

# HOUSE BILL REPORT

## SB 5064

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to cheating at gambling.

**Brief Description:** Defining degrees of gambling cheating.

**Sponsors:** Senators Prentice and Winsley; by request of Gambling Commission.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/20/02, 2/26/02 [DPA].

#### Brief Summary of Bill (As Amended by House Committee)

- Divides the crime of cheating, in the Gambling Act, into two separate crime classifications: cheating in the first degree is a class C felony and cheating in the second degree is a gross misdemeanor.
- Authorizes courts to impose a maximum fine of \$20,000 on anyone convicted of a cheating in the first degree offense.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass as amended. Signed by 5 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ahern, Kagi and Kirby.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Ballasiotes, Ranking Minority Member; and Morell.

**Staff:** Yvonne Walker (786-7841).

### Background:

The Gambling Act defines the offense of cheating as any person who participates in a gambling activity while:

- Using or attempting to use a device or scheme to defraud another player or operator;
- Engaging or practicing in any act that operates as fraud or deceit upon any other

- participant or operator;
- Engaging in acts with the intent to cheat any other participant or operator to gain an advantage in the game; or
- Causing or conspiring with others to cause another person to cheat.

A violation of the cheating offense is a gross misdemeanor offense punishable by a sentence of up to one year in jail, a maximum fine of \$5,000, or both.

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**Summary of Amended Bill:**

The crime of cheating, as used in the Gambling Act, is divided into two degrees: cheating in the first and second degree. Financial penalties are also imposed.

First degree cheating is committed if the person holds a Washington issued licence or permit to conduct authorized gambling activities or he or she knowingly causes, aids, abets, or conspires with another to engage in cheating. Cheating in the first degree is a seriousness level IV, class C felony. A first time offender, with no previous criminal history, would receive a presumptive sentence range of three to nine months in jail. In addition, courts may impose up to a \$20,000 fine for anyone convicted of cheating in the first degree.

Second degree cheating is committed when a person engages in cheating that does not constitute cheating in the first degree. Cheating in the second degree is a gross misdemeanor punishable by a sentence of up to one year in jail, a maximum fine of \$5,000, or both.

**Amended Bill Compared to Original Bill:**

The crime of cheating in the first degree is reduced from a class B felony to a class C felony offense. A provision is added to authorize courts to impose a financial penalty ranging up to a maximum of \$20,000 for those convicted of cheating in the first degree.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill passed two years ago by the committee. There have been cases at casinos where dealers have gotten together with players to devise schemes to cheat casinos out of nearly \$50,000. When the prosecutor's office reviewed these cases it

was found that the penalty for cheating was only a gross misdemeanor offense and not worth their time to prosecute. This bill is mainly dealing with people who get together to defraud casinos.

The minimal fiscal impact of this bill will be offset by the over \$44 million that localities collect from gambling establishments each year.

**Testimony Against:** The concern is the distinction between the conduct that constitutes a felony offense and the conduct that constitutes a gross misdemeanor offense. The objectionable provision of the bill is that it is a felony offense for a person who cheats with another person, but it is only a gross misdemeanor offense for a person who cheats alone.

**Testified:** (In support) Amy Petjens, Washington State Gambling Commission.

(Concerns) Sherry Appleton, Washington Association of Criminal Defense Lawyers.