

SENATE BILL REPORT

SB 6266

As of February 12, 2018

Title: An act relating to loot boxes and similar types of mechanisms in online games and apps.

Brief Description: Concerning loot boxes in online games and apps.

Sponsors: Senators Ranker, Carlyle and Keiser.

Brief History:

Committee Activity: Labor & Commerce: 1/31/18.

Brief Summary of Bill

- Requires the Washington State Gambling Commission (Commission) to conduct a study of the use of loot boxes in online games or apps.
- Requires the Commission to make written findings and recommendations to the Legislature regarding how to best regulate the practice of including these mechanisms in online games and apps.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Susan Jones (786-7404)

Background: The public policy of the state on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control. Under the Washington State Constitution, Article II, section 24, gambling is prohibited except as specifically authorized upon the affirmative vote of 60 percent of the members of each house of the Legislature or, by referendum or initiative approved by a 60 percent affirmative vote of the electors voting.

Under the Gambling Act, gambling means staking or risking something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. There are exceptions. A number of activities have been authorized, which are regulated under various statutes, including the Gambling Act. Several criminal statutes address illegal gambling. The Commission regulates these activities and enforces the provisions of the Gambling Act.

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.

Summary of Bill: The use of loot boxes and similar types of mechanisms that provide randomized virtual items in online games or apps has raised a number of serious problems and concerns, including:

- whether games and apps containing these mechanisms are considered gambling under Washington law;
- whether these mechanisms belong in games and apps;
- whether vulnerable minors and other young people should have access to games and apps with these mechanisms; and
- the lack of disclosure and transparency with respect to the odds of receiving each type of virtual item.

The Commission must conduct a study of the use of loot boxes and similar types of mechanisms in online games or apps. The Commission must consider and gather information: (1) related to the problems and concerns described above, (2) on legislation and regulation from other jurisdictions, and (3) on other relevant matters. The Commission must provide the appropriate committees of the Legislature written findings, not later than December 1, 2018, and provide recommendations about how to best regulate the practice of including loot boxes and similar types of mechanisms in online games and apps, including options for the adoption and implementation of a regulatory and enforcement system, restrictions on the sale of games containing these mechanisms, and any appropriate disclosures. The Commission must consult with stakeholders while conducting the study and in making its recommendations.

This act expires December 1, 2019.

Appropriation: None.

Fiscal Note: Requested on January 26, 2018.

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: PRO: Virtual items that are imbedded in video games can be purchased through micro transactions. It appears they are using the same algorithms, visuals, and audios as online gambling. Some of the folks in the industry told me that we were correct. These devices can be predatory and are aimed at children. We also see data from the medical and psychological world that there is a higher tendency for children to move toward gambling addictions later in life when they are exposed to these sorts of algorithms at a young age. This is why we are so restrictive with online gambling in Washington. Not all loot boxes are predatory. But we need to take a hard look at which ones are and if they are targeting children. There is not enough time in a short session to have a comprehensive approach so we are to have the Gambling Commission sit down with the industry. If parents knew what was in these games they would think twice about purchasing them.

CON: We have concerns because a number of other states are pursuing similar legislation that will likely distract from the meaningful conversation about these issues and slow the

industry's response. There is evolving in-game technology and mechanisms. We are concerned about some of the terminology in the bill. It conflates video games with gambling. Computer video games have no role in gambling. Video game players are the most essential component of the industry and their awareness and trust are important. Adult gamers represent 72 percent of the industry. The average gamer is 35 years old. Women represent a larger percentage than boys under age 18. Loot boxes are similar to baseball cards where you do not know what card you will get. Loot boxes are an optional feature and can be earned through play.

OTHER: The Gambling Commission has not formally reviewed the bill yet. It does receive some complaints from time to time. The Commission is looking at these issues and whether it is gambling. Not all loot boxes are the same. Indiana just introduced a bill for a study. Once one of the elements of gambling is digitized, it becomes harder to tell if it is gambling. Appropriation for the study would be helpful.

Persons Testifying: PRO: Senator Kevin Ranker, Prime Sponsor.

CON: Tom Foulkes, Entertainment Software Association.

OTHER: Dave Trujillo, Director, Gambling Commission; Brian Considine, Legal & Legislative Manager, Gambling Commission; Chris Stearns, Commissioner, Gambling Commission.

Persons Signed In To Testify But Not Testifying: No one.