
Commerce & Gaming Committee

HB 2638

Brief Description: Authorizing sports wagering subject to the terms of tribal-state gaming compacts.

Sponsors: Representatives Peterson, MacEwen, Stonier, Harris, Robinson, Young, Ortiz-Self, Stokesbary, Tharinger, Walsh, Riccelli, Appleton, Griffey, Hansen, Kloba, Lekanoff, Sells, Chapman, Gregerson and Ramel.

Brief Summary of Bill

- Requires 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 gaming facility.
- Defines the terms "sports wagering," "collegiate sport or athletic event," "electronic or esports event," and "professional sport or athletic event."
- Requires the Gambling Commission (Commission) to report to the Legislature and Governor in 2021 and 2022.
- Amends the Commission's powers and duties related to licensing, and to provide professional and collegiate sports teams and leagues an opportunity to provide comment in the promulgation of rules related to sports wagering.

Hearing Date: 1/27/20

Staff: Peter Clodfelter (786-7127).

Background:

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 (1992)

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.

violates the Tenth Amendment to the United States Constitution by prohibiting states from authorizing sports betting. In the wake of this court decision ending the decades-long federal ban on sports betting, states throughout the country are examining their laws and policies pertaining to betting on sporting events.

The federal Indian Gaming Regulatory Act (1988) (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. Whereas 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.

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. Additionally, within 30 days after receiving a proposed compact from the Director, one standing committee from each house of the Legislature holds a public hearing on the proposed compact and forwards its respective comments to the Commission.

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. If the Director forwards a proposed compact to the Commission and the designated standing committees within 10 days before the beginning of a regular session of the Legislature, or during a regular or special session of the legislature, the 30-day time limit and the 45-day limit are each 45 days and 60 days, respectively.

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.

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 purchaser of each chance or square 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:

Upon the request of a federally recognized Indian tribe, the tribe's class III gaming compact must be amended pursuant to the Indian Gaming Regulatory Act and state law to authorize the tribe to conduct and operate sports wagering on federal Indian lands. The compact amendment must address how sports wagering will be conducted, operated, and regulated. Sports wagering conducted pursuant to the provisions of a class III gaming compact entered into by a tribe and the state is not bookmaking and is not subject to civil or criminal penalties.

Gambling information may be transmitted over the Internet for any sports wagering conducted and operated under the new authorization, provided that a wager may be placed and accepted only while the customer placing the wager is physically present on the premises of the gaming facility of the Indian tribe or tribal entity.

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 term "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 offering education services beyond the secondary level, other than an institution located within Washington. The term "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. The term "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.

The Gambling Commission (Commission) must report to the Legislature. A preliminary report is due by December 1, 2021, and a final report is due by December 1, 2022, to include, at a minimum: (1) The state of the industry within the state and nationwide; (2) recommendations, if any, to the Legislature concerning laws the Commission determines should be amended to prevent abuses and violation of the law; and (3) the value and cost of establishing a sports integrity unit to prevent and detect competition manipulation through education and enforcement of applicable criminal laws to protect the integrity of sporting events and contests within the state, including whether other states have instituted such units.

The existing authority of the Commission to authorize and require licensure of persons, associations, or organizations who engage in the selling, distributing, or supplying 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. Additionally, the Commission must provide professional and collegiate sports teams and leagues with an opportunity to provide comment in the promulgation of any rules related to sports wagering.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.