

**ASSEMBLY BILL**

**No. 1573**

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**Introduced by Assembly Member Gray**

January 4, 2016

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An act to add Chapter 4.6 (commencing with Section 19720) to Division 8 of the Business and Professions Code, and to amend Sections 336.9 and 337a of the Penal Code, relating to gambling, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1573, as introduced, Gray. Gambling: 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 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 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 declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. (a) Since January 1, 1993, the federal  
2 Professional and Amateur Sports Protection Act (28 U.S.C. Sec.  
3 3701 et seq.), known as PASPA, has prohibited most states and  
4 local governments from authorizing sports wagering.

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

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

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

17 (e) In January 2015, the American Gaming Association  
18 estimated that Americans were expected to make \$3.8 billion worth  
19 of illegal bets on the 2015 Super Bowl between the New England  
20 Patriots and the Seattle Seahawks. That figure stands in stark

1 contrast to the approximately \$100 million bet legally on the Super  
2 Bowl each year. In fact, the illegal market is 38 times greater than  
3 the legal market for sports wagering.

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

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

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

14  
15 CHAPTER 4.6. CALIFORNIA INTERACTIVE SPORTS WAGERING  
16 CONSUMER PROTECTION ACT  
17

18 19720. This chapter shall be known, and may be cited, as the  
19 California Interactive Sports Wagering Consumer Protection Act.

20 19721. (a) Subject to a state constitutional amendment that  
21 has been approved by the voters and a change in federal law, the  
22 following entities may be licensed by the department to accept and  
23 facilitate wagering on sports events as authorized pursuant to this  
24 chapter:

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

29 (2) A racing association or racing fair, with a current license  
30 issued by the California Horse Racing Board pursuant to Chapter  
31 4 (commencing with Section 19400). A licensed racing association  
32 or licensed racing fair may conduct sports wagering only if it has  
33 an agreement in place with the organization recognized by the  
34 board that is responsible for negotiating purse agreements, satellite  
35 wagering agreements, and all other business agreements on behalf  
36 of horsemen and horsewomen participating in a racing meeting.

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

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

5 19722. As used in this chapter, the following definitions shall  
6 apply:

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

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

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

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

14 (e) "Prohibited sports event" means any collegiate sport or  
15 athletic event that takes place in California, or a sports event in  
16 which any California college team participates, regardless of where  
17 the event takes place.

18 (f) "Sports event" shall include any professional sports or  
19 athletic event, and any collegiate sports or athletic event, except  
20 a prohibited sports event.

21 (g) "Sports wagering" means the business of accepting wagers  
22 on a sports event by any legal system or method of wagering,  
23 including, but not limited to, exchange wagering, parlays,  
24 over-under, moneyline, and straight bets.

25 (h) "Internet" means the international computer network of both  
26 federal and nonfederal interoperable packet-switched data  
27 networks.

28 (i) "Licensed service provider" means a person who is licensed  
29 pursuant to this chapter to provide goods or services to a licensed  
30 operator for use in the operation of an authorized sports wagering  
31 Internet Web site.

32 19723. (a) An entity listed in subdivision (a) of Section 19721  
33 that is seeking to conduct sports wagering shall apply to the  
34 department for authorization to conduct sports wagering.

35 (b) (1) The department shall hear and decide, and in reasonable  
36 order, all applications to conduct sports wagering from licensed  
37 card rooms, licensed racing associations or racing fairs, federally  
38 recognized Indian tribes, and service providers.

39 (2) Authorization to conduct sports wagering shall not be  
40 unreasonably withheld from any applicant that is in good standing

1 and has a current license issued pursuant to Chapter 4 (commencing  
2 with Section 19400) or Chapter 5 (commencing with Section  
3 19800).

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

7 (d) In consideration of the substantial value of each license,  
8 each licensed operator shall remit to the Treasurer on a quarterly  
9 basis for deposit in the \_\_\_\_\_ Fund an amount equal to \_\_\_\_\_  
10 from the total win amount from the facilitation of a sports event  
11 wager.

12 19724. Within 270 days after the operative date of this chapter,  
13 the department shall adopt regulations for the administration of  
14 this chapter and may adopt regulations establishing fees in a  
15 reasonable amount necessary to recover the costs incurred by the  
16 department relating to the administration of this chapter.

17 19725. The regulations adopted by the department shall do  
18 both of the following:

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

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

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

24 (3) The method of issuing tickets.

25 (b) Govern all of the following:

26 (1) The extension of credit.

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

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

31 (4) The provision of reliable records, accounts, and reports of  
32 transactions, operations, and events, the method of accounting to  
33 be used by licensed operators, and the types of records required  
34 to be maintained.

35 19726. The sports wagering authorized pursuant to this chapter  
36 shall be accepted and executed only using telephone, computer,  
37 or another method of electronic wagering communication.

38 19727. A licensed operator shall not do any of the following:

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

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

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

5 19728. Each licensed operator's sports wagering Internet Web  
6 site shall contain information relating to problem gambling,  
7 including a telephone number that an individual may call to seek  
8 information and assistance for a potential gambling addiction.

9 19729. A licensed operator shall establish the odds it will pay  
10 on wagers placed on sports events.

11 19730. (a) A licensed operator shall not conduct any sports  
12 wagering in violation of this chapter, any regulation adopted  
13 pursuant to this chapter, or any governing local ordinance.

14 (b) Any person who willfully violates this chapter is guilty of  
15 a misdemeanor.

16 19731. (a) The department shall have all of the following  
17 responsibilities:

18 (1) To monitor the conduct of all licensed operators and other  
19 persons having a material involvement, directly or indirectly, with  
20 a sports wagering operation.

21 (2) To investigate suspected violations of this chapter.

22 (3) To investigate complaints that are lodged against licensed  
23 operators, or other persons associated with a sports wagering  
24 operation, by members of the public.

25 (4) To initiate, when appropriate, disciplinary actions. In  
26 connection with any disciplinary action pursuant to this chapter,  
27 the department may seek restriction, limitation, suspension, or  
28 revocation of any license, permit, authorization, or approval  
29 pursuant to this chapter, Chapter 4 (commencing with Section  
30 19400), or Chapter 5 (commencing with Section 19800), or the  
31 imposition of a fine upon a person licensed, permitted, authorized,  
32 or approved pursuant to those chapters.

33 (5) To adopt regulations related to its functions and duties as  
34 specified in this chapter.

35 (6) To adopt regulations establishing fees in a reasonable amount  
36 necessary to recover the costs incurred by the department relating  
37 to the enforcement of this chapter.

38 (b) The department has all powers necessary and proper to  
39 enable it to carry out fully and effectually its duties and  
40 responsibilities as specified in this chapter.

1 19732. (a) The department shall make appropriate  
2 investigations as follows:

3 (1) To determine whether there has been any violation of this  
4 chapter or of any regulation adopted under this chapter.

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

8 (3) To aid in adopting regulations.

9 (b) If, after any investigation pursuant to this chapter, the  
10 department is satisfied that a license, permit, authorization, or  
11 approval issued pursuant to this chapter, Chapter 4 (commencing  
12 with Section 19400), or Chapter 5 (commencing with Section  
13 19800) should be suspended or revoked, it shall file an accusation  
14 in accordance with Chapter 5 (commencing with Section 11500)  
15 of Part 1 of Division 3 of Title 2 of the Government Code.

16 (c) In addition to any action that it may take against a license,  
17 permit, finding of suitability, or approval, the department may also  
18 require the payment of fines or penalties. However, any fine  
19 imposed shall not exceed twenty thousand dollars (\$20,000) for  
20 each separate violation of this chapter or of any regulation adopted  
21 under this chapter.

22 19733. The department shall have the authority to regulate  
23 sports wagering to the same extent that the department currently  
24 regulates other legal gambling in this state, including the ability  
25 to audit the books and records of a licensed operator.

26 19734. (a) This chapter shall become operative only if both  
27 of the following occur:

28 (1) The federal Professional and Amateur Sports Protection Act  
29 (28 U.S.C. Sec. 3701 et seq.) is amended or repealed to allow  
30 sports wagering in California.

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

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

37 (c) In addition to the requirements specified in subdivision (b),  
38 the Attorney General shall post the declaration on the department's  
39 Internet Web site and the Attorney General shall send the



1 declaration to the appropriate policy committees of the Legislature  
2 and to the Legislative Counsel.

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

4 336.9. (a) Notwithstanding Section 337a, and except as  
5 provided in subdivision (b), any person who, not for gain, hire, or  
6 reward other than that at stake under conditions available to every  
7 participant, knowingly participates in any of the ways specified in  
8 paragraph (2), (3), (4), (5), or (6) of subdivision (a) of Section  
9 337a in any bet, bets, wager, wagers, or betting pool or pools made  
10 between the person and any other person or group of persons who  
11 are not acting for gain, hire, or reward, other than that at stake  
12 under conditions available to every participant, upon the result of  
13 any lawful trial, or purported trial, or contest, or purported contest,  
14 of skill, speed, or power of endurance of person or animal, or  
15 between persons, animals, or mechanical apparatus, is guilty of  
16 an infraction, punishable by a fine not to exceed two hundred fifty  
17 dollars (\$250).

18 (b) Subdivision (a) does not apply to ~~either~~ any of the following  
19 situations:

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

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

24 (3) *Any sports wagering authorized pursuant to Chapter 4.6*  
25 *(commencing with Section 19720) of Division 8 of the Business*  
26 *and Professions Code.*

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

28 337a. (a) Except as provided in Section 336.9, *and as*  
29 *authorized pursuant to Chapter 4.6 (commencing with Section*  
30 *19720) of Division 8 of the Business and Professions Code*, every  
31 person who engages in one of the following ~~offenses~~, *offenses*  
32 shall be punished for a first offense by imprisonment in a county  
33 jail for a period of not more than one year or in the state prison,  
34 or by a fine not to exceed five thousand dollars (\$5,000), or by  
35 both imprisonment and fine:

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

38 (2) Whether for gain, hire, reward, or gratuitously, or otherwise,  
39 keeps or occupies, for any period of time whatsoever, any room,  
40 shed, tenement, tent, booth, building, float, vessel, place, stand or

1 enclosure, of any kind, or any part thereof, with a book or books,  
2 paper or papers, apparatus, device or paraphernalia, for the purpose  
3 of recording or registering any bet or bets, any purported bet or  
4 bets, wager or wagers, any purported wager or wagers, selling  
5 pools, or purported pools, upon the result, or purported result, of  
6 any trial, purported trial, contest, or purported contest, of skill,  
7 ~~speed~~ *speed*, or power of endurance of person or animal, or between  
8 persons, animals, or mechanical apparatus, or upon the result, or  
9 purported result, of any lot, chance, casualty, *or* unknown or  
10 contingent event whatsoever.

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

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

31 (5) Being the owner, lessee or occupant of any room, shed,  
32 tenement, tent, booth, building, float, vessel, place, stand, enclosure  
33 or grounds, or any part thereof, whether for gain, hire, reward, or  
34 gratuitously, or otherwise, permits that space to be used or occupied  
35 for any purpose, or in any manner prohibited by paragraph (1),  
36 (2), (3), or (4).

37 (6) Lays, makes, offers or accepts any bet or bets, or wager or  
38 wagers, upon the result, or purported result, of any trial, or  
39 purported trial, or contest, or purported contest, of skill, speed or

1 power of endurance of person or animal, or between persons,  
2 animals, or mechanical apparatus.

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

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

1 subdivision from either being imprisoned or from paying a fine of  
2 not more than fifteen thousand dollars (\$15,000).

3 (d) Except where the existence of a previous conviction of any  
4 subdivision of this section was not admitted or not found to be true  
5 pursuant to this section, or the court finds that a prior conviction  
6 was invalid, the court shall not strike or dismiss any prior  
7 convictions alleged in the information or indictment.

8 (e) This section applies not only to persons who commit any of  
9 the acts designated in paragraphs (1) to (6), inclusive, of  
10 subdivision (a), as a business or occupation, but also applies to  
11 every person who in a single instance engages in any one of the  
12 acts specified in paragraphs (1) to (6), inclusive, of subdivision  
13 (a).

14 SEC. 5. No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.

23 SEC. 6. This act is an urgency statute necessary for the  
24 immediate preservation of the public peace, health, or safety within  
25 the meaning of Article IV of the Constitution and shall go into  
26 immediate effect. The facts constituting the necessity are:

27 In order to give California, at the earliest possible time, a  
28 competitive advantage to license and regulate sports betting if the  
29 federal law is changed to allow it, it is necessary that this bill take  
30 effect immediately.