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**SUBSTITUTE SENATE BILL 6394**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Saldaña, Conway, McCoy, Stanford, Hobbs, Das, Wilson, C., Zeiger, O'Ban, Hasegawa, Van De Wege, Hunt, Nguyen, Holy, Fortunato, and Sheldon)

AN ACT Relating to authorizing sports wagering subject to the terms of tribal-state gaming compacts; amending RCW 9.46.070, 9.46.130, 9.46.190, 9.46.210, 9.46.220, 9.46.240, and 9.46.090; adding new sections to chapter 9.46 RCW; creating a new section; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  It has long been the policy of this state to prohibit all forms and means of gambling except where carefully and specifically authorized and regulated. The legislature intends to further this policy by authorizing sports wagering on a very limited basis by restricting it to tribal casinos in the state of Washington. Tribes have more than twenty years' experience with, and a proven track record of, successfully operating and regulating gaming facilities in accordance with tribal gaming compacts. Tribal casinos can operate sports wagering pursuant to these tribal gaming compacts, offering the benefits of the same highly regulated environment to sports wagering.

NEW SECTION. **Sec.**  A new section is added to chapter 9.46 RCW to read as follows:

(1) 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 Indian gaming regulatory act, 25 U.S.C. Sec. 2701 et seq., and RCW 9.46.360 to authorize the tribe to conduct and operate sports wagering on its Indian lands, provided the amendment addresses: Licensing; fees associated with the gambling 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. Sports wagering conducted pursuant to the gaming compact is a gambling activity authorized by this chapter.

(2) Sports wagering conducted pursuant to the provisions of a class III gaming compact entered into by a tribe and the state pursuant to RCW 9.46.360 is authorized bookmaking and is not subject to civil or criminal penalties pursuant to RCW 9.46.225.

**Sec.**  RCW 9.46.070 and 2012 c 116 s 1 are each amended to read as follows:

The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games, to utilize punchboards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission or director shall not issue, deny, suspend, or revoke any license because of considerations of race, sex, creed, color, or national origin: AND PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization operating a business primarily engaged in the selling of items of food or drink for consumption on the premises, approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association, or organization to utilize punchboards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: PROVIDED, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: PROVIDED FURTHER, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize and issue licenses for a period not to exceed one year to any person, association, or organization approved by the commission meeting the requirements of this chapter and meeting the requirements of any rules and regulations adopted by the commission pursuant to this chapter as now or hereafter amended, permitting said person, association, or organization to conduct or operate amusement games in such manner and at such locations as the commission may determine. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(4) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization to engage in the manufacturing, selling, distributing, or otherwise supplying ((~~or in the manufacturing~~)) of devices, equipment, software, hardware, or any gambling-related services for use within this state for those activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(5) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which fees shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: PROVIDED, That all licensing fees shall be submitted with an application therefor and such portion of said fee as the commission may determine, based upon its cost of processing and investigation, shall be retained by the commission upon the withdrawal or denial of any such license application as its reasonable expense for processing the application and investigation into the granting thereof: PROVIDED FURTHER, That if in a particular case the basic license fee established by the commission for a particular class of license is less than the commission's actual expenses to investigate that particular application, the commission may at any time charge to that applicant such additional fees as are necessary to pay the commission for those costs. The commission may decline to proceed with its investigation and no license shall be issued until the commission has been fully paid therefor by the applicant: AND PROVIDED FURTHER, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs;

(6) To prescribe the manner and method of payment of taxes, fees and penalties to be paid to or collected by the commission;

(7) To require that applications for all licenses contain such information as may be required by the commission: PROVIDED, That all persons (a) having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, ((~~or~~)) (b) participating as an employee in the operation of any gambling activity, or (c) participating as an employee in the operation, management, or providing of gambling-related services for sports wagering, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: PROVIDED FURTHER, That the commission shall require fingerprinting and national criminal history background checks on any persons seeking licenses, certifications, or permits under this chapter or of any person holding an interest in any gambling activity, building, or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity. All national criminal history background checks shall be conducted using fingerprints submitted to the United States department of justice-federal bureau of investigation. The commission must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications;

(8) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(9) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(10) To regulate and establish maximum limitations on income derived from bingo. In establishing limitations pursuant to this subsection the commission shall take into account (a) the nature, character, and scope of the activities of the licensee; (b) the source of all other income of the licensee; and (c) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes. However, the commission's powers and duties granted by this subsection are discretionary and not mandatory;

(11) To regulate and establish the type and scope of and manner of conducting the gambling activities authorized by this chapter, including but not limited to, the extent of wager, money, or other thing of value which may be wagered or contributed or won by a player in any such activities;

(12) To regulate the collection of and the accounting for the fee which may be imposed by an organization, corporation, or person licensed to conduct a social card game on a person desiring to become a player in a social card game in accordance with RCW 9.46.0282;

(13) To cooperate with and secure the cooperation of county, city, and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(14) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.05 RCW;

(15) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized by this chapter;

(16)(a) To establish and regulate a maximum limit on salaries or wages which may be paid to persons employed in connection with activities conducted by bona fide charitable or nonprofit organizations and authorized by this chapter, where payment of such persons is allowed, and to regulate and establish maximum limits for other expenses in connection with such authorized activities, including but not limited to rent or lease payments. However, the commissioner's powers and duties granted by this subsection are discretionary and not mandatory.

(b) In establishing these maximum limits the commission shall take into account the amount of income received, or expected to be received, from the class of activities to which the limits will apply and the amount of money the games could generate for authorized charitable or nonprofit purposes absent such expenses. The commission may also take into account, in its discretion, other factors, including but not limited to, the local prevailing wage scale and whether charitable purposes are benefited by the activities;

(17) To authorize, require, and issue for a period not to exceed one year such licenses or permits, for which the commission may by rule provide, to any person to work for any operator of any gambling activity authorized by this chapter in connection with that activity, or any manufacturer, supplier, or distributor of devices for those activities in connection with such business. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission. The commission shall not require that persons working solely as volunteers in an authorized activity conducted by a bona fide charitable or bona fide nonprofit organization, who receive no compensation of any kind for any purpose from that organization, and who have no managerial or supervisory responsibility in connection with that activity, be licensed to do such work. The commission may require that licensees employing such unlicensed volunteers submit to the commission periodically a list of the names, addresses, and dates of birth of the volunteers. If any volunteer is not approved by the commission, the commission may require that the licensee not allow that person to work in connection with the licensed activity;

(18) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee;

(19) To establish guidelines for determining what constitutes active membership in bona fide nonprofit or charitable organizations for the purposes of this chapter;

(20) To renew the license of every person who applies for renewal within six months after being honorably discharged, removed, or released from active military service in the armed forces of the United States upon payment of the renewal fee applicable to the license period, if there is no cause for denial, suspension, or revocation of the license;

(21) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association, or organization that engages in any sports wagering-related services for use within this state for sports wagering activities authorized by this chapter. The commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(22) To issue licenses under subsections (1) through (4) of this section that are valid for a period of up to eighteen months, if it chooses to do so, in order to transition to the use of the business licensing services program through the department of revenue; and

((~~(22)~~)) (23) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

**Sec.**  RCW 9.46.130 and 2011 c 336 s 303 are each amended to read as follows:

(1) The premises and paraphernalia, and all the books and records, databases, hardware, software, or any other electronic data storage device of any person, association, or organization conducting gambling activities authorized under this chapter and any person, association, or organization receiving profits therefrom or having any interest therein shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the commission or its designee, the attorney general or his or her designee, the chief of the Washington state patrol or his or her designee or the prosecuting attorney, sheriff, or director of public safety or their designees of the county wherein located, or the chief of police or his or her designee of any city or town in which said organization is located, for the purpose of determining compliance or noncompliance with the provisions of this chapter and any rules or regulations or local ordinances adopted pursuant thereto or any federal or state law. A reasonable time for the purpose of this section shall be: ((~~(1)~~)) (a) If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or ((~~(2)~~)) (b) if the items or records to be inspected or audited are not located upon a premises set out in ((~~subsection (1)~~)) (a) of this ((~~section~~)) subsection, then any time between the hours of 8:00 a.m. and 9:00 p.m., Monday through Friday.

(2) The commission shall be provided at such reasonable intervals as the commission shall determine with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this chapter or any local ordinances relating thereto.

(3) 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.

NEW SECTION. **Sec.**  A new section is added to chapter 9.46 RCW to read as follows:

(1) No person shall offer, promise, give, or attempt to give any thing of value to any person for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which a wager may be made.

(2) No person shall place, increase, or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given any thing of value for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which the wager is placed, increased, or decreased.

(3) No person shall offer, promise, give, or attempt to give any thing of value to obtain confidential or insider information not available to the public with intent to use the information to gain a wagering advantage on a sporting event, athletic event, or competition.

(4) No person shall accept or agree to accept, any thing of value for the purpose of wrongfully influencing his or her play, action, decision making, or conduct in any sporting event, athletic event, or competition upon which a wager may be made.

(5) Any person who violates this section shall be guilty of a class C felony subject to the penalty set forth in RCW 9A.20.021.

**Sec.**  RCW 9.46.190 and 1991 c 261 s 7 are each amended to read as follows:

Any person ((~~or~~)), association, or organization operating any gambling activity ((~~who or which~~)) may not, directly or indirectly, ((~~shall~~)) in the course of such operation:

(1) Employ any device, scheme, or artifice to defraud; ((~~or~~))

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; ((~~or~~))

(3) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person;

((~~Shall~~)) (4) 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;

(5) 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;

(6) Knowingly entice or induce another person to go to any place where a gambling activity is being conducted or operated in violation of the provisions of this chapter, with the intent that the other person play or participate in that gambling activity;

(7) Place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past posting and pressing bets; or

(8) Reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets. Any person, association, or organization that violates this section shall be guilty of a ((~~gross misdemeanor~~)) class C felony subject to the penalty set forth in RCW 9A.20.021.

**Sec.**  RCW 9.46.210 and 2000 c 46 s 1 are each amended to read as follows:

(1) It shall be the duty of all peace officers, law enforcement officers, and law enforcement agencies within this state to investigate, enforce, and prosecute all violations of this chapter.

(2) In addition to the authority granted by subsection (1) of this section law enforcement agencies of cities and counties shall investigate and report to the commission all violations of the provisions of this chapter and of the rules of the commission found by them and shall assist the commission in any of its investigations and proceedings respecting any such violations. Such law enforcement agencies shall not be deemed agents of the commission.

(3) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of this chapter ((~~218, Laws of 1973 1st ex. sess.~~)) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities, including chapter 9A.83 RCW, and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. The director, the deputy director, both assistant directors, and each of the commission's investigators, enforcement officers, and inspectors shall have the power, under the supervision of the commission, to enforce the penal provisions of this chapter ((~~218, Laws of 1973 1st ex. sess.~~)) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities, including chapter 9A.83 RCW, and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of this chapter ((~~218, Laws of 1973 1st ex. sess.~~)) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of this chapter ((~~218, Laws of 1973 1st ex. sess.~~)) and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession, and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other law enforcement agencies.

(4) Criminal history record information that includes nonconviction data, as defined in RCW 10.97.030, may be disseminated by a criminal justice agency to the Washington state gambling commission for any purpose associated with the investigation for suitability for involvement in gambling activities authorized under this chapter. The Washington state gambling commission shall only disseminate nonconviction data obtained under this section to criminal justice agencies.

(5) In addition to its other powers and duties, the commission may ensure sport integrity and prevent and detect competition manipulation through education and enforcement of the penal provisions of this chapter or chapter 67.04 or 67.24 RCW, or any other state penal laws related to the integrity of sporting events, athletic events, or competitions within the state.

(6) In addition to its other powers and duties, the commission may track and monitor gambling-related transactions occurring within the state to aid in its enforcement of the penal provisions of this chapter or chapter 9A.83 RCW, or any other state penal laws related to suspicious or illegal wagering activities, 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.

**Sec.**  RCW 9.46.220 and 1997 c 78 s 2 are each amended to read as follows:

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) Acts in concert with or conspires with five or more people; ((~~or~~))

(b) Personally accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; ((~~or~~))

(c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events; ((~~or~~))

(d) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission; or

(e) Engages in bookmaking as defined in RCW 9.46.0213.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW 9A.20.021.

NEW SECTION. **Sec.**  A new section is added to chapter 9.46 RCW to read as follows:

The transmission of gambling information over the internet for any sports wagering conducted and operated under this section and section 2 of this act is authorized, 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 of that tribe's gaming facility.

**Sec.**  RCW 9.46.240 and 2006 c 290 s 2 are each amended to read as follows:

(1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a class C felony subject to the penalty set forth in RCW 9A.20.021. ((~~However, this~~))

(2) This section shall not apply to such information transmitted or received or equipment or devices installed or maintained relating to activities authorized by this chapter including, but not limited to, sports wagering authorized under sections 2 and 9 of this act, or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted under this chapter and conducted in accordance with tribal-state compacts.

NEW SECTION. **Sec.**  A new section is added to chapter 9.46 RCW to read as follows:

(1)(a) For purposes of this chapter, "sports wagering" means the business of accepting wagers on any of the following sporting events, athletic events, or competitions by any system or method of wagering:

(i) A professional sport or athletic event;

(ii) A collegiate sport or athletic event;

(iii) An Olympic or international sports competition or event;

(iv) An electronic sports or esports competition or event;

(v) A combination of sporting events, athletic events, or competitions listed in (a)(i) through (iv) of this subsection (1); or

(vi) A portion of any sporting event, athletic event, or competition listed in (a)(i) through (iv) of this subsection (1).

(b) Sports wagering does not include the business of accepting wagers on horse racing authorized pursuant to chapter 67.16 RCW.

(2) For purposes of this section:

(a) "Collegiate sport or athletic event" means 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, other than such an institution that is located within the state of Washington.

(b) "Electronic or esports event" means a live event or tournament attended or watched by members of the public where games or matches are contested in real time by players and teams and players or teams can win a prize based on their performance in the live event or tournament.

(c) "Professional sport or athletic event" means an event that is not a collegiate sport or athletic 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.

**Sec.**  RCW 9.46.090 and 1987 c 505 s 3 are each amended to read as follows:

Subject to RCW 40.07.040, the commission shall, from time to time, make reports to the governor and the legislature covering such matters in connection with this chapter as the governor and the legislature may require. These reports shall be public documents and contain such general information and remarks as the commission deems pertinent thereto and any information requested by either the governor or members of the legislature: PROVIDED, That the commission appointed pursuant to RCW 9.46.040 may conduct a thorough study of the types of gambling activity permitted and the types of gambling activity prohibited by this chapter and may make recommendations to the legislature as to: (1) Gambling activity that ought to be permitted; (2) gambling activity that ought to be prohibited; (3) the types of licenses and permits that ought to be required; (4) the type and amount of tax that ought to be applied to each type of permitted gambling activity; (5) any changes which may be made to the law of this state which further the purposes and policies set forth in RCW 9.46.010 as now law or hereafter amended; and (6) any other matter that the commission may deem appropriate. However, 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. Members of the commission and its staff may contact the legislature, or any of its members, at any time, to advise it of recommendations of the commission.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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