

# SENATE BILL REPORT

## SB 5212

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As of February 3, 2021

**Title:** An act relating to authorizing sports wagering at cardrooms and racetracks.

**Brief Description:** Authorizing sports wagering at cardrooms and racetracks.

**Sponsors:** Senators King and Liias.

**Brief History:**

**Committee Activity:** Labor, Commerce & Tribal Affairs: 2/04/21.

**Brief Summary of Bill**

- Authorizes sport wagering through sports pools and online sport pools by licensed card rooms and racetracks.
- Allows wagers to be placed in person, through self-service machines at the complex, or through online sports pool; all wagers must generally be placed in the state.
- Restricts any sports wagering website and mobile application to only allow wagering at that card room or racetrack complex.
- Prohibits certain activities and persons and entities from placing wagers or owning a sport wagering operator, and provides penalties.
- Modifies and expands the Gambling Commission's authority related to sport wagering.
- Provides a 10 percent tax on gaming revenue.

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**SENATE COMMITTEE ON LABOR, COMMERCE & TRIBAL AFFAIRS**

**Staff:** Susan Jones (786-7404)

**Background:** Gambling Activities. Under Article II, Section 24 of the Washington State

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Constitution, gambling is prohibited except as specifically authorized by 60 percent of the Legislature or voters. The Gambling Commission (Commission) enforces state gambling laws and rules for licensed activities such as card games, bingo, amusement games, pull-tabs, punchboards, raffles, and fundraising events.

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

Indian Gaming Regulatory Act. The federal Indian Gaming Regulatory Act 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. 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.

Compact Negotiations. The Commission negotiates compacts for Class III gaming with federally recognized Indian tribes. When a tentative agreement on a proposed compact is reached, the director of the Commission transmits a copy to all voting and ex officio members of the Commission and to the appropriate legislative committees to hold a public hearing. The Commission, including the 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.

Tribal Sport Wagering. In 2020, legislation allowed the amendment of a tribe's class III gaming compact to authorize the tribe to conduct and operate sports wagering on its Indian lands, provided the amendment addresses licensing; fees associated with the Commission's regulation of sports wagering; how sports wagering will be conducted, operated, and regulated; issues related to criminal enforcement, including money laundering, sport integrity, and information sharing between the commission and the tribe related to such enforcement; and responsible and problem gambling.

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. 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 when 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. All money paid by participants less taxes is paid out as the prize to the person holding squares assigned the winning score or scores.

**Summary of Bill: Sports Wagering Authorized.** The Legislature authorizes sport wagering through sports pools and online sports pools by a card room or racetrack licensed as of December 1, 2020. Authorized sports wagering does not constitute bookmaking and is not subject to civil or criminal penalties. The Commission may issue all sports wagering licenses and renewals to card rooms and racetracks. No sports wagering license may be issued until the execution of a tribal compact amendment authorizing sports wagering has been completed. Definitions are provided for various terms.

A sports wagering licensee may enter into an agreement to jointly operate a sports pool at a racetrack. A sports wagering licensee may conduct an online sports pool or may authorize an Internet sports pool operator licensed as a casino service industry enterprise to operate an online sports pool on its behalf with a Commission approved agreement.

Card Room and Racetrack Licenses. The Commission may charge a card room and a racetrack a license fee of \$100,000 for the initial issuance and a reasonable renewal fee based upon the expense associated with renewal, enforcement, and programs for the prevention and treatment of problem gambling. Licenses generally expire after five years. No sports wagering license may be issued by the Commission to any person or entity unless it has established its financial stability, integrity, responsibility, good character, and honesty.

Commission Reports. The Commission, following consultation with the sports wagering licensees, must annually provide a report to the Governor and the appropriate committees of the Legislature on the impact of sports wagering, including Internet wagering on sports events, on problem gamblers, and gambling addiction in the state. The report must be prepared by a private entity with expertise in serving the needs of persons with gambling addictions. The report costs are borne by the authorized Internet gaming licensees. The Commission may also periodically report to the Governor and the appropriate legislative committees on the effectiveness of the statutory and regulatory controls in place to ensure the integrity of gaming operations through the Internet.

Licensees' Websites, Applications, Lounges. Each sports wagering licensee may provide no more than one branded sports wagering website, which may have a mobile application. Any sports wagering website and mobile application must only allow wagering at that card room or racetrack complex.

No online sports pool may be opened to the public, and no sports wagering, except for test purposes, may be conducted until an Internet sports pool operator receives a sport wagering license or pursuant to the compact terms. The server or other equipment used by a sports wagering licensee to accept wagers at a sports pool or online sports pool must be located in

that card room or racetrack complex. A sports pool must be operated in a sports wagering lounge located at the card room or racetrack complex. A sports wagering lounge may be located at a casino simulcasting facility. The lounge must conform to all rules concerning square footage, design, equipment, and security measures. The operator must display the odds at which wagers may be placed on sports events. Sports wagering lounges are a permitted use in all commercial, retail, industrial, nonresidential, and mixed-use zoning districts of a municipality.

Accepting Wagers. An operator may accept wagers on sports events only: (1) from persons physically present in the sports wagering lounge; (2) through Commission authorized self-service wagering machines located in its complex; or (3) through an online sports pool. A person placing a wager on a sports event must be at least 18 years of age.

Prohibited Activities. Any person who offers a sports pool or an online sports pool without a license or pursuant to a compact is guilty of a class B felony and is subject to a fine of not more than \$25,000, and, in the case of a person other than a natural person, not more than \$100,000.

Persons or entities prohibited from having any ownership interest in, control of, or being employed by, an operator, a sports wagering licensee, or a facility in which a sports wagering lounge is located, or placing a wager is provided. A violator is guilty of a misdemeanor punishable by either imprisonment for not more than 90 days or a fine of not more than \$1,000, or both.

An operator must adopt procedures to prevent persons who are prohibited from placing sports wagers from wagering on sports events. An operator may not accept wagers from any person whose identity is known to the operator and (1) whose name appears on any self-exclusion programs list; (2) who is the operator, director, officer, owner, or employee of the operator or any of their relatives living in the same household; (3) who has access to nonpublic confidential information held by the operator; or (4) who is an agent or proxy for any other person.

An operator must adopt procedures to obtain personally identifiable information from any individual who places any single wager in an amount of \$10,000 or more on a sports event while physically present in a card room or racetrack complex.

Casino Service Industry Enterprise. The sports wagering licensee may contract with an entity to conduct the operation in accordance with the rules adopted by the Commission. That entity must obtain a license as a casino service industry enterprise prior to the execution of any contract.

Operator Reporting Requirement. An operator must promptly report to the Commission certain criminal or disciplinary proceedings commenced against the operator or its employees; any abnormal betting activity or patterns; any other conduct with the potential

to corrupt a betting outcome; and suspicious or illegal wagering activities. The Commission may share this information with any law enforcement entity, team, sports governing body, or regulatory agency.

Location of Wagering. A licensee may also conduct wagering through one or more Commission authorized kiosks or self-service wagering stations located within its complex. All wagers must be initiated, received, and otherwise made within this state unless otherwise determined by the Commission in accordance with applicable federal and state laws. Wagers may be accepted or pooled with wagers from persons who are not physically present in this state if the Commission determines that such wagering is not inconsistent with federal law or the law of the jurisdiction in which any such person is located, or such wagering is conducted pursuant to a reciprocal agreement to which the state is a party that is not inconsistent with federal law.

Other Licensing Requirements. Applicants for, and holders of, a sports wagering license must disclose the identity of certain board members, directors and person holding certain percentage interests in applicant or holder entity, and information about related holding or intermediary companies. All persons employed directly in wagering-related activities in a sports wagering lounge and an online sports pool must be licensed as a sports wagering key employee or registered as a sports wagering employee. All other employees who are working in the sports wagering lounge may be required to be registered by the Commission. Each operator must designate one or more sports wagering key employees. At least one key employee must be on the premises whenever sports wagering is conducted.

No card room or racetrack may be authorized to operate a sports pool or online sports pool unless it has produced, to the satisfaction of the Commission, information concerning its financial background and resources, including cash reserves, that are sufficient to demonstrate it has the financial stability, integrity, and responsibility to operate a sports pool or online sports pool.

Commission Rules. The Commission may adopt rules applicable to sports wagering including the amount of cash reserves for operators; acceptance of wagers on a series of sports events; maximum wagers which may be accepted by an operator from any one patron on any one sports event; type of wagering tickets which may be used; method of issuing tickets; method of accounting to be used by operators; types of records which must be kept; use of credit and checks by patrons; type of system for wagering; protections for a person placing a wager; and a disclosure regarding problem gambling.

House Rules. Each operator must adopt comprehensive house rules governing sports wagering transactions with its patrons approved by the Commission. The rules must be conspicuously displayed in the lounge, posted on the web site, and included in the terms and conditions of the account wagering system. Copies must be made available to patrons.

Gambling Tax. There is a 10 percent tax on gaming revenue, which is the total amount

wagered less winnings paid out, administered by the Department of Revenue. The business and occupations tax does not apply to any person in respect to a business activity with respect the 10 percent tax is imposed.

Unclaimed Winnings. If a patron does not claim a winning sports pool wager within one year from the time of the event, the operator retains 50 percent and remits the 50 percent to the problem gambling account.

Sports Boards. Current sports pool laws are modified to refer to them as sports boards.

Other Gambling Law Modifications. Certain duties and authorities of the Commission are modified and other technical changes are made. Other gambling laws are modified. Certain prohibitions are provided related to influencing, bribing, manipulating, or cheating in certain gambling activities. Violators are guilty of a class C felony for which a person, upon conviction, shall be punished by imprisonment for not more than five years, or a fine of not more than \$100,000, or both.

The Commission shall have the power to establish a sports integrity unit to prevent and detect competition manipulation through education and enforcement of the criminal provisions, or any other state criminal laws needed to protect the integrity of amateur and professional sporting events and contests within the state, and to track and monitor gambling-related transactions occurring within the state and require any reporting as needed.

Transmitting or receiving information through the telephone or Internet relating to authorized sport wagering is not illegal.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2021.

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

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