

AMENDED IN SENATE MARCH 28, 2012

SENATE BILL

No. 1390

Introduced by Senator Wright

February 24, 2012

An act to add Chapter 4.7 (commencing with Section 19750) to Division 8 of the Business and Professions Code, and to amend Sections 336.9 and 337a of the Penal Code, relating to sports wagering.

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as amended, Wright. Sports wagering.

The California Constitution prohibits various gaming activities within the state, including casino-style gaming, but authorizes the Governor, subject to ratification by the Legislature, to negotiate and conclude compacts for the operation of slot machines and the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. The California Constitution also authorizes the Legislature to provide for the regulation of horse racing, charitable bingo games, the California State Lottery, and charitable raffles.

Existing law prohibits a person, whether or not for gain, hire, or reward, from making a betting pool or placing a bet or wager on the result of any contest or event, including a sporting event, as specified.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. Existing law provides for the enforcement of those regulations by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

The Horse Racing Law provides for the licensure of every person who participates in, or has anything to do with, the racing of horses, and every employee of a parimutuel department by the California Horse Racing Board. The board is responsible for adopting rules and regulations for the protection of the public, the control of horse racing, and parimutuel wagering, as well as enforcing all laws, rules, and regulations dealing with horse racing and parimutuel wagering. The law permits the board to authorize an association licensed to conduct a racing meeting to also operate a satellite wagering facility at its racetrack inclosure, and for fairs to locate a satellite wagering facility at their fairgrounds, under specified conditions. Any violation of these provisions is punishable as a misdemeanor.

This bill would authorize the owner or operator of a gambling establishment, horse racing track, or satellite wagering facility, with a current license, to conduct wagering on professional and collegiate sports or athletic events by applying to ~~its respective licensing authority~~ *the Department of Justice or the California Horse Racing Board, as specified*, for authorization to conduct sports wagering. The bill would require the ~~commission~~ *department* and the board to adopt regulations to implement these provisions. The bill would require the ~~Department of Justice~~ *department* to make investigations related to authorization of applicants and alleged violations of these provisions. Any violation of the provisions would be punishable as a crime. By creating a new crime, the bill would impose a state-mandated local program.

Existing federal law, the Indian Gaming Regulatory Act, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.

This bill would provide that a federally recognized Indian tribe may conduct sports wagering on Indian lands consistent with the requirements of the federal Indian Gaming Regulatory Act, and under terms no more stringent than those applicable to any other owner or operator in the state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Chapter 4.7 (commencing with Section 19750)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 4.7. SPORTS WAGERING
6

7 19750. The following entities may conduct wagering on
8 professional and collegiate sports or athletic events as authorized
9 pursuant to this chapter:

10 (a) The owner or operator of a gambling establishment with a
11 current license issued ~~by the California Gambling Control~~
12 ~~Commission~~ pursuant to Chapter 5 (commencing with Section
13 19800).

14 (b) The owner or operator of a horse racing track or satellite
15 wagering facility with a current license issued by the California
16 Horse Racing Board pursuant to Chapter 4 (commencing with
17 Section 19400).

18 *19751. A federally recognized Indian tribe may conduct sports*
19 *wagering on Indian lands consistent with the requirements of the*
20 *Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to*
21 *1168, incl., and 25 U.S.C. Sec. 2701 et seq.), and under terms no*
22 *more stringent than those applicable to any other owner or*
23 *operator in the state.*

24 19752. As used in this chapter, the following definitions shall
25 apply:

- 26 (a) "Board" means the California Horse Racing Board.
- 27 (b) "Commission" means the California Gambling Control
28 Commission.
- 29 (c) "Department" means the Department of Justice.
- 30 (d) "Licensed operator" means any of the entities listed in
31 Section 19750 that is authorized pursuant to this chapter to conduct
32 sports wagering.

1 (e) “Sports event” shall include any professional sports or
2 athletic event, and any collegiate sports or athletic event.

3 (f) “Sports wagering” ~~or “sports pool”~~ means the business of
4 accepting wagers on a sports event by any legal system or method
5 of wagering ~~other than the parimutuel method of wagering,~~
6 including, but not limited to, exchange wagering, parlays, over
7 and under, money line, and straight bets.

8 19754. (a) *(1)* An owner or operator of a gambling
9 establishment, ~~horse racing track, or satellite wagering facility~~
10 seeking to conduct sports wagering shall apply to ~~its respective~~
11 ~~licensing agency, the board or the commission,~~ *the department* for
12 authorization to conduct sports wagering.

13 *(2)* *An owner or operator of a horse racing track or satellite*
14 *wagering facility seeking to conduct sports wagering shall apply*
15 *to the board for authorization to conduct sports wagering.*

16 (b) The board or the ~~commission~~ *department*, as the case may
17 be, shall hear and decide promptly, and in reasonable order, all
18 applications to conduct sports wagering from owners and operators
19 of licensed gambling establishments ~~and~~, licensed horse racing
20 tracks, and satellite wagering facilities. Authorization to conduct
21 sports wagering shall not be unreasonably withheld for any
22 applicant that is in good standing and has a current license *issued*
23 *pursuant to Chapter 4 (commencing with Section 19400) or*
24 *Chapter 5 (commencing with Section 19800).*

25 19756. (a) Application for authorization to conduct sports
26 wagering shall be made on forms furnished by the board and the
27 ~~commission~~ *department*.

28 (b) The application for authorization to conduct sports wagering
29 shall include all of the following:

30 (1) The name of the licensee.

31 (2) The name and location of the gambling establishment, horse
32 racing track, or satellite wagering facility.

33 (3) The names of all persons directly or indirectly interested in
34 the business and the nature of the interest.

35 (4) A description of the proposed sports wagering operation.

36 (5) Any other information and details the board or the
37 ~~commission~~ *department* may require in order to discharge its duty
38 properly.

1 19758. (a) The board and the ~~commission~~ *department* shall
2 adopt regulations for the administration and enforcement of this
3 chapter.

4 (b) The board and the ~~commission~~ *department* shall consult
5 with each other, and the ~~department~~ *commission*, in the adoption
6 of regulations pursuant to this section, and may adopt joint
7 regulations.

8 19760. The regulations adopted by the board and the
9 ~~commission~~ *department* shall do all of the following:

10 (a) Provide for the approval of wagering rules and equipment
11 by the department to ensure fairness to the public and compliance
12 with state law, including, but not limited to, all of the following:

13 (1) Acceptance of wagers on a series of sports events.

14 (2) Types of wagering tickets that may be used.

15 (3) The method of issuing tickets.

16 (b) Govern all of the following:

17 (1) The extension of credit.

18 (2) The cashing, deposit, and redemption of checks or other
19 negotiable instruments.

20 (3) The amount of cash reserves to be maintained by licensed
21 operators to cover winning wagers.

22 (4) The provision of reliable records, accounts, and reports of
23 transactions, operations, and events, including reports to the
24 department, the method of accounting to be used by licensed
25 operators, and the types of records required to be maintained.

26 19762. (a) The sports wagering authorized pursuant to this
27 chapter may be conducted only at the gambling establishment,
28 horseracing track, or satellite facility of the licensed operator, *or*
29 *on Indian lands consistent with the federal Indian Gaming*
30 *Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, incl., and*
31 *25 U.S.C. Sec. 2701 et seq.).*

32 (b) The licensed operators of horse racing tracks, satellite
33 wagering facilities, and gambling establishments may enter into
34 an agreement to jointly conduct a sports wagering operation. Any
35 joint sports wagering operation authorized pursuant to this
36 subdivision shall be conducted only at a horse racing track.

37 19764. A licensed operator shall not accept a wager on a sports
38 ~~events~~ *event* from any person who is not physically present at the
39 facility where the sports wagering is conducted.

1 19766. A licensed operator shall establish the odds it will pay
2 on wagers placed on sports events.

3 19768. (a) A licensed operator shall not conduct any sports
4 wagering in violation of any provision of this chapter, any
5 regulation adopted pursuant to this chapter, or any governing local
6 ordinance.

7 (b) Any person who willfully violates any provision of this
8 chapter is guilty of a misdemeanor.

9 19770. (a) The department shall have all of the following
10 responsibilities:

11 (1) To investigate any request to the board or the ~~commission~~
12 *department* for an authorization pursuant to this chapter. The
13 department may recommend the denial or the limitation,
14 conditioning, or restriction of any authorization.

15 (2) To monitor the conduct of all licensed operators and other
16 persons having a material involvement, directly or indirectly, with
17 a sports wagering operation.

18 (3) To investigate suspected violations of this chapter.

19 (4) To investigate complaints that are lodged against licensed
20 operators, or other persons associated with a sports wagering
21 operation, by members of the public.

22 (5) To initiate, where appropriate, disciplinary actions. In
23 connection with any disciplinary action, the department may seek
24 restriction, limitation, suspension, or revocation of any license,
25 permit, authorization, or approval pursuant to this chapter, Chapter
26 4 (commencing with Section 19400), or Chapter 5 (commencing
27 with Section 19800), or the imposition of any fine upon any person
28 licensed, permitted, authorized, or approved pursuant to those
29 chapters.

30 (6) To adopt regulations reasonably related to its functions and
31 duties as specified in this chapter.

32 (b) The department has all powers necessary and proper to
33 enable it to carry out fully and effectually its duties and
34 responsibilities specified in this chapter.

35 19772. (a) The department shall make appropriate
36 investigations as follows:

37 (1) To determine whether there has been any violation of this
38 chapter or any regulations adopted under this chapter.

1 (2) To determine any facts, conditions, practices, or matters that
2 it may deem necessary or proper to aid in the enforcement of this
3 chapter or any regulation adopted under this chapter.

4 (3) To aid in adopting regulations.

5 (b) If, after any investigation, the department is satisfied that a
6 license, permit, authorization, or approval pursuant to this chapter,
7 Chapter 4 (commencing with Section 19400), or Chapter 5
8 (commencing with Section 19800) should be suspended or revoked,
9 it shall file an accusation ~~with administrative hearings the board~~
10 ~~or commission~~ in accordance with Chapter 5 (commencing with
11 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
12 Code.

13 (c) In addition to any action that the board ~~or commission~~
14 *department* may take against a license, permit, finding of
15 suitability, or approval, the board ~~or commission~~ *department* may
16 also require the payment of fines or penalties. However, no fine
17 imposed shall exceed twenty thousand dollars (\$20,000) for each
18 separate violation of any provision of this chapter or any regulation
19 adopted under this chapter.

20 SEC. 2. Section 336.9 of the Penal Code is amended to read:

21 336.9. (a) Notwithstanding Section 337a, and except as
22 provided in subdivision (b), any person who, not for gain, hire, or
23 reward other than that at stake under conditions available to every
24 participant, knowingly participates in any of the ways specified in
25 paragraph (2), (3), (4), (5), or (6) of subdivision (a) of Section
26 337a in any bet, bets, wager, wagers, or betting pool or pools made
27 between the person and any other person or group of persons who
28 are not acting for gain, hire, or reward, other than that at stake
29 under conditions available to every participant, upon the result of
30 any lawful trial, or purported trial, or contest, or purported contest,
31 of skill, speed, or power of endurance of person or animal, or
32 between persons, animals, or mechanical apparatus, is guilty of
33 an infraction, punishable by a fine not to exceed two hundred fifty
34 dollars (\$250).

35 (b) Subdivision (a) does not apply to any of the following
36 situations:

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

39 (2) Betting pools with more than two thousand five hundred
40 dollars (\$2,500) at stake.

1 (3) Any sports wagering authorized pursuant to Chapter 4.7
2 (commencing with Section 19750) of Division 8 of the Business
3 and Professions Code.

4 SEC. 3. Section 337a of the Penal Code is amended to read:

5 337a. (a) Except as provided in Section 336.9 and as authorized
6 pursuant to Chapter 4.7 (commencing with Section 19750) of
7 Division 8 of the Business and Professions Code, every person
8 who engages in one of the following offenses, shall be punished
9 for a first offense by imprisonment in a county jail for a period of
10 not more than one year or in the state prison, or by a fine not to
11 exceed five thousand dollars (\$5,000), or by both imprisonment
12 and fine:

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

15 (2) Whether for gain, hire, reward, or gratuitously, or otherwise,
16 keeps or occupies, for any period of time whatsoever, any room,
17 shed, tenement, tent, booth, building, float, vessel, place, stand or
18 enclosure, of any kind, or any part thereof, with a book or books,
19 paper or papers, apparatus, device or paraphernalia, for the purpose
20 of recording or registering any bet or bets, any purported bet or
21 bets, wager or wagers, any purported wager or wagers, selling
22 pools, or purported pools, upon the result, or purported result, of
23 any trial, purported trial, contest, or purported contest, of skill,
24 speed or power of endurance of person or animal, or between
25 persons, animals, or mechanical apparatus, or upon the result, or
26 purported result, of any lot, chance, casualty, unknown or
27 contingent event whatsoever.

28 (3) Whether for gain, hire, reward, or gratuitously, or otherwise,
29 receives, holds, or forwards, or purports or pretends to receive,
30 hold, or forward, in any manner whatsoever, any money, thing or
31 consideration of value, or the equivalent or memorandum thereof,
32 staked, pledged, bet or wagered, or to be staked, pledged, bet or
33 wagered, or offered for the purpose of being staked, pledged, bet
34 or wagered, upon the result, or purported result, of any trial, or
35 purported trial, or contest, or purported contest, of skill, speed or
36 power of endurance of person or animal, or between persons,
37 animals, or mechanical apparatus, or upon the result, or purported
38 result, of any lot, chance, casualty, unknown or contingent event
39 whatsoever.

1 (4) Whether for gain, hire, reward, or gratuitously, or otherwise,
2 at any time or place, records, or registers any bet or bets, wager
3 or wagers, upon the result, or purported result, of any trial, or
4 purported trial, or contest, or purported contest, of skill, speed or
5 power of endurance of person or animal, or between persons,
6 animals, or mechanical apparatus, or upon the result, or purported
7 result, of any lot, chance, casualty, unknown or contingent event
8 whatsoever.

9 (5) Being the owner, lessee or occupant of any room, shed,
10 tenement, tent, booth, building, float, vessel, place, stand, enclosure
11 or grounds, or any part thereof, whether for gain, hire, reward, or
12 gratuitously, or otherwise, permits that space to be used or occupied
13 for any purpose, or in any manner prohibited by paragraph (1),
14 (2), (3), or (4).

15 (6) Lays, makes, offers or accepts any bet or bets, or wager or
16 wagers, upon the result, or purported result, of any trial, or
17 purported trial, or contest, or purported contest, of skill, speed or
18 power of endurance of person or animal, or between persons,
19 animals, or mechanical apparatus.

20 (b) In any accusatory pleading charging a violation of this
21 section, if the defendant has been once previously convicted of a
22 violation of any subdivision of this section, the previous conviction
23 shall be charged in the accusatory pleading, and, if the previous
24 conviction is found to be true by the jury, upon a jury trial, or by
25 the court, upon a court trial, or is admitted by the defendant, the
26 defendant shall, if he or she is not imprisoned in the state prison,
27 be imprisoned in the county jail for a period of not more than one
28 year and pay a fine of not less than one thousand dollars (\$1,000)
29 and not to exceed ten thousand dollars (\$10,000). Nothing in this
30 paragraph shall prohibit a court from placing a person subject to
31 this subdivision on probation. However, that person shall be
32 required to pay a fine of not less than one thousand dollars (\$1,000)
33 nor more than ten thousand dollars (\$10,000) or be imprisoned in
34 the county jail for a period of not more than one year, as a condition
35 thereof. In no event does the court have the power to absolve a
36 person convicted pursuant to this subdivision from either being
37 imprisoned or from paying a fine of not less than one thousand
38 dollars (\$1,000) and not more than ten thousand dollars (\$10,000).

39 (c) In any accusatory pleading charging a violation of this
40 section, if the defendant has been previously convicted two or

1 more times of a violation of any subdivision of this section, each
2 previous conviction shall be charged in the accusatory pleadings.
3 If two or more of the previous convictions are found to be true by
4 the jury, upon a jury trial, or by the court, upon a court trial, or are
5 admitted by the defendant, the defendant shall, if he or she is not
6 imprisoned in the state prison, be imprisoned in the county jail for
7 a period of not more than one year or pay a fine of not less than
8 one thousand dollars (\$1,000) nor more than fifteen thousand
9 dollars (\$15,000), or be punished by both imprisonment and fine.
10 Nothing in this paragraph shall prohibit a court from placing a
11 person subject to this subdivision on probation. However, that
12 person shall be required to pay a fine of not less than one thousand
13 dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000),
14 or be imprisoned in the county jail for a period of not more than
15 one year as a condition thereof. In no event does the court have
16 the power to absolve a person convicted and subject to this
17 subdivision from either being imprisoned or from paying a fine of
18 not more than fifteen thousand dollars (\$15,000).

19 (d) Except where the existence of a previous conviction of any
20 subdivision of this section was not admitted or not found to be true
21 pursuant to this section, or the court finds that a prior conviction
22 was invalid, the court shall not strike or dismiss any prior
23 convictions alleged in the information or indictment.

24 (e) This section applies not only to persons who commit any of
25 the acts designated in paragraphs (1) to (6), inclusive, of
26 subdivision (a), as a business or occupation, but also applies to
27 every person who in a single instance engages in any one of the
28 acts specified in paragraphs (1) to (6), inclusive, of subdivision
29 (a).

30 SEC. 4. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.