
OLR Bill Analysis

sSB 540

AN ACT AUTHORIZING SPORTS WAGERING AND ONLINE LOTTERY DRAW GAMES IN THE STATE.

SUMMARY

This bill establishes a regulatory framework for sports wagering in the state. It authorizes certain gaming entities, to the extent allowed under federal law (see BACKGROUND), to offer sports wagering in the state, either at specified facilities or through an interactive online platform.

The bill imposes on sports wagering operators a (1) 15% tax on sports wagering gross revenue (see COMMENT) and (2) 0.25% sports betting right and integrity fee on all wagers placed. It directs the revenue from the fee to a new account to fund disbursements to sports governing bodies (e.g., MLB, NBA, or NFL), based on the percentage of wagers attributable to each body's sporting events. The bill additionally subjects sports wager amounts to state sales and use tax, which is currently 6.35%.

The bill also requires the Connecticut Lottery Corporation (CLC) to establish a program to sell lottery tickets through its website, an online service, or a mobile application, as long as doing so does not violate any compact or agreement between the state and the Mashantucket Pequot or Mohegan tribes (see BACKGROUND). (The bill does not specify who determines whether a program violates such agreements.) The bill establishes requirements CLC must meet in designing and operating the online lottery program (e.g., over age 18 and located in Connecticut).

The bill makes other CLC-related changes, including among other things:

1. increasing, from \$2.3 million to \$2.4 million, the amount CLC

must transfer to the chronic gamblers treatment rehabilitation account;

2. exempting from disclosure under the Freedom of Information Act (FOIA), with one exception, those who self-exclude themselves from the online lottery program; and
3. requiring the mental health and addiction services (DMHAS) commissioner to develop and issue a request for proposals (RFP) to study the online lottery program's socioeconomic impact.

EFFECTIVE DATE: July 1, 2018, for the sports wagering provisions; upon passage for the internet lottery provisions; and October 1, 2018, for the DMHAS provision.

SPORTS WAGERING

Definitions

Under the bill, "sports wagering" means accepting wagers in-person, through an interactive sports wagering platform, or by any other system or method on (1) a sporting event or a portion of it or (2) the individual performance statistics of an athlete or athletes in a sporting event or a combination of sporting events. Types of sports wagering include, single-game bets, teaser bets, parlays, over-under bets, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

The bill defines a "wager" or "bet" to mean an individual who stakes or risks anything of value, upon the agreement or understanding that such individual or another individual will receive something of value in the event of a specific outcome. "Wager" or "bet" does not include (1) any activity governed by federal or state securities laws, (2) any indemnity or guaranty contract, (3) any insurance contract, or (4) participation in any game or contest where (a) the participants do not stake or risk anything of value other than their personal efforts in playing the game or contest or obtaining access to the Internet or (b) the game or contest's sponsor provides points or

credits to the participants free of charge and such points or credits may only be used or redeemed for games or contests the sponsor offers.

“Sports wagering operator” is a gaming entity that offers sports wagering or an interactive sports wagering platform.

The bill defines “interactive sports wagering platform” (i.e., platform) as an individual or entity that offers sports wagering over the Internet, including through a website or mobile device on a gaming entity’s behalf.

Authorization

The bill only authorizes sports wagering offered by a gaming entity and only to the extent permitted under federal law (see BACKGROUND). A gaming entity may offer wagering (1) through a platform to individuals located in Connecticut or (2) in person at its facility. (It is unclear at which facility CLC could conduct in-person sports wagering.)

Under the bill, the authorized gaming entities include (1) a casino gaming facility in the state; (2) CLC; (3) licensed race tracks; (4) jai alai frontons; (5) licensed off-track betting (OTB) facilities; and (6) any other Connecticut residents, entities, or facilities licensed by the Department of Consumer Protection (DCP) to offer wagering. (It appears that a casino gaming facility in the state would not include either the Foxwoods or Mohegan Sun casinos because both are located on sovereign tribal land. The state currently does not have any licensed race tracks and jai alai frontons or other DCP-licensed residents, entities, or facilities.)

Interactive Sports Wagering Platform

The bill requires each platform to be licensed by DCP and renew the license annually. Each applicant must submit an application in the form and manner the commissioner prescribes, with a \$10,000 application fee and \$5,000 annual renewal fee.

The bill allows the commissioner to deny, not renew, suspend, or revoke a license for cause after issuing a written decision to the

applicant or licensee stating the basis of her action. Any applicant or licensee aggrieved by such actions may appeal in accordance with the Uniform Administrative Procedure Act (UAPA).

Under the bill, any proprietary, financial, or personal information or trade secrets included in a platform license application or in any documents, reports, and data the platform submitted is exempt from disclosure under the state FOIA, unless required by a court order.

The bill allows a platform to enter into agreements to offer sports wagering on behalf of one or more gaming entities, but the agreements must not be a prerequisite for obtaining a platform license. (It is unclear what type of equipment is needed to operate the platform and whether it would be considered a prohibited gambling device under existing law (CGS § 53-278a(4).)

Sports Wagering Operator Requirements

Employee Requirements. Under the bill, each sports wagering operator must require each (1) applicant for employment to submit to comprehensive background checks, including state and national criminal history records checks, and (2) current employee to submit to such background checks annually. The bill prohibits operators from employing anyone who was convicted of any crime involving corruption, manipulation of any sporting event, or any association with organized crime.

Age Restriction and Self-Exclusion. The bill also requires each operator to verify that an individual placing a wager is at least age 21. It allows individuals to restrict themselves from placing wagers with an operator, including imposing wager limits, and any operator that has been notified of such restriction must take reasonable steps to prevent such individual from exceeding such restriction or limit.

Sports Data. Under the bill, operators may use whatever data source they deem appropriate to determine the results of “tier one wagers,” which are sports wagers determined solely by the sporting event’s final score or outcome and placed before the sporting event has

begun. Operators must use only official sports governing body data to determine the results of “tier two wagers,” (i.e., all wagers that are not tier one). This is contingent on the relevant sports governing body possessing a feed of official league data and making it available for purchase by the operator on commercially reasonable terms.

The bill defines “sports governing body” to mean the organization that prescribes final rules and enforces codes of conduct for a sporting event and its participants (e.g., MLB, NBA, or NFL). "Official league data" means statistics, results, outcomes, and other data relating to a sporting event, obtained from the relevant sports governing body or an entity expressly authorized to provide such information to a sports wagering operator.

Recordkeeping. The bill requires operators, for at least three years after the sporting event occurs, to maintain records of all bets and wagers placed, including (1) the bettor’s personally identifiable information; (2) the bet amount and type; (3) the time the bet was placed; (4) the bet’s location, including any Internet protocol address; (5) the bet’s outcome; records of abnormal betting activity; and (6) for in-person wagers, video camera recordings. Each operator must make such records and recordings available for inspection upon the DCP commissioner’s request or by court order.

Security and Confidentiality. Under the bill, operators must securely maintain wagering data, customer data, and other confidential information to prevent unauthorized access and dissemination. The bill does not preclude the use of any Internet-based hosting of such data or information or its disclosure under a court order.

Additionally, the bill requires operators to maintain the confidentiality of information a sports governing body provides them, unless disclosure is required by a court order.

Reporting. The bill requires operators to immediately report to the DCP commissioner any information relating to:

1. criminal or disciplinary proceedings commenced against them in connection to their operations;
2. abnormal betting activity or patterns that may indicate a concern with the integrity of the sporting event or events;
3. any potential breach of the governing body's internal rules or codes of conduct regarding sports wagering;
4. any other conduct that corrupts the betting outcome for financial gain (e.g., match-fixing); and
5. suspicious or illegal wagering activities, including using funds derived from illegal activities to place a wager, placing a wager to conceal funds from an illegal activity, using an agent or proxy to place a wager, or using false identification to place a wager.

Operators must immediately report to the relevant governing body the information listed above, except for the information on criminal or disciplinary proceedings and suspicious or illegal wagering activities.

Advertising

Under the bill, any sports wagering advertisement must not target minors (presumably, those under age 21) or other individuals or demographics who are ineligible to place wagers, problem gamblers, or other vulnerable individuals. The DCP commissioner may adopt regulations to specify the form, quantity or frequency, timing, and location of such advertisements.

The bill also requires advertisements to (1) disclose the operator's identity; (2) include information about or website links to resources on gambling addiction; and (3) not be false, misleading, or deceptive to a reasonable consumer.

Prohibited Wagers

The bill prohibits operators and their officers, directors, owners, or employees, from placing a wager with such operator. The same prohibition applies to those individuals' family members who reside in

the same household.

The bill also prohibits certain people involved in the sport from placing a wager on any sporting event overseen by that sport's governing body. This includes any athlete, coach, referee, team owner, or employee of the governing body or member teams, and any personnel of any bargaining unit from the governing body's athletes or referees. In determining which individuals are prohibited from placing a wager, an operator must use publicly available information and any lists the relevant sports governing body provides to DCP.

The bill prohibits individuals from placing a wager (1) for a sporting event for which they have access to an operator's nonpublic, confidential information on the event or (2) as an agent or proxy for another person.

Under the bill, operators must take reasonable steps to prevent any of these prohibited wagers and must immediately notify DCP if they believe such conduct has occurred.

Tax

The bill imposes a 15% tax on sports wagering gross revenue. "Sports wagering gross revenue" means the amount equal to the total amount of all wagers placed on sporting events not excluded from sports wagering that an operator collects from all bettors, less the total amount of all sums paid out as winnings to bettors, which does not include the cash equivalent value of any merchandise or thing of value awarded as a prize. In the case of exchange wagering, such gross revenue is the amount equal to the total amount of commissions retained by an operator on winning sports wagers placed by bettors.

Under the bill, each operator must file a return with the Department of Revenue Services (DRS) commissioner in the form and manner he prescribes. Operators must file the return within 30 days after each calendar quarter ends and remit the tax due with the return (see COMMENT).

Sports Betting Right and Integrity Fee

The bill also imposes a 0.25% sports betting right and integrity fee on all placed wagers that generate revenue distributed to sports governing bodies. In the same timeframe as the tax (see above), operators must remit the fee and file a return with the DRS commissioner in the form and manner he prescribes. They must identify in each return the percentage of wagers in the reporting period that is attributable to each sports governing body's sporting events. The fees must be deposited in the sports betting right and integrity fee account the bill establishes (see below).

Under the bill, beginning in the second calendar year immediately after the year that sports wagering is permitted in the state under federal law, a sports governing body (1) may annually submit by April 30, a request to the DRS commissioner to distribute the fees the operators remitted and (2) must notify the DCP commissioner of this request.

The DRS commissioner must (1) disburse the funds to the sports governing body on a pro rata basis of the total amounts reported wagered in the previous calendar year on sporting events and (2) distribute any unclaimed fees on a pro rata basis to the sports governing body or bodies that submitted eligible and timely distribution requests.

The bill requires the DCP and DRS commissioners to cooperate with the sports governing body and operators to ensure the timely, efficient, and accurate sharing of information and distribution of the fees to the governing body.

The DRS commissioner must annually publish a report stating the amount of fees each operator received and the amount disbursed to each sports governing body.

Sports Betting Right and Integrity Fee Account. On and after the date sports wagering is permitted in the state under federal law, the bill establishes the sports betting right and integrity fee account, which is a separate nonlapsing General Fund account. The account must contain any money required by law to be deposited into it. DRS must

expend the money to disburse funds to the sports governing bodies in accordance with the bill (see above).

Sports Governing Body

The bill allows a sports governing body to notify the DCP commissioner that real-time information sharing for sport wagers is necessary and desirable. Upon such notification, operators may share in real time, at the account level and in pseudonymous form, the records, other than the video camera recordings, with governing bodies in order to determine tier two wagering outcomes.

A governing body may also notify the commissioner, in a form and manner she prescribes, if it desires to restrict, limit, or exclude sports wagering on an event. If the commissioner denies the request, the governing body may appeal in accordance with the UAPA and no operator may accept wagers on such sporting event or events during the appeal. The commissioner may adopt regulations to specify any sporting event or events that a governing body desires to restrict, limit, or exclude from wagering on a permanent basis in the state.

Investigations

The bill requires each operator and the DCP commissioner to cooperate with a law enforcement agency or governing body's investigation. This includes providing or facilitating account-level betting information and any audio or video camera recordings related to individuals placing wagers.

Penalty

Under the bill, any individual or entity that knowingly violates any of the bill's sports wagering provisions, except the sales and use tax provision, may be subject to a civil penalty of up to \$5,000 for each violation and up to \$50,000 for multiple violations from the same transaction or occurrence.

The bill imposes a criminal penalty of up to a \$5 million fine, up to 10 years imprisonment, or both for any individual or entity that (1) places or causes to be placed a wager on the basis of material,

nonpublic information relating to such wager or (2) knowingly engages in, facilitates, or conceals conduct intended to influence a betting outcome for financial gain. A wager is placed on the basis of material nonpublic information if the individual or entity placing the wager or causing the wager to be placed was aware of such information when he or she placed the wager or caused it to be placed.

Under the bill, any individual or entity that is found to have knowingly influenced a betting outcome for financial gain is liable to the relevant governing body, which may sue in equity or any court with jurisdiction.

Regulations

The bill allows the DCP commissioner to adopt regulations to implement the sports wagering regulatory framework within its authority (e.g., the non-tax and non-integrity fee provisions).

ONLINE LOTTERY

The bill requires CLC to establish a program to sell lottery tickets for lottery draw games through its Internet website, an online service, or mobile application, as long as doing so does not violate any compact, memorandum of understanding, or agreement between the state and the Mashantucket Pequot or Mohegan tribes (see BACKGROUND). A “lottery draw game” is any draw game that is available for purchase through a lottery sales agent (e.g., Powerball, Mega Millions, or Lucky for Life).

Online Program

The bill establishes certain requirements for the program. At a minimum, the program must:

1. verify that a person who establishes an online lottery account to purchase a lottery ticket is at least age 18 and located in the state;
2. restrict lottery ticket sales to transactions initiated and received within the state;
3. allow a person to deposit money into an online lottery account

through a verified bank account, prepaid lottery gift card, debit card, or credit card;

4. limit a person with an online account to only one debit or credit card;
5. provide that any money in an online lottery account belongs solely to the account's owner, who may withdraw the money at any time;
6. provide a mechanism to prevent the unauthorized use of online lottery accounts;
7. establish a voluntary self-exclusion process to allow a person to exclude himself or herself from establishing an online lottery account or purchasing a lottery ticket through the program;
8. provide a mechanism to prevent a participant in the self-exclusion process from establishing an account;
9. within one year after the program is established, apply for certification from a national or international responsible gambling compliance assessment program; and
10. post a conspicuous link to responsible gambling information on all online lottery account web pages.

In addition, after consulting advocacy groups for individuals with gambling problems, the program must (1) limit the amount of money a person may deposit into an online lottery account and spend per day through the program and (2) provide for online messages on the importance of responsible gambling when a person is using his or her online lottery account for an amount of time CLC specifies.

Before implementing any procedures designed to assure the program's integrity, CLC must obtain the DCP commissioner's written approval in accordance with the department's regulations on operating the lottery.

CLC Requirements

The bill requires CLC to:

1. implement initiatives to promote lottery ticket purchases through lottery sales agents;
2. permit lottery sales agents to sell prepaid lottery gift cards; and
3. conduct an online public awareness campaign on compulsive gambling and the programs available for preventing, treating, and rehabilitating compulsive gamblers in the state.

Promotional Interactive Online Lottery Games

Current law prohibits CLC from offering interactive online lottery games, including games for promotional purposes. The bill allows online video lottery games for promotional purposes, as long as they are offered as part of the online lottery program.

FOIA

The bill specifies that the name and any personally identifying information of a person who participates or participated in CLC's voluntary self-exclusion process are not public records and are exempted from disclosure under FOIA, with one exception. The CLC president may disclose the name and any records of a person who claims a winning lottery ticket from using the online program.

By law, FOIA applies to the CLC. This means, among other things, that most of CLC's records are considered public and subject to disclosure, with limited exceptions (e.g., unclaimed lottery ticket serial numbers).

Chronic Gamblers Treatment Rehabilitation Account

The bill increases, from \$2.3 million to \$2.4 million, the revenue from lottery ticket sales that CLC must transfer to the chronic gamblers treatment rehabilitation account. The increase applies to FY 19 and each fiscal year thereafter.

DMHAS Study

By January 1, 2022, the bill requires the DMHAS commissioner to develop and issue a RFP to study the online lottery program's socioeconomic impact. The study must be (1) performed by a Connecticut institution of higher learning with expertise in problem gambling and addiction and (2) submitted for peer review to ensure accuracy, validity, and reliability. CLC must provide any information and data needed for the study, provided the information and data do not disclose an individual's identity. By July 1, 2023, the DMHAS commissioner must submit the results to the Public Safety and Security Committee.

Keno

Existing law allows the Office of Policy and Management (OPM) secretary, on behalf of the state, to enter separate agreements with the Mashantucket Pequot and Mohegan tribes concerning CLC's operation of keno (CGS § 12-806c). (The OPM secretary entered into separate agreements with the tribes in 2015.)

The bill allows any existing agreement to be amended to include operating keno through CLC's Internet website, online service, or mobile application. It prohibits CLC from operating keno online until the separate agreements are amended and the amendments are effective.

Online Lottery on Credit

The bill specifically allows online lottery program tickets to be bought using credit cards. It does this by exempting participation in the program from the laws voiding and recovering certain wagering contracts.

BACKGROUND

Sports Gambling

The federal (1) Wire Act prohibits the use of wire communications to wager on any sporting event (18 U.S.C. § 1081 et seq.) and (2) Professional and Amateur Sports Protection Act of 1992 (PASPA) prohibits states from legalizing sports gambling (28 U.S.C. § 3701 et seq.). The U.S. Supreme Court is currently deciding the

constitutionality of PASPA with a decision expected later this year (*Murphy v. NCAA, et al.* No. 16-476).

Casino Gaming at the Foxwoods and Mohegan Sun Casinos

The Mashantucket Pequot and Mohegan tribes currently operate the Foxwoods and Mohegan Sun casinos, respectively, on their reservations under the federal Indian Gaming Regulatory Act (IGRA). Gambling at the Foxwoods Casino is conducted under federal procedures, which are a legal substitute for an IGRA-negotiated compact. The Mohegan Sun Casino is conducted under a legally negotiated IGRA tribal-state compact. Both the compact and procedures are like federal regulations. As such, they supersede state law.

Moratorium on Video Facsimiles (e.g., Slot Machines)

Neither the Foxwoods or Mohegan Sun casinos are explicitly authorized to operate video facsimile machines, which includes slot machines, under the procedures or compact. The federal procedures and the compact only authorize the tribes to operate video facsimile games pursuant to (1) an agreement between the tribe and state (e.g., MOU); (2) a court order; or (3) a change in state law that allows the operation of video facsimile games by any person, organization, or entity. Currently, both tribes are able to operate video facsimile games through an MOU each has with the state (see below). If the state enacts a law authorizing a game (e.g., online lottery) that is deemed a video facsimile game, the tribes could continue to operate video facsimile machines without paying the state any of their slot revenue.

Tribal-State MOUs

The Mashantucket Pequots and Mohegans have separate binding MOUs with the state that give the tribes the exclusive right to operate slot machines and other commercial casino games in exchange for a monthly contribution of 25% of their gross slot machine revenue to the state. If the state enacts a law authorizing a game (e.g., sports wagering) that is deemed a commercial casino game, the tribes could cease making slot revenue payments, but would not be able to

continue to operate video facsimile games.

Additional Negotiations Under Procedures and Compact

The procedures and compact (§ 17(d)) allow the tribes to ask the state to negotiate over amending the agreements with respect to Class III gaming (which sports betting is under federal law) that Connecticut did not allow when the agreements were enacted, but subsequently allowed.

Attorney General Opinion on Sports Betting

The attorney general opinion concluded that if the federal ban on sports betting is found to be unconstitutional, the tribes would not have the exclusive right to provide sports betting in Connecticut (AG Opinion 2018-01). Further, if Connecticut were to legalize sports betting, amendments to the gaming agreements would be needed to allow the tribes to offer sports betting.

Finally, it states the attorney general’s view that sports wagering is not a video facsimile, but whether it is a commercial casino game is an open question.

Related Bill

HB 5307, reported favorably by the Public Safety and Security Committee, specifies the DCP commissioner must adopt regulations to regulate sports wagering when federal law allows it.

COMMENT

Conflicting Statutes

The law exempts CLC from paying taxes on any of its money or property, among other things (CGS § 12-816). However, the bill requires CLC, as a sports wagering operator, to pay a 15% tax on sports wagering gross revenue.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 31 Nay 16 (04/05/2018)

