

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### **Summary of Bill:**

Sports wagering is authorized when conducted by a federally recognized Indian tribe or entity owned by a federally recognized Indian tribe in accordance with the terms of a Class III gaming compact entered into by the tribe and Washington that expressly addresses how sports wagering will be conducted, operated, and regulated.

Sports wagering as authorized under the terms of tribal-state gaming compacts does not constitute bookmaking and is not subject to civil or criminal penalties. Gambling information may be transmitted over the Internet for purposes of the new authorization, although a wager may be placed and accepted only while the customer placing the wager is physically present on the premises of the gaming facility of the Indian tribe or tribal entity.

The term "sports wagering" is defined as the business of accepting wagers on any of the following sporting events, athletic events, or competitions by any system or method of wagering:

- a professional sport or athletic event;
- a collegiate sport or athletic event;
- an Olympic or international sports competition or event;
- a combination of sporting events, athletic events, or competitions listed above;
- a portion of any sporting event, athletic event, or competition listed above.

The term "professional sport or athletic event" is defined as an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in the event. The term "collegiate sport or athletic event" is defined as a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers education services beyond the secondary level. Sports wagering does not include the business of accepting wagers on horse racing authorized under state laws regulating horse racing.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Gambling is a fun activity many people enjoy responsibly. However, currently sports betting is illegal in Washington and people must travel to places like Las Vegas, Nevada, to gamble on sports. People travelling to Las Vegas spend substantial money in Nevada on things like gaming, food, travel, lodging, and entertainment that people would prefer to spend in their home state if sports betting was allowed. In Washington, tribal casinos have an excellent track record of operating safe and well regulated casinos, and providing great economic benefit to local communities. People are comfortable with the current tribal gaming system and there is support for adding sports betting as one additional offering. Revenues from tribal gaming supports schools, public health, natural resource protections, college tuition, and public safety programs in tribal communities. Tribal casinos employ many tribal members as well as nontribal members. Tribes are the seventh largest employer in the state and, in 2017, tribal gaming generated \$5.7 billion total economic benefit to the state. These jobs pay above minimum wage and have full benefits. Tribes currently fund problem gambling prevention and treatment programs, and this bill could provide additional revenue for these purposes. Oregon is rapidly moving to add sports betting to the Oregon lottery, so Washington should act quickly. States throughout the country are realizing the benefits of authorizing sports betting, and numerous states have already done so or are considering it now. Sports betting is under way in about eight states, with active bills in at least 22 other states. The tribal-state compacting process set out in existing federal and state laws has proven to be an effective process for engaging in government-to-government negotiations for how tribes and the state will regulate gambling, and this existing process is well suited to address adding sports betting. The public does not want gambling expanded to hundreds or thousands of new locations, and so this approach of authorizing sports betting at tribal facilities makes sense. When polled, eight out of 10 people in the United States support the ability of people to bet on sports.

(Opposed) The horse racing industry in Washington is already struggling and, if not included in a bill authorizing sports wagering, the industry will be wounded further and may soon disappear. This would not only hurt race tracks, but the thousands of other people, such as horse breeders and seasonal workers, who work in the industry. There is an 86-year record of successfully regulating parimutuel wagering in Washington, and there has never had a problem or scandal. The horse racing industry has the experience and infrastructure to offer sports wagering as an additional offering at horse race tracks to the same extent as tribes have experience and infrastructure to offer sports wagering at tribal casinos. In other states legalizing sports wagering, states with existing horse racing programs are all authorizing horse race tracks to conduct sports wagering. This bill should do the same. Allow a Class 1 racing association like Emerald Downs to offer sports wagering, in addition to tribal casinos.

In 2014 the horse racing industry provided the state with an estimated \$72 million in economic impact. The Washington State Horse Racing Commission supports the concept of sports betting, but opposes the approach in the original bill. The decisions made on this and related legislation will have a long-term effect on the horse racing industry. Since the 1980s the number of days of live horse racing in Washington has steadily declined. This is about saving an agricultural industry and jobs. Including the horse racing industry in this legislation could keep the industry alive.

(Other) The bill is a good start but needs additional work. If sports betting is authorized, the Washington State Gambling Commission (WSGC) should be the primary regulatory agency. An amendment should be made to the WSGC authorizing statute to reference the new duties and authority related to sports betting. Also, the bill lacks funding for the WSGC to combat illegal sports betting. Expanding gambling in Washington to include sports betting would have an impact on the WSGC in terms of licensing and regulatory activities, but the WSGC can handle these changes as other state regulators have done. Currently, a very limited form of sports wagering called sports pools are authorized in Washington, where participants pay \$1 for a box on a board and may be tied to games like the National Football League's Super Bowl. This bill would be a more expansive authorization for sports wagering. The bill could serve to bring some current illegal gambling into the regulated marketplace, but it could also draw in some new gamblers. On the other hand, if social acceptance of sports wagering increases due to passage of the bill, that could actually lead to an increase in illegal sports betting through unauthorized means if people no longer perceive sports betting as against the law. There are many sports-centric bars and card rooms that currently comply with other regulations of the WSGC and these businesses are interested in participating in legalized sports wagering. Opportunities should be spread to other businesses who also have the capacity and ability to offer sports betting. House-banked card rooms in the state have a 20-year track record of regulation by the WSGC and should not be left out of the bill. Perhaps a better approach is to authorize sports wagering and fantasy sports while asking the WSGC for recommendations on where sports betting activities should occur and how sports wagering should be regulated. Card rooms are currently dying a death by a thousand cuts and should not be left out of the bill. The bill fails to address problem gambling issues. Gambling regulators and the industry could work together on how to best address sports betting, and in the future could offer a considered approach to the issue.

**Persons Testifying:** (In support) Representative Pettigrew, prime sponsor; Bill Iyall, Cowlitz Tribe; Kara Fox-LaRose, iliani Resort; Rebecca Kaldor, Washington Indian Gaming Association; Shana Barehand and Kevin Zenishek, Kalispel Tribe; and Patrick Depoe, Makah Tribe.

(Opposed) Doug Moore, Washington Horse Racing Commission; and Pat LePley, Washington Horsemen's Benevolent and Protective Association.

(Other) Zachary Lindahl, Washington Hospitality Association; Dave Trujillo and Brian Considine, Washington State Gambling Commission; and Dolores Chiechi, Recreational Gaming Association.

**Persons Signed In To Testify But Not Testifying:** None.