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**SECOND SUBSTITUTE SENATE BILL 5634**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Conway, Keiser, Hasegawa, Nguyen, Nobles, and Stanford)

AN ACT Relating to problem gambling; amending RCW 41.05.750, 67.70.340, 82.04.285, 82.04.286, and 9.46.071; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) The costs to society of problem gambling and gambling disorder include family disintegration, criminal activity, and financial insolvencies;

(b) Individuals experiencing problem gambling and gambling disorder are at significantly increased risks for other co-occurring disorders, including substance use disorder and mental health issues such as depression, anxiety, or other behavioral health concerns;

(c) Residents of Washington may participate in a variety of legal gaming activities such as the state-run lottery, tribal gaming by federally recognized Indian tribes, certain fund-raisers offered by bona fide charitable and nonprofit organizations, and punchboards, pull-tabs, and social card games approved as a commercial stimulant at established businesses primarily engaged in the selling of food or drink for consumption on the premises;

(d) A 2021 prevalence study found that among all adults, 1.5 percent are at a moderate-to-severe risk for developing a gambling disorder, and among adults who gamble, 3.5 percent are at a moderate-to-severe risk of a gambling disorder; and

(e) The 2022 problem gambling task force final report, delivered to the legislature in December 2022, determined there are critical gaps in providing state-funded comprehensive problem gambling services to Washington residents, including:

(i) Prevention efforts not coordinated with other behavioral health and substance abuse prevention initiatives;

(ii) Problem gambling treatment coverage is not available across the state; and

(iii) No state-supported residential treatment services are available in Washington state.

(2) The legislature intends to provide long-term, dedicated funding for prevention, public awareness efforts, and education regarding problem gambling disorder, clinical training, workforce development, and accessible treatment services for individuals impacted by problem gambling or gambling disorders as well as after-care support.

**Sec.**  RCW 41.05.750 and 2018 c 201 s 2004 are each amended to read as follows:

(1) A program for (a) the prevention and treatment of problem ((~~and pathological~~)) gambling and gambling disorder; and (b) the support, certification, and training of professionals in the identification and treatment of problem ((~~and pathological~~)) gambling and gambling disorder is established within the authority((~~, to be administered by a qualified person who has training and experience in problem gambling or the organization and administration of treatment services for persons suffering from problem gambling~~)). The department of health may license or certify ((~~and the~~)) behavioral health agencies for problem gambling treatment. The authority may contract ((~~with treatment facilities~~)) for any services provided under the program. The authority shall ((~~track~~)) conduct a program evaluation, including tracking program participation and ((~~client~~)) evaluating outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for problem ((~~or pathological~~)) gambling or gambling disorder, or ((~~because of the problem or pathological gambling of a family member, but be unable to afford treatment~~)) be impacted by a loved one experiencing problem gambling or gambling disorder; and

(b) Be ((~~targeted~~)) identified by the authority as being most amenable to and likely to benefit from treatment.

(3) Treatment under this section is available only to the extent of the funds appropriated or otherwise made available to the authority for this purpose. The authority may solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services, or property from the federal government, any tribal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies or any tribal government in making an application for any grant.

(4)(a) The authority shall establish and facilitate an ongoing advisory committee ((~~to assist it in designing, managing, and evaluating the effectiveness of the program established in this section. The advisory committee shall give due consideration in the design and management of the program that persons who hold licenses or contracts issued by the gambling commission, horse racing commission, and lottery commission are not excluded from, or discouraged from, applying to participate in the program. The committee shall include, at a minimum, persons knowledgeable in the field of problem and pathological gambling and persons representing tribal gambling, privately owned nontribal gambling, and the state lottery.~~

~~(5) For purposes of this section, "pathological gambling" is a mental disorder characterized by loss of control over gambling, progression in preoccupation with gambling and in obtaining money to gamble, and continuation of gambling despite adverse consequences. "Problem gambling" is an earlier stage of pathological gambling which compromises, disrupts, or damages family or personal relationships or vocational pursuits~~)) that will hold quarterly meetings to:

(i) Track progress of recommendations from the 2022 legislative problem gambling task force final report;

(ii) Provide advice and feedback on the state problem gambling program upon request by the authority; and

(iii) Discuss emerging issues related to problem gambling and identify possible strategies for improvement.

(b) The advisory committee membership must include, at a minimum, at least one representative from each of the following:

(i) The Washington state gambling commission;

(ii) The Washington state lottery commission;

(iii) The Washington state horse racing commission;

(iv) The Washington state health care authority;

(v) The tribal gaming industry;

(vi) An established business primarily engaged in the selling of food or drink for consumption on the premises and that offers punchboards, pull-tabs, and social card games as a commercial stimulant;

(vii) The gambling counselor certification committee;

(viii) A nonprofit problem gambling organization; and

(ix) The recovery community including at least one member with lived experience of problem gambling.

**Sec.**  RCW 67.70.340 and 2012 1st sp.s. c 10 s 6 are each amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the fund most impacted by this potential event is the Washington opportunity pathways account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the Washington opportunity pathways account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem ((~~and pathological~~)) gambling and gambling disorder.

(2) The Washington opportunity pathways account is expected to receive ((~~one hundred two million dollars~~)) $102,000,000 annually from state lottery games other than the shared game lottery. For fiscal year 2011 and thereafter, if the amount of lottery revenues earmarked for the Washington opportunity pathways account is less than ((~~one hundred two million dollars~~)) $102,000,000, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from revenues derived from the shared game lottery into the Washington opportunity pathways account to bring the total revenue up to ((~~one hundred two million dollars~~)) $102,000,000.

(3)(a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year ((~~2006~~)) 2024, the percentage to be transferred to the problem gambling account is ((~~one-tenth of one~~)) 0.20 percent. In fiscal year ((~~2007~~)) 2025 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is ((~~thirteen one-hundredths of one~~)) 0.26 percent.

(4) The commission shall transfer the remaining net revenues, if any, derived from the shared game lottery "Powerball" authorized in RCW 67.70.044(1) after the transfers pursuant to this section into the state general fund for support for the program of basic education under RCW 28A.150.200.

(5) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the Washington opportunity pathways account.

**Sec.**  RCW 82.04.285 and 2014 c 97 s 303 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of operating contests of chance; as to such persons, the amount of tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of 1.5 percent.

(2) An additional tax is imposed on those persons subject to tax in subsection (1) of this section. The amount of the additional tax with respect to the business of operating contests of chance is equal to the gross income of the business derived from contests of chance multiplied by the rate of ((~~0.1~~)) 0.2 percent through June 30, ((~~2006~~)) 2024, and ((~~0.13~~)) 0.26 percent thereafter. The money collected under this subsection (2) shall be deposited in the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751. This subsection does not apply to businesses operating contests of chance when the gross income from the operation of contests of chance is less than ((~~fifty thousand dollars~~)) $50,000 per year.

(3)(a) For the purpose of this section, "contests of chance" means any contests, games, gaming schemes, or gaming devices, other than the state lottery as defined in RCW 67.70.010, in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor in the outcome. The term includes social card games, bingo, raffle, and punchboard games, and pull-tabs as defined in chapter 9.46 RCW.

(b) The term does not include: (i) Race meet for the conduct of which a license must be secured from the Washington horse racing commission, (ii) "amusement game" as defined in RCW 9.46.0201, or (iii) any activity that is not subject to regulation by the gambling commission.

(4) "Gross income of the business" does not include the monetary value or actual cost of any prizes that are awarded, amounts paid to players for winning wagers, accrual of prizes for progressive jackpot contests, or repayment of amounts used to seed guaranteed progressive jackpot prizes.

**Sec.**  RCW 82.04.286 and 2005 c 369 s 6 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of conducting race meets for the conduct of which a license must be secured from the Washington horse racing commission; as to such persons, the amount of tax with respect to the business of parimutuel wagering is equal to the gross income of the business derived from parimutuel wagering multiplied by the rate of ((~~0.1~~)) 0.2 percent through June 30, ((~~2006~~)) 2024, and ((~~0.13~~)) 0.26 percent thereafter. The money collected under this section shall be deposited in the problem gambling account created in RCW ((~~43.20A.892~~)) 41.05.751.

(2) For purposes of this section, "gross income of the business" does not include amounts paid to players for winning wagers, or taxes imposed or other distributions required under chapter 67.16 RCW.

(3) The tax imposed under this section is in addition to any tax imposed under chapter 67.16 RCW.

**Sec.**  RCW 9.46.071 and 2019 c 213 s 1 are each amended to read as follows:

(1)((~~(a)~~)) The legislature recognizes that some individuals in this state ((~~have a gambling problem or~~)) are negatively impacted by problem gambling and gambling disorder. Because the state promotes and regulates gambling through the activities of the state lottery commission, the Washington horse racing commission, and the Washington state gambling commission, the state has the responsibility to continue to provide resources for the support of ((~~services for~~)) problem gambling ((~~and gambling disorders.~~

~~(b) The~~)) services. Therefore, the Washington state gambling commission, the Washington horse racing commission, and the state lottery commission shall ((~~jointly develop~~)) maintain placement of problem gambling and gambling disorder informational signs which include a toll-free ((~~hotline~~)) helpline number for ((~~individuals with a gambling problem or~~)) problem gambling and gambling disorder. The signs shall be placed in the establishments of gambling licensees, horse racing licensees, and lottery retailers.

((~~(c)~~)) The Washington state gambling commission, the Washington horse racing commission, and the state lottery commission may also contract with other qualified entities to provide public awareness, training, and other services to ensure the intent of this section is fulfilled.

((~~(d)~~)) (2) Individuals and families impacted by ((~~a gambling~~)) problem gambling or gambling disorder will benefit from the availability of a uniform self-exclusion program where people may voluntarily exclude themselves from gambling at multiple gambling establishments by submitting one self-exclusion form to the state from one location for all gambling activities. Therefore, the Washington state gambling commission must establish a statewide self-exclusion program for all licensees. The commission has discretion in establishing the scope, process, and requirements of the self-exclusion program, including denying, suspending, or revoking an application, license, or permit. However, the initial program must comply with the following minimum requirements:

((~~(i)~~)) (a) The program must allow persons to voluntarily exclude themselves from gambling at authorized gambling establishments that offer house-banked social card games;

((~~(ii)~~)) (b) The program must have a process for federally recognized Indian tribes or tribal enterprises that own gambling operations or facilities with class III gaming compacts to voluntarily participate in the self-exclusion program;

((~~(iii)~~)) (c)(i) Any individual registered with the self-exclusion program created under this section is prohibited from participating in gambling activities associated with this program and forfeits all moneys and things of value obtained by the individual or owed to the individual by an authorized gambling establishment as a result of prohibited wagers or gambling activities. The commission may adopt rules for the forfeiture of any moneys or things of value, including wagers, obtained by an authorized gambling establishment while an individual is registered with the self-exclusion program created under this section.

(ii) Moneys and things of value forfeited under the self-exclusion program must be distributed to the problem gambling account created in RCW 41.05.751 and/or a charitable or nonprofit organization that provides problem gambling services or increases awareness about problem gambling pursuant to rules adopted by the commission; and

((~~(iv)~~)) (d) The commission must adopt rules establishing the self-exclusion program by June 30, 2021.

((~~(e)~~)) (3) An individual who participates in the self-exclusion program does not have a cause of action against the state of Washington, the commission, or any gambling establishment, its employees, or officers for any acts or omissions in processing or enforcing the requirements of the self-exclusion program, including a failure to prevent an individual from gambling at an authorized gambling establishment.

((~~(f)~~)) (4) Any personal information collected, stored, or accessed under the self-exclusion program may only be used for the administration of the self-exclusion program and may not be disseminated for any purpose other than the administration of the self-exclusion program.

((~~(2)~~)) (5)(a) During any period in which RCW 82.04.285(2) is in effect, the commission may not increase fees payable by licensees under its jurisdiction for the purpose of funding services for problem gambling and gambling disorder. Any fee imposed or increased by the commission, for the purpose of funding these services, before July 1, 2005, has no force and effect after July 1, 2005.

(b) During any period in which RCW 82.04.285(2) is not in effect:

(i) The commission, the Washington state horse racing commission, and the state lottery commission may contract for services, in addition to those authorized in subsection (1) of this section, to assist in providing for problem gambling and gambling disorder treatment; and

(ii) The commission may increase fees payable by licensees under its jurisdiction for the purpose of funding the problem gambling and gambling disorder services authorized in this section.

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.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2023.

**--- END ---**