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## **OLR Bill Analysis**

### **sSB 17**

#### ***AN ACT AUTHORIZING SPORTS WAGERING, INTERNET GAMING AND INTERNET KENO.***

#### **SUMMARY**

This bill authorizes sports wagering and online casino gaming pursuant to amendments to existing agreements with the Mashantucket Pequot and Mohegan tribes and after certain conditions are met. It also allows existing keno agreements to be amended to include online sales. Pursuant to existing law, the Office of Policy and Management (OPM) secretary entered into separate keno agreements with the tribes in 2015.

The bill requires the governor to enter into amendments with the tribes on operating sports wagering and online casino gaming in the tribal casinos and the East Windsor commercial casino, if authorized (see BACKGROUND). These amendments must ensure that operating sports wagering and online casino gaming does not terminate the video facsimile moratorium or relieve the tribes of having to provide the video facsimile payments (see BACKGROUND).

Additionally, among other conditions, the bill requires the state legislature to approve the amendments before the authorization is effective (see BACKGROUND).

Under the bill, an individual may only place an online wager pursuant to the state-tribal amendment and if the individual is age 21 or older and is physically in the state when placing the wager. Within 12 months of the authorization, the bill requires the Department of Consumer Protection (DCP) to adopt regulations to implement sports wagering and online casino gaming that addresses the operation of, participation in, and advertising of such wagers.

The bill also eliminates the requirement that DCP adopt regulations

to regulate wagering on sporting events to the extent permitted by state and federal law (CGS § 12-565a).

EFFECTIVE DATE: July 1, 2019

**SPORTS WAGERING AND ONLINE CASINO GAMING AUTHORIZATION**

The bill authorizes the Foxwoods Casino; Mohegan Sun Casino; and the East Windsor commercial casino, if authorized; subject to certain conditions (described below) to operate sports wagering or online casino games..

Under the bill, if MMCT ceases to be a limited liability company (LLC) that the tribes jointly and exclusively own, with each tribe holding at least a 25% equity interest, then the authorization allowing the East Windsor casino to operate sports wagering or online casino gaming is void.

***Definitions***

“Sports wagering” means risking or accepting any money, credit, deposit, or other thing of value for gain contingent in whole or in part (1) by any system or method of wagering, including, in person or over the Internet through a website or a mobile device, and (2) based on (a) a sporting event or a portion of a sporting event, or (b) the individual performance statistics of one or more athletes in one or more sporting events. "Sports wagering" does not include paying an entry fee to play fantasy contests.

“Sports event” means any sporting or athletic event (1) where two or more individuals participate and receive compensation in excess of actual expenses for their participation, or (2) sponsored by an intercollegiate athletic program of an institution of higher education. "Sporting event" does not include horse racing or any sporting or athletic event sponsored by a minor league or high school.

“Online casino gaming” means any game of chance, including, blackjack, poker, dice, money-wheels, roulette, baccarat, chuck-a-luck, pan game, over and under, horse race game, acey-deucey, beat the

dealer, bouncing ball, video facsimile game, and any other game of chance, conducted over the Internet, including through a website or a mobile device.

"Electronic wagering platform" means the combination of hardware, software, and data networks used to manage, administer, offer, or control sports wagering or casino gaming over the Internet, including through an Internet website or a mobile device.

***Conditions to be Met Before Authorization is Effective***

Before the authorization is effective, the bill requires the governor to enter into agreements with the tribes to amend the Mashantucket Pequot federal procedures, the Mohegan compact, and both tribal memoranda of understanding (MOUs). The MOUs give the tribes the exclusive right to operate video facsimile machines and casino gaming in Connecticut in exchange for 25% of the gross operating revenue from the video facsimile machines.

***Amendments to Procedures and Compact.*** The amendments to the compact and procedures must include a provision that the authorization allowing the Mashantucket Pequot and Mohegan tribes and MMCT to conduct sports wagering or online casino games in the state does not terminate the moratorium against operating video facsimile games on each tribe's reservation.

***Amendments to MOUs.*** The amendments to the MOUs must include a provision that such authorization to conduct sports wagering or online casino games in the state does not relieve the tribes of their obligation to contribute a percentage of the gross operating revenues of video facsimile games to the state under the MOUs.

***Legislative Approval.*** Upon the tribes and state reaching an agreement on the amendments to the procedures, compact, and MOUs, the amendments must be approved by the state legislature under the statutory process for approving tribal-state compacts.

***Waiver of Sovereign Immunity.*** The governing bodies of the tribes must enact resolutions providing that if MMCT fails to pay any fees or

taxes due to the state, then the tribes, as members of MMCT, waive the possible defense of sovereign immunity with respect to any action or claim the state brings against them as members of MMCT, to the extent such action or claim is allowed against a member of an LLC under state law to collect any fees or taxes, while preserving any other defense available to the tribes. The resolutions must also provide that the venue for such action or claim must be the Hartford judicial district.

### **SPORTS WAGERING AND ONLINE CASINO GAMING**

Under the bill, an individual may only place an online wager pursuant to the state-tribal amendment and only if the individual is age 21 or older and is physically in the state when placing the wager.

The bill requires any electronic wagering platform used for sports wagering or online casino gaming to (1) verify that an individual with a wagering account is age 21 or older and located in the state and (2) provide a mechanism to prevent unauthorized use of sports wagering accounts and maintain the security of wagering data, sport bettor's data, and other confidential information.

Under existing law, if the East Windsor casino is authorized, MMCT must pay the state 25% of the gross gaming revenue from authorized games of chance and video facsimile games, with the money going to different places depending on the game (CGS § 12-578g). Under the bill, if online casino game revenue is considered either an authorized game or video facsimile game, then MMCT must pay the state 25% of the gross revenue. It is unclear whether sports wagering is considered an authorized game or video facsimile game and if MMCT would need to provide the state with any payment.

#### ***DCP Regulations***

Within 12 months of any authorization for sports wagering or online gaming becoming effective, DCP must adopt regulations to implement the amendment's provisions. Such regulations must address the operation of, participation in, and advertisement of sports betting and online casino gaming, including provisions to protect the

public interest in the integrity of gaming.

The commissioner may implement policies and procedures while in the process of adopting such regulations, provided notice of intention to adopt regulations is posted on the eRegulations System not later than 20 days after implementation. Any such policy or procedure is valid until the final regulations are effective.

(It is unclear how DCP would discipline violators because the bill does not (1) provide DCP with any specific enforcement powers, (2) credential any individuals or facility (e.g., license), or (3) provide statutory authority to levy fines or penalties.)

### ***Sports Wagering and Online Casino Gaming Exempt from Gambling Ban***

The bill allows sports wagering and online casino gaming and the devices or equipment used to participate in them if done or used in accordance with the bill's requirements.

By law, it is illegal to gamble in Connecticut unless the gambling (1) is specifically authorized by state law (e.g., charitable gaming) or other legally binding state agreements (e.g., Indian casino gaming) or (2) fits an exemption in the criminal laws (e.g., state lottery). It is also illegal to solicit or induce others to gamble, or be present when others are gambling. A violation of the gambling laws is a class B misdemeanor, punishable by up to six months imprisonment, a fine of up to \$1,000, or both (CGS § 53-278b).

By law, all gambling devices are common nuisances and subject to seizure. Additionally, anyone who, among other things, knowingly owns, possesses, or rents a gambling device may be guilty of a class A misdemeanor, punishable by up to one year imprisonment, a fine of up to \$2,000, or both (CGS § 53-278c).

### **KENO**

Existing law allows the OPM secretary, on behalf of the state, to enter separate agreements with the Mashantucket Pequot and Mohegan tribes concerning the Connecticut Lottery Corporation's

(CLC) operation of keno (CGS § 12-806c). (The OPM secretary entered into separate agreements with the tribes in 2015.)

The bill allows the secretary, on the state's behalf, to enter amendments to such agreements allowing CLC to operate keno over the Internet. Any electronic platform or combination of hardware, software, and data networks used to manage, administer, offer, or control keno gaming over the Internet, including through a website or a mobile device, must have certain requirements. At a minimum it must: (1) verify that an individual with a keno account is age 18 or older and is located in the state, and (2) provide a mechanism to prevent the unauthorized use of a keno account and maintain the security of data and other confidential information.

By law, keno is a lottery game where a subset of numbers are drawn from a larger field of numbers by a central computer system using an approved number generator, wheel system device, or other drawing device. Keno does not include games operated on a video facsimile machine (e.g., slot machine) (CGS § 12-801(5)).

## **BACKGROUND**

### ***Off-reservation Commercial Casino***

Once certain conditions are met, the law authorizes the operation of an off-reservation commercial casino gaming facility in East Windsor, Connecticut, subject to DCP regulations. The law gives MMCT the right to conduct authorized casino games (i.e., games of chance) at the facility (CGS § 12-578f).

### ***Casino Gaming at the Foxwoods and Mohegan Sun Casinos***

Gambling at the Foxwoods Casino is conducted under federal procedures, which are a legal substitute for an Indian Gaming Regulatory Act (IGRA) -negotiated compact. Gambling at 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)***

The federal procedures and the compact authorize the tribes to operate video facsimile machines only 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 machines by any person, organization, or entity. Currently, both tribes are able to operate video facsimile machines because of the MOU each has with the state (see below).

***Tribal-State MOUs***

The Mashantucket Pequots and Mohegans have separate binding MOUs with the state that give the tribes the exclusive right to operate video facsimile machines and other casino games in exchange for a monthly contribution of 25% of their gross video facsimile machine revenue to the state. Under the terms of the current MOUs, if the state enacts a law to permit any other person to operate video facsimile machines or other casino games, the tribes would no longer need to pay the state any of their video facsimile revenue.

***Legislative Approval for Tribal-State Gaming Compacts***

Under existing state law, both houses of the legislature must approve a tribal-state compact (CGS § 3-6c).

By law, the governor must file a tribal-state compact or amendment with the Senate and House clerks within 10 days after it is executed. If filed during a regular session, the legislature has until its adjournment to approve or reject it. If not filed during a regular session, the legislature has until adjournment of (1) the next regular session or (2) a special session convened to take action on the measure. If the legislature does not act by adjournment, the compact or amendment is rejected and is not implemented.

If the governor files a compact or amendment within 30 days before the end of a regular session, the legislature can either (1) convene a special session and vote within 30 days or (2) vote on it within the first 30 days of its next regular session. The legislature has until the end of either 30-day period to vote before the measure is considered rejected.

**Related Bills**

sSB 1015, favorably reported by the Public Safety and Security Committee, among other things, authorizes CLC to offer keno online pursuant to signed agreements or amendments to existing tribal agreements.

sHB 7331, favorably reported by the Public Safety and Security Committee, among other things, authorizes the governor to enter into a new compact with the tribes to allow them to offer in-person or online sports wagering if the authorization does not relieve the tribes of their slot payment obligations or terminate the slot moratorium. Once these conditions are met, the bill authorizes DCP to issue licenses to allow sports wagering (e.g., the East Windsor casino, the Off-track betting operators, and CLC).

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable

Yea 16    Nay 8    (03/19/2019)