

ASSEMBLY BILL

No. 58

Introduced by Assembly Member Jeffries

December 5, 2008

An act to amend Section 337a of, and to add Section 336.9 to, the Penal Code, relating to sports betting pools.

LEGISLATIVE COUNSEL'S DIGEST

AB 58, as introduced, Jeffries. Sports betting pools.

Existing law makes it either a misdemeanor or a felony, punishable by imprisonment in either a county jail or in the state prison, for a person, whether or not for gain, hire, or reward, to make a betting pool or place a bet or wager on the result of any contest or event, including a sporting event, as specified.

This bill would create an exception to that provision, making it an infraction, punishable by a fine not to exceed \$250, for a person, not for gain, hire, or reward, other than that at stake under conditions available to every participant, to participate in a bet, wager, or betting pool with another person or group of persons who are not acting for gain, hire, or reward other than that at stake under conditions available to every participant, on the result of any contest or event, including a sporting event, as specified. This exception would not apply to any bet, bets, wager, wagers, or betting pool or pools made online or to betting pools with more than \$2,500 at stake.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 336.9 is added to the Penal Code, to read:

336.9. (a) Notwithstanding Section 337a, and except as provided in subdivision (b) any person who, not for gain, hire, or reward other than that at stake under conditions available to every participant, knowingly participates in any of the ways specified in paragraph (2), (3), (4), (5), or (6) of subdivision (a) of Section 337a in any bet, bets, wager, wagers, or betting pool or pools made between the person and any other person or group of persons who are not acting for gain, hire, or reward, other than that at stake under conditions available to every participant, upon the result of any lawful trial, or purported trial, or contest, or purported contest, of skill, speed, or power of endurance of person or animal, or between persons, animals, or mechanical apparatus, is guilty of an infraction, punishable by a fine not to exceed two hundred fifty dollars (\$250).

(b) Subdivision (a) does not apply to either of the following situations:

(1) Any bet, bets, wager, wagers, or betting pool or pools made online.

(2) Betting pools with more than twenty-five hundred dollars (\$2,500) at stake.

SEC. 2. Section 337a of the Penal Code is amended to read:

337a. (a) ~~Every~~ Except as provided in Section 336.9, every person who engages in one of the following offenses, shall be punished for a first offense by imprisonment in a county jail for a period of not more than one year or in the state prison, or by a fine not to exceed five thousand dollars (\$5,000), or by both imprisonment and fine:

(1) Pool selling or bookmaking, with or without writing, at any time or place.

(2) Whether for gain, hire, reward, or gratuitously, or otherwise, keeps or occupies, for any period of time whatsoever, any room, shed, tenement, tent, booth, building, float, vessel, place, stand or enclosure, of any kind, or any part thereof, with a book or books, paper or papers, apparatus, device or paraphernalia, for the purpose of recording or registering any bet or bets, any purported bet or bets, wager or wagers, any purported wager or wagers, selling pools, or purported pools, upon the result, or purported result, of

1 any trial, purported trial, contest, or purported contest, of skill,
2 speed or power of endurance of person or animal, or between
3 persons, animals, or mechanical apparatus, or upon the result, or
4 purported result, of any lot, chance, casualty, unknown or
5 contingent event whatsoever.

6 (3) Whether for gain, hire, reward, or gratuitously, or otherwise,
7 receives, holds, or forwards, or purports or pretends to receive,
8 hold, or forward, in any manner whatsoever, any money, thing or
9 consideration of value, or the equivalent or memorandum thereof,
10 staked, pledged, bet or wagered, or to be staked, pledged, bet or
11 wagered, or offered for the purpose of being staked, pledged, bet
12 or wagered, upon the result, or purported result, of any trial, or
13 purported trial, or contest, or purported contest, of skill, speed or
14 power of endurance of person or animal, or between persons,
15 animals, or mechanical apparatus, or upon the result, or purported
16 result, of any lot, chance, casualty, unknown or contingent event
17 whatsoever.

18 (4) Whether for gain, hire, reward, or gratuitously, or otherwise,
19 at any time or place, records, or registers any bet or bets, wager
20 or wagers, upon the result, or purported result, of any trial, or
21 purported trial, or contest, or purported contest, of skill, speed or
22 power of endurance of person or animal, or between persons,
23 animals, or mechanical apparatus, or upon the result, or purported
24 result, of any lot, chance, casualty, unknown or contingent event
25 whatsoever.

26 (5) Being the owner, lessee or occupant of any room, shed,
27 tenement, tent, booth, building, float, vessel, place, stand, enclosure
28 or grounds, or any part thereof, whether for gain, hire, reward, or
29 gratuitously, or otherwise, permits that space to be used or occupied
30 for any purpose, or in any manner prohibited by paragraph (1),
31 (2), (3), or (4).

32 (6) Lays, makes, offers or accepts any bet or bets, or wager or
33 wagers, upon the result, or purported result, of any trial, or
34 purported trial, or contest, or purported contest, of skill, speed or
35 power of endurance of person or animal, or between persons,
36 animals, or mechanical apparatus.

37 (b) In any accusatory pleading charging a violation of this
38 section, if the defendant has been once previously convicted of a
39 violation of any subdivision of this section, the previous conviction
40 shall be charged in the accusatory pleading, and, if the previous

1 conviction is found to be true by the jury, upon a jury trial, or by
2 the court, upon a court trial, or is admitted by the defendant, the
3 defendant shall, if he or she is not imprisoned in the state prison,
4 be imprisoned in the county jail for a period of not more than one
5 year and pay a fine of not less than one thousand dollars (\$1,000)
6 and not to exceed ten thousand dollars (\$10,000). Nothing in this
7 paragraph shall prohibit a court from placing a person subject to
8 this subdivision on probation. However, that person shall be
9 required to pay a fine of not less than one thousand dollars (\$1,000)
10 nor more than ten thousand dollars (\$10,000) or be imprisoned in
11 the county jail for a period of not more than one year, as a condition
12 thereof. In no event does the court have the power to absolve a
13 person convicted pursuant to this subdivision from either being
14 imprisoned or from paying a fine of not less than one thousand
15 dollars (\$1,000) and not more than ten thousand dollars (\$10,000).

16 (c) In any accusatory pleading charging a violation of this
17 section, if the defendant has been previously convicted two or
18 more times of a violation of any subdivision of this section, each
19 previous conviction shall be charged in the accusatory pleadings.
20 If two or more of the previous convictions are found to be true by
21 the jury, upon a jury trial, or by the court, upon a court trial, or are
22 admitted by the defendant, the defendant shall, if he or she is not
23 imprisoned in the state prison, be imprisoned in the county jail for
24 a period of not more than one year or pay a fine of not less than
25 one thousand dollars (\$1,000) nor more than fifteen thousand
26 dollars (\$15,000), or be punished by both imprisonment and fine.
27 Nothing in this paragraph shall prohibit a court from placing a
28 person subject to this subdivision on probation. However, that
29 person shall be required to pay a fine of not less than one thousand
30 dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000),
31 or be imprisoned in the county jail for a period of not more than
32 one year as a condition thereof. In no event does the court have
33 the power to absolve a person convicted and subject to this
34 subdivision from either being imprisoned or from paying a fine of
35 not more than fifteen thousand dollars (\$15,000).

36 (d) Except where the existence of a previous conviction of any
37 subdivision of this section was not admitted or not found to be true
38 pursuant to this section, or the court finds that a prior conviction
39 was invalid, the court shall not strike or dismiss any prior
40 convictions alleged in the information or indictment.

1 (e) This section applies not only to persons who commit any of
2 the acts designated in paragraphs (1) to (6), inclusive, of
3 subdivision (a), as a business or occupation, but also applies to
4 every person who in a single instance engages in any one of the
5 acts specified in paragraphs (1) to (6), inclusive, of subdivision
6 (a).

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