

SENATE BILL REPORT

SB 6394

As of February 6, 2020

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: Senators Saldaña, Conway, McCoy, Stanford, Hobbs, Das, Wilson, C., Zeiger, O'Ban, Hasegawa, Van De Wege, Hunt, Nguyen, Holy, Fortunato and Sheldon.

Brief History:

Committee Activity: Labor & Commerce: 1/30/20.

Brief Summary of Bill

- Allows the amendment of tribal-state gaming compacts, upon a tribe's request, to authorize sports wagering at the tribe's facility when conducted pursuant to negotiated tribal-state gaming compact provisions.
- 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 tribal gaming facility.
- Defines the terms, including sports wagering, collegiate sport or athletic event, electronic or esports event, and professional sport or athletic event.
- Amends the Commission's powers and duties.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: Supreme Court Decision Regarding Sports Betting. 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 violates the Tenth Amendment to the United States Constitution by prohibiting states from authorizing sports

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.

betting. After this decision, some states have passed legislation allowing sports betting or wagering.

Indian Gaming Regulatory Act. The federal Indian Gaming Regulatory Act (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 on 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. 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 in connection with tribal ceremonies or celebrations. Class II gaming includes bingo and certain non-house-banked card games.

Compact Negotiations. In Washington, the Gambling Commission (Commission) 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 Commission (Director) transmits a copy to all voting and ex officio members of the Commission and to the appropriate standing committees of the Legislature. Within 30 days after receiving a proposed compact from the Director, one standing committee from each house of the Legislature must hold a public hearing on the proposed compact and any comments are forwarded to the Commission. If the Director forwards a proposed compact within 10 days before the beginning of a regular session of the Legislature, or during a regular or special session, the 30-day time limit and the 45-day limit are each 45 days and 60 days, respectively.

The Commission 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 Commission, 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.

Illegal Gambling Activities. 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.

Sports Pool. 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 purchasers 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.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Tribal-State Compacts Allowed to Authorize Sports Wagering. Upon the request of a federally recognized Indian tribe or tribes in the state of Washington, the tribe's class III gaming compact may be amended, pursuant to the IGRA and state law, to authorize the tribe to conduct and operate sports wagering on its Indian lands, provided the amendment addresses: licensing; fees; how sports wagering will be conducted, operated, and regulated; issues related to criminal enforcement, including money laundering, sport integrity, and information sharing; and responsible and problem gambling. Sports wagering conducted pursuant to the gaming compact is an authorized gambling activity and authorized bookmaking and is not subject to civil or criminal penalties.

Definitions. Sports wagering is defined as the business of accepting wagers on any of the following sporting events, athletic events, or competitions:

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

The business of accepting wagers on horse racing is excluded from the definition of sports wagering. The terms collegiate sport or athletic event, electronic or esports event, professional sport or athletic event are defined.

Information Over Internet. Gambling information may be transmitted over the Internet for any sports wagering conducted and operated under the new authorization, provided that the wager may be placed and accepted at a tribe's gaming facility only while the customer placing the wager is physically present on the premises that tribe's gaming facility.

Prohibited Activities and Criminal Penalties. No person may:

- offer, promise, give, or attempt to give anything of value to: (1) influence the outcome of a sporting event, athletic event, or competition (sporting event) on which a wager may be made; or (2) obtain confidential or insider information with intent to use the information to gain a wagering advantage on a sporting event;
- place, increase, or decrease a wager after acquiring non-public knowledge that anyone has been offered, promised, or given any thing of value to influence the outcome of a sporting event on which the wager is placed, increased, or decreased;
- accept or agree to accept, any thing of value for the purpose of wrongfully influencing the person's play, action, decision making, or conduct in any sporting event, upon which a wager may be made.

No person or entity operating any gambling activity may, directly or indirectly:

- alter or misrepresent the outcome of a game or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players;

- place, increase, or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing, or decreasing a bet or determining the course of play contingent upon that event or outcome;
- knowingly entice or induce another person to go to any place where an illegal gambling activity is being conducted or operated with the intent that the other person play or participate in that activity; or
- place, increase, reduce, or cancel a bet after acquiring knowledge of the outcome of the game or event that is the subject of the bet.

Any person who violates these prohibitions is guilty of a class C felony. A person is guilty of professional gambling in the first degree, a class B felony, if the person engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling and engages in bookmaking.

Gambling Commission Authority Modified. The existing authority of the Commission to authorize and require licensure of persons, associations, or organizations who engage in the selling, distributing, or suppling of gambling devices for use in Washington is amended to add "manufacturing" and "equipment, software, hardware, or any gambling related services" to the activities and things within the Commission's licensing authority. Employees participating in the operation, management, or gambling-related services for sports wagering must be listed on the license applications. The Commission may issue, for a period not to exceed one year, sports wagering-related services licenses for use within this state for authorized sports wagering activities.

The Commission may inspect and audit the databases, hardware, software, or any other electronic data storage device of any person, association, or organization conducting authorized gambling activities. The Commission may require the submission of reports on suspicious activities or irregular betting activities to effectively identify players, wagering information, and suspicious and illegal transactions, including the laundering of illicit funds.

The Commission may ensure sport integrity and prevent and detect competition manipulation through education and enforcement of the state criminal provisions. It may track and monitor gambling-related transactions to aid in its enforcement of criminal laws, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification by a player.

Report to the Legislature. No later than December 1st of the year following any authorization by the Legislature of a new gambling activity, any report by the Commission to the Governor and the appropriate committees of the Legislature must include information on the state of the gambling industry both within the state and nationwide.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: PRO: We have sovereign nations that are very strong that continue to be stewards of communities. This Legislature decided that if we were going to have gambling in the state, it was going to be in partnership with the sovereign nations. It is that revenue that they use to run their governments and supports natural resources, and investments in public health. If we are going to do something that has potential public health harm and also has the opportunities for some rural communities, we should do it in a responsible and restricted way that allows the Commission to monitor it.

This legislation would daylight and contain sports betting and make it legal and safe. Tribal leaders described how their sovereign nations use the gaming revenue to provide housing, health care, youth and elder programs, and social service programs for their tribal members; and provides economic activity, taxes, and jobs in the state; contributions to charities; and problem gaming programs. They work with the Commission. This bill would continue a conservative delegation of sports betting to the tribes. It would just be an additional amenity to tribal gaming. We want to continue to provide the services and activities. Gaming has provided revenue to very poor communities. It restricts sports wagering to tribal brick and mortar tribal facilities. People who enter the facilities must be adults. The revenue to the tribes are similar to revenue to the states from the lottery.

OTHER: The Commission does not have to balance the policy issues. There should five pillars in any sports betting: licensing and regulation, agency funding, money laundering and enforcement recognition that it occurs, sports integrity, responsible and social gaming. Problem gambling exists and those that benefit should pay for dealing with the issues. Different approaches in others states used to verify age for gambling. The Commission is neutral on both bills. The substitute covers the five pillars. The Horse Racing Commission is neutral on both bills. Horse racing involves significant parts of the agricultural industry. The horse racing industry has deteriorated over the years due to the competition for the gambling dollars all over the state. There are horse racing facilities available for sports betting and they ask the Legislature consider the future of the horse racing industry.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Chris Masse, Partner, Miller Nash Graham & Dunn; Kara Fox-LaRose, President & GM, Ilani Resort, Cowlitz Tribe; Jerry Allen, CEO, 7 Cedars Resort; Leonard Forsman, Chairman, Suquamish Tribe; David Bean, Chairman, Puyallup Tribe; Patrick Depoe, Treasurer, Makah Tribe; Rebecca Kaldor, Washington Indian Gaming Association.

OTHER: Mark Allen, Washington State Association of Broadcasters; Dave Trujillo, Director, Washington State Gambling Commission; Brian Considine, Legal and Legislative Manager, Washington State Gambling Commission; Amanda Benton, Washington Horse Racing Commission.

Persons Signed In To Testify But Not Testifying: OTHER: Pat LePley, Horsemen's Benevolent and Protective Association.