

AMENDED IN ASSEMBLY JANUARY 4, 2016  
AMENDED IN ASSEMBLY SEPTEMBER 10, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1441**

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**Introduced by Assembly Member Gray**

February 27, 2015

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An act to ~~add Chapter 4.6 (commencing with Section 19720) to Division 8 amend Section 19596.2 of the Business and Professions Code, and to amend Sections 336.9 and 337a of the Penal Code, relating to gambling; horse racing.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1441, as amended, Gray. ~~Gambling: sports wagering. Horse racing: out-of-state thoroughbred races: Whitney Stakes.~~

*Existing law, the Horse Racing Law, authorizes a thoroughbred racing association or fair to import thoroughbred races, not to exceed 50 races per day, in accordance with specified requirements. Existing law excludes specified races from the 50-race-per-day limit, including, but not limited to, races that are part of the race card of the Kentucky Derby and the Breeders' Cup.*

*This bill would also exclude from the 50-race-per-day limit imported races that are part of the race card of the Whitney Stakes.*

~~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 federal law, referred to as the Professional and Amateur Sports Protection Act, prohibits a governmental entity or a person from conducting a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly, on competitive games or performances in which amateur or professional athletes participate.

Existing law prohibits a person, whether or not for gain, hire, or reward, from placing a bet or wager on the result of any contest of skill, speed, or power of endurance of person, as specified, and prohibits a person from pool selling or bookmaking.

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 willful violation of these provisions for which a punishment is not expressly provided, is punishable as a misdemeanor.

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 enact the California Interactive Sports Wagering Consumer Protection Act, which would authorize the owner or operator of a card room that holds a state gambling license, a racing association or racing fair with a current license, or a federally recognized California Indian tribe that operates a gaming facility pursuant to a facility license issued in accordance with a tribal gaming ordinance, to accept and facilitate wagering on a sports event, as defined, by any legal system or method of wagering, including, but not limited to, exchange wagering, parlays, over-under, moneyline, and straight bets, by applying to the

~~Department of Justice for a license and authorization to conduct sports wagering, as defined. The bill would require sports wagering to be accepted and executed only using telephone, computer, or another method of electronic wagering communication. The bill would require each licensed operator to pay an annual fee of \$\_\_\_\_\_ to the State Department of Public Health for deposit in the Gambling Addiction Program Fund. The bill would require each licensed operator to remit to the Treasurer on a quarterly basis for deposit in the \_\_\_\_\_ Fund an amount equal to \_\_\_\_\_ from the total win amount from the facilitation of a sports event wager. The bill would require the department to adopt regulations to implement these provisions, including authority to adopt regulations establishing fees in a reasonable amount necessary to recover the costs incurred by the department relating to the administration of these provisions.~~

~~This bill would require the department to, among other things, monitor the conduct of all licensed operators. The bill would prohibit a licensed operator from, among other things, accepting a wager from any person who is under 21 years of age or whose name appears on a self-exclusion list. Any willful violation of these provisions would be punishable as a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.~~

~~This bill would provide that its provisions would become operative only if the federal Professional and Amateur Sports Protection Act is amended or repealed to allow sports wagering in California and a state constitutional amendment to authorize sports wagering has been approved by the voters.~~

~~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.~~

~~This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.~~

~~Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: *yes-no*.~~

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

1     SECTION 1. Section 19596.2 of the Business and Professions  
2     Code is amended to read:

3     19596.2. (a) Notwithstanding any other law and except as  
4     provided in Section 19596.4, a thoroughbred racing association  
5     or fair may distribute the audiovisual signal and accept wagers on  
6     the results of out-of-state thoroughbred races conducted in the  
7     United States during the calendar period the association or fair is  
8     conducting a race meeting, including days on which there is no  
9     live racing being conducted by the association or fair, without the  
10    consent of the organization that represents horsemen and  
11    horsewomen participating in the race meeting and without regard  
12    to the amount of purses. Further, the total number of thoroughbred  
13    races imported by associations or fairs on a statewide basis under  
14    this section shall not exceed 50 per day on days when live  
15    thoroughbred or fair racing is being conducted in the state. The  
16    limitation of 50 imported races per day does not apply to any of  
17    the following:

18    (1) Races imported for wagering purposes pursuant to  
19    subdivision (c).

20    (2) Races imported that are part of the race card of the Kentucky  
21    Derby, the Kentucky Oaks, the Preakness Stakes, the Belmont  
22    Stakes, the Jockey Club Gold Cup, the Travers Stakes, the  
23    Arlington Million, the Breeders' Cup, the Dubai Cup, *the Whitney*  
24    *Stakes*, the Arkansas Derby, the Apple Blossom Handicap, or the  
25    Haskell Invitational.

26    (3) Races imported into the northern zone when there is no live  
27    thoroughbred or fair racing being conducted in the northern zone.

28    (4) Races imported into the combined central and southern zones  
29    when there is no live thoroughbred or fair racing being conducted  
30    in the combined central and southern zones.

31    (b) Any thoroughbred association or fair accepting wagers  
32    pursuant to subdivision (a) shall conduct the wagering in  
33    accordance with the applicable provisions of Sections 19601,  
34    19616, 19616.1, and 19616.2.

35    (c) No thoroughbred association or fair may accept wagers  
36    pursuant to this section on out-of-state races commencing after 7  
37    p.m., Pacific standard time, without the consent of the harness or

1 quarter horse racing association that is then conducting a live racing  
2 meeting in Orange or Sacramento Counties.

3 ~~SECTION 1. The Legislature finds and declares all of the~~  
4 ~~following:~~

5 ~~(a) Since January 1, 1993, the federal Professional and Amateur~~  
6 ~~Sports Protection Act (28 U.S.C. Sec. 3701 et seq.), known as~~  
7 ~~PASPA, has prohibited most states and local governments from~~  
8 ~~authorizing sports wagering.~~

9 ~~(b) Under PASPA, Nevada is the only state where full-scale~~  
10 ~~sports wagering is currently legally conducted, and this activity~~  
11 ~~has resulted in great direct and indirect revenues to that state's~~  
12 ~~economy.~~

13 ~~(c) It has been reported that more than 30 million people visit~~  
14 ~~Nevada every year and place a sports bet. Betting on sporting~~  
15 ~~events rose 7.7 percent to \$3.9 billion in 2014, and revenue hit a~~  
16 ~~record, jumping 11.8 percent to \$227 million, according to the~~  
17 ~~Nevada Gaming Control Board.~~

18 ~~(d) There is no solid data on the volume of illegal sports betting~~  
19 ~~activity occurring in the United States, but some estimate that~~  
20 ~~nearly \$400 billion is illegally wagered on sports each year.~~

21 ~~(e) In January 2015, the American Gaming Association~~  
22 ~~estimated that Americans were expected to make \$3.8 billion worth~~  
23 ~~of illegal bets on the 2015 Super Bowl between the New England~~  
24 ~~Patriots and the Seattle Seahawks. That figure stands in stark~~  
25 ~~contrast to the approximately \$100 million bet legally on the Super~~  
26 ~~Bowl each year. In fact, the illegal market is 38 times greater than~~  
27 ~~the legal market for sports wagering.~~

28 ~~(f) If the federal sports wagering ban is changed to allow sports~~  
29 ~~wagering across the country, state gaming enforcement agencies~~  
30 ~~would be required to properly regulate and enforce this activity.~~

31 ~~(g) If the federal sports wagering ban is ever lifted, it is in the~~  
32 ~~best interests of this State that legalized sports wagering be~~  
33 ~~authorized to be conducted by licensed card rooms, licensed horse~~  
34 ~~racing associations, and federally recognized Indian tribes, under~~  
35 ~~regulation and control by the Department of Justice.~~

36 ~~SEC. 2. Chapter 4.6 (commencing with Section 19720) is added~~  
37 ~~to Division 8 of the Business and Professions Code, to read:~~

~~CHAPTER 4.6. CALIFORNIA INTERACTIVE SPORTS WAGERING  
CONSUMER PROTECTION ACT~~

~~19720. This chapter shall be known, and may be cited, as the California Interactive Sports Wagering Consumer Protection Act.~~

~~19721. (a) Subject to a state constitutional amendment that has been approved by the voters and a change in federal law, the following entities may be licensed by the department to accept and facilitate wagering on sports events as authorized pursuant to this chapter:~~

~~(1) A card room that operates pursuant to Chapter 5 (commencing with Section 19800) whose owner or owners have been authorized, subject to oversight by, and are in good standing with, the applicable state regulatory authorities.~~

~~(2) A racing association or racing fair, with a current license issued by the California Horse Racing Board pursuant to Chapter 4 (commencing with Section 19400). A licensed racing association or licensed racing fair may conduct sports wagering only if it has an agreement in place with the organization recognized by the board that is responsible for negotiating purse agreements, satellite wagering agreements, and all other business agreements on behalf of horsemen and horsewomen participating in a racing meeting.~~

~~(3) A federally recognized California Indian tribe that operates a gaming facility pursuant to a facility license issued in accordance with a tribal gaming ordinance approved by the Chair of the National Indian Gaming Commission.~~

~~(b) The entities listed in subdivision (a) that are eligible for licensure pursuant to this chapter may form a partnership, joint venture, or any other affiliation in order to further the purposes of this chapter.~~

~~19722. As used in this chapter, the following definitions shall apply:~~

~~(a) "Board" means the California Horse Racing Board.~~

~~(b) "Card room" means a gambling enterprise, as defined in subdivision (m) of Section 19805.~~

~~(c) "Department" means the Department of Justice.~~

~~(d) "Licensed operator" means any of the entities listed in subdivision (a) of Section 19721 that are authorized pursuant to this chapter to conduct sports wagering.~~

1 (e) ~~“Prohibited sports event” means any collegiate sport or~~  
2 ~~athletic event that takes place in California, or a sports event in~~  
3 ~~which any California college team participates, regardless of where~~  
4 ~~the event takes place.~~

5 (f) ~~“Sports event” shall include any professional sports or~~  
6 ~~athletic event, and any collegiate sports or athletic event, except~~  
7 ~~a prohibited sports event.~~

8 (g) ~~“Sports wagering” means the business of accepting wagers~~  
9 ~~on a sports event by any legal system or method of wagering,~~  
10 ~~including, but not limited to, exchange wagering, parlays,~~  
11 ~~over-under, moneyline, and straight bets.~~

12 (h) ~~“Internet” means the international computer network of both~~  
13 ~~federal and nonfederal interoperable packet-switched data~~  
14 ~~networks.~~

15 (i) ~~“Licensed service provider” means a person who is licensed~~  
16 ~~pursuant to this chapter to provide goods or services to a licensed~~  
17 ~~operator for use in the operation of an authorized sports wagering~~  
18 ~~Internet Web site.~~

19 19723. (a) ~~An entity listed in subdivision (a) of Section 19721~~  
20 ~~that is seeking to conduct sports wagering shall apply to the~~  
21 ~~department for authorization to conduct sports wagering.~~

22 (b) (1) ~~The department shall hear and decide, and in reasonable~~  
23 ~~order, all applications to conduct sports wagering from licensed~~  
24 ~~card rooms, licensed racing associations or racing fairs, federally~~  
25 ~~recognized Indian tribes, and service providers.~~

26 (2) ~~Authorization to conduct sports wagering shall not be~~  
27 ~~unreasonably withheld from any applicant that is in good standing~~  
28 ~~and has a current license issued pursuant to Chapter 4 (commencing~~  
29 ~~with Section 19400) or Chapter 5 (commencing with Section~~  
30 ~~19800).~~

31 (c) ~~Each licensed operator shall pay an annual fee of \_\_\_\_\_~~  
32 ~~(\$ \_\_\_\_\_) to the State Department of Public Health for deposit in~~  
33 ~~the Gambling Addiction Program Fund.~~

34 (d) ~~In consideration of the substantial value of each license,~~  
35 ~~each licensed operator shall remit to the Treasurer on a quarterly~~  
36 ~~basis for deposit in the \_\_\_\_\_ Fund an amount equal to \_\_\_\_\_~~  
37 ~~from the total win amount from the facilitation of a sports event~~  
38 ~~wager.~~

39 19724. ~~Within 270 days after the operative date of this chapter,~~  
40 ~~the department shall adopt regulations for the administration of~~

1 this chapter and may adopt regulations establishing fees in a  
2 reasonable amount necessary to recover the costs incurred by the  
3 department relating to the administration of this chapter.

4 19725. The regulations adopted by the department shall do  
5 both of the following:

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

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

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

11 (3) The method of issuing tickets.

12 (b) Govern all of the following:

13 (1) The extension of credit.

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

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

18 (4) The provision of reliable records, accounts, and reports of  
19 transactions, operations, and events, the method of accounting to  
20 be used by licensed operators, and the types of records required  
21 to be maintained.

22 19726. The sports wagering authorized pursuant to this chapter  
23 shall be accepted and executed only using telephone, computer,  
24 or another method of electronic wagering communication.

25 19727. A licensed operator shall not do any of the following:

26 (a) Accept a wager from a person who is under 21 years of age.

27 (b) Accept a sports wager unless the transmission of a wager is  
28 initiated from within the State of California.

29 (c) Accept a wager from any person whose name appears on  
30 any self-exclusion list.

31 19728. Each licensed operator's sports wagering Internet Web  
32 site shall contain information relating to problem gambling,  
33 including a telephone number that an individual may call to seek  
34 information and assistance for a potential gambling addiction.

35 19729. A licensed operator shall establish the odds it will pay  
36 on wagers placed on sports events.

37 19730. (a) A licensed operator shall not conduct any sports  
38 wagering in violation of this chapter, any regulation adopted  
39 pursuant to this chapter, or any governing local ordinance.



1 ~~(b) Any person who willfully violates this chapter is guilty of~~  
2 ~~a misdemeanor.~~  
3 ~~19731. (a) The department shall have all of the following~~  
4 ~~responsibilities:~~  
5 ~~(1) To monitor the conduct of all licensed operators and other~~  
6 ~~persons having a material involvement, directly or indirectly, with~~  
7 ~~a sports wagering operation.~~  
8 ~~(2) To investigate suspected violations of this chapter.~~  
9 ~~(3) To investigate complaints that are lodged against licensed~~  
10 ~~operators, or other persons associated with a sports wagering~~  
11 ~~operation, by members of the public.~~  
12 ~~(4) To initiate, when appropriate, disciplinary actions. In~~  
13 ~~connection with any disciplinary action pursuant to this chapter,~~  
14 ~~the department may seek restriction, limitation, suspension, or~~  
15 ~~revocation of any license, permit, authorization, or approval~~  
16 ~~pursuant to this chapter, Chapter 4 (commencing with Section~~  
17 ~~19400), or Chapter 5 (commencing with Section 19800), or the~~  
18 ~~imposition of a fine upon a person licensed, permitted, authorized,~~  
19 ~~or approved pursuant to those chapters.~~  
20 ~~(5) To adopt regulations related to its functions and duties as~~  
21 ~~specified in this chapter.~~  
22 ~~(6) To adopt regulations establishing fees in the reasonable~~  
23 ~~amount necessary to recover costs incurred by the department~~  
24 ~~relating to the enforcement of this chapter.~~  
25 ~~(b) The department has all powers necessary and proper to~~  
26 ~~enable it to carry out fully and effectually its duties and~~  
27 ~~responsibilities as specified in this chapter.~~  
28 ~~19732. (a) The department shall make appropriate~~  
29 ~~investigations as follows:~~  
30 ~~(1) To determine whether there has been any violation of this~~  
31 ~~chapter or of any regulation adopted under this chapter.~~  
32 ~~(2) To determine any facts, conditions, practices, or matters that~~  
33 ~~it may deem necessary or proper to aid in the enforcement of this~~  
34 ~~chapter or of any regulation adopted under this chapter.~~  
35 ~~(3) To aid in adopting regulations.~~  
36 ~~(b) If, after any investigation pursuant to this chapter, the~~  
37 ~~department is satisfied that a license, permit, authorization, or~~  
38 ~~approval issued pursuant to this chapter, Chapter 4 (commencing~~  
39 ~~with Section 19400), or Chapter 5 (commencing with Section~~  
40 ~~19800) should be suspended or revoked, it shall file an accusation~~

1 in accordance with Chapter 5 (commencing with Section 11500)  
2 of Part 1 of Division 3 of Title 2 of the Government Code.

3 (e) In addition to any action that it may take against a license,  
4 permit, finding of suitability, or approval, the department may also  
5 require the payment of fines or penalties. However, any fine  
6 imposed shall not exceed twenty thousand dollars (\$20,000) for  
7 each separate violation of this chapter or of any regulation adopted  
8 under this chapter.

9 19733. The department shall have the authority to regulate  
10 sports wagering to the same extent that the department currently  
11 regulates other legal gambling in this state, including the ability  
12 to audit the books and records of a licensed operator.

13 19734. (a) This chapter shall become operative only if both  
14 of the following occur:

15 (1) The federal Professional and Amateur Sports Protection Act  
16 (28 U.S.C. Sec. 3701 et seq.) is amended or repealed to allow  
17 sports wagering in California.

18 (2) A state constitutional amendment to authorize sports  
19 wagering has been approved by the voters.

20 (b) This chapter shall become operative on the date that the  
21 Attorney General executes a declaration, which shall be retained  
22 by the Attorney General, stating that both of the events described  
23 in subdivision (a) have occurred.

24 (c) In addition to the requirements specified in subdivision (b),  
25 the Attorney General shall post the declaration on the department's  
26 Internet Web site and the Attorney General shall send the  
27 declaration to the appropriate policy committees of the Legislature  
28 and to the Legislative Counsel.

29 SEC. 3. Section 336.9 of the Penal Code is amended to read:

30 336.9. (a) Notwithstanding Section 337a, and except as  
31 provided in subdivision (b), any person who, not for gain, hire, or  
32 reward other than that at stake under conditions available to every  
33 participant, knowingly participates in any of the ways specified in  
34 paragraph (2), (3), (4), (5), or (6) of subdivision (a) of Section  
35 337a in any bet, bets, wager, wagers, or betting pool or pools made  
36 between the person and any other person or group of persons who  
37 are not acting for gain, hire, or reward, other than that at stake  
38 under conditions available to every participant, upon the result of  
39 any lawful trial, or purported trial, or contest, or purported contest,  
40 of skill, speed, or power of endurance of person or animal, or

1 ~~between persons, animals, or mechanical apparatus, is guilty of~~  
2 ~~an infraction, punishable by a fine not to exceed two hundred fifty~~  
3 ~~dollars (\$250):~~

4 ~~(b) Subdivision (a) does not apply to any of the following~~  
5 ~~situations:~~

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

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

10 ~~(3) Any sports wagering authorized pursuant to Chapter 4.6~~  
11 ~~(commencing with Section 19720) of Division 8 of the Business~~  
12 ~~and Professions Code.~~

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

14 ~~337a. (a) Except as provided in Section 336.9, and as~~  
15 ~~authorized pursuant to Chapter 4.6 (commencing with Section~~  
16 ~~19720) of Division 8 of the Business and Professions Code, every~~  
17 ~~person who engages in one of the following offenses shall be~~  
18 ~~punished for a first offense by imprisonment in a county jail for a~~  
19 ~~period of not more than one year or in the state prison, or by a fine~~  
20 ~~not to exceed five thousand dollars (\$5,000), or by both~~  
21 ~~imprisonment and fine:~~

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

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

37 ~~(3) Whether for gain, hire, reward, or gratuitously, or otherwise,~~  
38 ~~receives, holds, or forwards, or purports or pretends to receive,~~  
39 ~~hold, or forward, in any manner whatsoever, any money, thing or~~  
40 ~~consideration of value, or the equivalent or memorandum thereof,~~

1 staked, pledged, bet or wagered, or to be staked, pledged, bet or  
2 wagered, or offered for the purpose of being staked, pledged, bet  
3 or wagered, 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, or unknown or contingent event  
8 whatsoever.

9 ~~(4) Whether for gain, hire, reward, or gratuitously, or otherwise,~~  
10 ~~at any time or place, records, or registers any bet or bets, wager~~  
11 ~~or wagers, upon the result, or purported result, of any trial, or~~  
12 ~~purported trial, or contest, or purported contest, of skill, speed, or~~  
13 ~~power of endurance of person or animal, or between persons,~~  
14 ~~animals, or mechanical apparatus, or upon the result, or purported~~  
15 ~~result, of any lot, chance, casualty, or unknown or contingent event~~  
16 ~~whatsoever.~~

17 ~~(5) Being the owner, lessee or occupant of any room, shed,~~  
18 ~~tenement, tent, booth, building, float, vessel, place, stand, enclosure~~  
19 ~~or grounds, or any part thereof, whether for gain, hire, reward, or~~  
20 ~~gratuitously, or otherwise, permits that space to be used or occupied~~  
21 ~~for any purpose, or in any manner prohibited by paragraph (1),~~  
22 ~~(2), (3), or (4).~~

23 ~~(6) Lays, makes, offers or accepts any bet or bets, or wager or~~  
24 ~~wagers, upon the result, or purported result, of any trial, or~~  
25 ~~purported trial, or contest, or purported contest, of skill, speed or~~  
26 ~~power of endurance of person or animal, or between persons,~~  
27 ~~animals, or mechanical apparatus.~~

28 ~~(b) In any accusatory pleading charging a violation of this~~  
29 ~~section, if the defendant has been once previously convicted of a~~  
30 ~~violation of any subdivision of this section, the previous conviction~~  
31 ~~shall be charged in the accusatory pleading, and, if the previous~~  
32 ~~conviction is found to be true by the jury, upon a jury trial, or by~~  
33 ~~the court, upon a court trial, or is admitted by the defendant, the~~  
34 ~~defendant shall, if he or she is not imprisoned in the state prison,~~  
35 ~~be imprisoned in the county jail for a period of not more than one~~  
36 ~~year and pay a fine of not less than one thousand dollars (\$1,000)~~  
37 ~~and not to exceed ten thousand dollars (\$10,000). Nothing in this~~  
38 ~~paragraph shall prohibit a court from placing a person subject to~~  
39 ~~this subdivision on probation. However, that person shall be~~  
40 ~~required to pay a fine of not less than one thousand dollars (\$1,000)~~

1 nor more than ten thousand dollars (\$10,000) or be imprisoned in  
2 the county jail for a period of not more than one year, as a condition  
3 thereof. In no event does the court have the power to absolve a  
4 person convicted pursuant to this subdivision from either being  
5 imprisoned or from paying a fine of not less than one thousand  
6 dollars (\$1,000) and not more than ten thousand dollars (\$10,000).

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

27 (d) Except where the existence of a previous conviction of any  
28 subdivision of this section was not admitted or not found to be true  
29 pursuant to this section, or the court finds that a prior conviction  
30 was invalid, the court shall not strike or dismiss any prior  
31 convictions alleged in the information or indictment.

32 (e) This section applies not only to persons who commit any of  
33 the acts designated in paragraphs (1) to (6), inclusive, of  
34 subdivision (a), as a business or occupation, but also applies to  
35 every person who in a single instance engages in any one of the  
36 acts specified in paragraphs (1) to (6), inclusive, of subdivision  
37 (a).

38 SEC. 5. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 ~~district will be incurred because this act creates a new crime or~~  
2 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
3 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
4 ~~the Government Code, or changes the definition of a crime within~~  
5 ~~the meaning of Section 6 of Article XIII B of the California~~  
6 ~~Constitution.~~

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