

FINAL BILL REPORT

ESHB 2638

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Synopsis as Enacted

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

Sponsors: House Committee on Commerce & Gaming (originally sponsored by Representatives Peterson, MacEwen, Stonier, Harris, Robinson, Young, Ortiz-Self, Stokesbary, Tharinger, Walsh, Riccelli, Appleton, Griffey, Hansen, Kloba, Lekanoff, Sells, Chapman, Gregerson and Ramel).

House Committee on Commerce & Gaming
House Committee on Appropriations
Senate Committee on Labor & Commerce
Senate Committee on Ways & Means

Background:

In 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) violates the Tenth Amendment to the United States Constitution by prohibiting states from authorizing sports betting. Following 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. Class III gaming is casino-style gaming including lotteries, roulette, and house-banked card games such as blackjack and baccarat.

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. Within 30 days after receiving a proposed compact from the Director, one standing committee from each house of the

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.

Legislature holds a public hearing on the proposed compact and forwards its respective comments to the Commission.

The Commission also holds a 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.

Summary:

Upon the request of a federally recognized Indian tribe, the tribe's Class III gaming compact may 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 topics including licensing, fees associated with the Gambling Commission's (Commission) regulation of sports wagering, how sports wagering will be conducted, operated, and regulated, issues related to criminal enforcement, money laundering, sport integrity, information sharing between the tribe and Commission, and responsible and problem gambling.

Gambling information may be transmitted over the Internet for sports wagering conducted and operated under the new authorization, provided that a 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.

"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 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 "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. However, wagering is prohibited on any minor league sport.

The existing authority of the Commission to authorize and require licensure of those who engage in the selling, distributing, or suppling of gambling devices for use in Washington is

amended to add "manufacturing" to the activities and to add "equipment, software, hardware, or any gambling-related services" to the things within the Commission's licensing authority. Also, a person participating as an employee in the operation, management, or provision of gambling-related services for sports wagering is added as a person who must be listed on the application for a gambling license.

Databases, hardware, software, and other electronic data storage device are added to the things subject to inspection and audit by the Commission and law enforcement when owned by a person conducting, profiting from, or having an interest in authorized gambling. Also, compliance with federal and state laws is added to the scope of inspections and audits by the Commission.

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. The Commission may also ensure sport integrity and prevent and detect competition manipulation through education and enforcement of applicable laws. The Commission may track and monitor gambling-related transactions occurring within Washington to aid in its enforcement of applicable laws, 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.

The following new class C felony criminal prohibitions are added to the Gambling Act:

- No person may 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.
- No person may place, increase, or decrease a wager after acquiring knowledge unavailable 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.
- No person may 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 or competition.
- No person may 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.

New criminal prohibitions are also added applicable to those who operate a gambling activity. A person, association, or organization may not, directly or indirectly, do the following in the course of operating a gambling activity:

- alter or misrepresent the outcome of a game or event on which wagers have been made after the outcome is made sure but before it is revealed to the players;
- place, increase, or decrease a bet or 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;

- knowingly entice or induce another person to go to a place where an illegal gambling activity is being conducted or operated, with the intent that the other person play or participate in that illegal gambling activity;
- place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet; or
- reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or event that is the subject of the bet.

All the above new prohibitions are class C felonies. The existing gross misdemeanor crime of a person operating a gambling activity and employing a device or scheme to defraud another person is changed to a class C felony. Engaging in bookmaking is added to the existing crime of Professional Gambling in the First Degree.

By December 1 of the year following any authorization by the Legislature of a new gambling activity, certain reports submitted by the Commission to the Governor and the Legislature must include information on the state of the gambling industry both within Washington and nationwide.

Votes on Final Passage:

House	83	14	
Senate	34	15	(Senate amended)
House	83	14	(House concurred)

Effective: March 25, 2020