
OLR Bill Analysis

sHB 6451

AN ACT CONCERNING GAMING AGREEMENTS WITH THE MASHANTUCKET PEQUOT TRIBE AND THE MOHEGAN TRIBE OF INDIANS OF CONNECTICUT.

SUMMARY

This bill establishes or modifies current frameworks for legalizing and regulating (1) online sports wagering, (2) retail sports wagering (i.e., wagering while physically present at a facility), (3) online casino gaming, (4) online keno, (5) online lottery draw games other than keno, and (6) fantasy contests. These frameworks are subject to several conditions, principally that the governor must first enter into specific contractual agreements with the Mashantucket Pequot and Mohegan tribes. These agreements must then be approved or deemed approved by the U.S. Department of Interior (DOI) secretary, pursuant to the federal Indian Gaming Regulatory Act (IGRA) and its implementing regulations.

The bill generally authorizes the tribes and the Connecticut Lottery Corporation (CLC) to operate these games subject to specific requirements, including that all but the online keno and lottery draw game authorizations be limited to an initial 10-year period with an option for a five-year renewal.

The bill specifically allows the tribes to conduct the following wagering and gaming: on Indian lands, retail and online sports wagering as well as fantasy contests; outside Indian lands, one skin for online sports wagering, one skin for online casino gaming, and fantasy contests. (Under the bill, a “skin” is a brand or cobranded name and logo on a website or mobile application for enabling online sports wagering and online casino gaming).

Under the bill, CLC is authorized to conduct retail and online sports wagering, online keno, and online lottery draw games. It may

specifically conduct retail sports wagering at up to fifteen facilities, which may be licensed off-track betting (OTB) facilities (i.e., Sportech Venues, Inc.) pursuant to an operating agreement.

The bill requires payments to the General Fund ranging from 13.75% to 20% of gross revenues from sports wagering and online casino gaming, delays the authorization for an off-reservation casino gaming facility in East Windsor for 10 years, and makes technical and conforming changes.

EFFECTIVE DATE: July 1, 2021

MAIN PROVISIONS OF GENERAL APPLICABILITY

§ 1 — Definitions

Under the bill, “sports wagering” means risking or accepting any money, credit, deposit, or other thing of value for gain contingent in whole or in part on (1) all or part of a sporting event, including future or propositional events during the sporting event, or (2) the individual performance statistics of an athlete or athletes in a sporting event or combination of events. It may be done by any system or method of wagering, including in-person or over the Internet through a website or mobile device. “Sports wagering” does not include the entry fees for fantasy contests or e-sports.

“Sporting event” means any sporting or athletic event (1) where two or more people participate and receive compensation in excess of actual expenses for their participation or (2) sponsored by a higher education institution’s intercollegiate athletic program. It also includes e-sports (i.e., electronic sports and competitive video games played as a game of skill) but excludes horse racing or a minor league-sponsored sporting or athletic event.

“Online casino gaming” means the following games conducted over the Internet: (1) slots, blackjack, craps, roulette, baccarat, poker and video poker, bingo, live dealer, and other peer-to-peer games, and any variations of them and (2) any games authorized by the Department of Consumer Protection (DCP).

“Keno” is a lottery game where a subset of numbers is drawn from a larger field of numbers by a central computer system using an approved number generator, wheel system device, or other drawing device.

“Lottery draw game” is any game (excluding keno) where one or more numbers, letters, or symbols are randomly drawn at predetermined times from a range of numbers, letters, or symbols; and prizes are paid to players possessing winning plays as set forth in each game’s official game rules.

“Fantasy contest” does not include lottery games and is any online fantasy or simulated game or contest in which:

1. players pay an entry fee;
2. the value of all prizes and awards offered to winners is established and made known to players before the game or contest;
3. all winning outcomes reflect player knowledge and skill and are determined predominantly by accumulated statistical results of individual performance, including athletes in sporting events; and
4. the winning outcome is not based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in a single actual sporting event.

Relatedly, a “fantasy contest operator” is a person or entity that is licensed to operate and offer fantasy contests to members of the general public in the state.

§ 2 — State-Tribal Agreements

The bill authorizes the governor to enter into (1) amendments to the existing Mashantucket Pequot procedures, Mohegan compact, and related memoranda of understanding (MOUs) with each tribe (see

BACKGROUND) and (2) new compacts with the tribes (“State-Tribal agreements”). These agreements must contain a series of five multi-part provisions.

First, they must permit each tribe to conduct, on Indian lands, retail sports wagering and fantasy contests. Online sports wagering must also be permitted, so long as the wagers are placed by people physically present on Indian lands.

Second, the agreements must provide that they will not terminate the existing video facsimile moratorium and do not relieve the tribes from their obligations to contribute a percentage of their gross operating revenues from video facsimile games to the state as provided in each tribe’s MOU (see BACKGROUND). This second provision applies if state law at any time authorizes (1) each tribe to operate, outside of Indian lands, one skin for online sports wagering, one skin for online casino gaming, and fantasy contests; (2) a license to operate fantasy contests outside of Indian lands; and (3) CLC to operate certain games. These games are as follows:

1. retail sports wagering at up to 15 facilities throughout the state, any number of which may be located at OTB facilities, so long as a facility is not located within 25 miles of Indian lands;
2. one skin for online sports wagering outside of Indian lands, so long as the skin (a) is not operated or co-branded with a tribal or commercial casino owner or operator and (b) does not promote or market retail commercial casino gaming of any kind;
3. a program to sell lottery tickets for lottery draw games through its website, online service, or mobile application, so long as lottery drawings occur regularly and not more frequently than once every four minutes; and
4. keno, both through lottery sales agents and through its website, online service, or mobile application, so long as drawings occur not more than once every three minutes and the state pays each tribe of 12.5% of the gross gaming revenue from keno.

Third, the State-Tribal agreements must generally provide that agreement provisions will be valid for a 10-year initial term with an option for a five-year renewal term if mutually consented to and exercised by the governor and both tribes. The bill exempts from this requirement the provisions above related to the video facsimile moratorium and contributions if state law authorizes the above changes to lottery draw games and keno.

Fourth, the State-Tribal agreements must also contain a cessation provision that ends a tribe's authority to conduct online sports wagering, online casino gaming, and fantasy contests outside of Indian lands if the tribe operates E-bingo machines on Indian lands as authorized under IGRA at any time during the 10-year initial term of the agreements. Under the bill, ending one tribe's authority under this provision does not affect the authorization of the other tribe or CLC to conduct activities authorized under the agreements.

Fifth, and lastly, the State-Tribal agreements must contain a provision ending their effectiveness if the following provisions are held invalid by a court of competent jurisdiction in a non-appealable final judgment:

1. any provision of the agreements, excluding those related to the video facsimile moratorium and contributions if state law authorizes the above changes to lottery draw games and keno;
or
2. any of the bill's provisions, excluding those about keno through lottery sales agents and online lottery draw games.

Under existing state law, both houses of the legislature must approve a tribal-state compact (CGS § 3-6c). However, notwithstanding that law, the bill provides that the State-Tribal agreements described above must be considered approved under that law once the governor enters into the agreements or renewals without any further action by the legislature.

Under the bill, the State-Tribal agreements are effective and final

once approved by the DOI secretary. But if her approval is overturned by a court of competent jurisdiction in a non-appealable final judgement, then the bill's provisions cease to be effective.

§ 30 — General Severability Provision

Under existing law, if any provision of an act or its application is held invalid, then its invalidity must not affect other provisions or applications of the act (CGS § 1-3). However, notwithstanding that law, the bill provides that if any provision of the bill, except provisions on keno and online lottery draw games, is held invalid by a court of competent jurisdiction in a non-appealable final judgment, then all provisions in the bill except those on keno and online lottery draw games will cease to be effective.

§§ 7 & 31 — DCP Regulations

The bill requires the DCP commissioner to adopt regulations, to the extent not prohibited by federal law or any IGRA-related agreement, to implement specific bill provisions on retail and online sport wagering, online casino gaming, online keno, and online lottery. The regulations must address (1) the operation of, participation in, and advertisement of sports wagering, online casino gaming, keno, and online lottery; (2) the designation of additional games that may be permitted as online casino gaming; and (3) any other provisions to protect the public interest in the integrity of gaming.

Relatedly, 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). To date, DCP has not adopted such regulations.

SPECIFIC REQUIREMENTS FOR EACH GAME TYPE

§§ 3 & 8 — Online Sports Wagering by the Tribes

The bill authorizes the DCP commissioner to issue a license to each tribe to operate one skin for online sports wagering within the state (presumably, outside of Indian lands) if: (1) the State-Tribal agreements are effective, (2) related DCP regulations adopted under the bill are effective, and (3) it is operated according to the bill's

requirements (see below).

The bill requires a tribe's license to expire (1) upon the expiration of the State-Tribal agreements' initial or renewal period or (2) if a tribe operates E-bingo machines on Indian lands at any time during the 10-year initial term of the agreements. Additionally, the bill authorizes each tribe to enter into an agreement with a person or entity to provide skin services.

§§ 4 & 21 — *Online Sports Wagering by CLC*

The bill authorizes CLC to operate one skin for online sports wagering if: (1) the State-Tribal agreements are effective, (2) related DCP regulations adopted under the bill are effective, and (3) it is operated according to the bill's requirements (see below). Under the bill, CLC may enter into agreements with vendors to provide skin services, so long as they (1) are not branded along with a casino operator operating in any jurisdiction and (2) do not directly or indirectly promote a casino that operates in another jurisdiction, including through awarding players' points; free play; promotions; or other marketing activities. If CLC enters an agreement with a vendor that is owned by a casino operator, the vendor may not share any customer information with the operator for purposes of marketing or any other purposes related to acquiring customers. Under the bill, CLC's authority to operate online sports wagering must expire upon the expiration of the State-Tribal agreements' initial or renewal period.

§§ 4-5 & 24 — *Retail Sports Wagering by CLC*

The bill authorizes CLC to operate certain retail sports wagering if: (1) the State-Tribal agreements are effective, (2) related DCP regulations adopted under the bill are effective, and (3) it does so according to the bill's requirements (see below). CLC may specifically provide retail sport wagering at up to 15 facilities located throughout the state, so long as none of the facilities are located within 25 miles of Indian lands. The bill specifically permits CLC to develop new facilities in Bridgeport and Hartford.

Relatedly, the bill authorizes CLC to enter into one or more

agreements with OTB operators to operate retail sports wagering and extends the bill's requirements to them. Under the bill, OTB facilities that conduct retail sports wagering count towards CLC's 15-facility cap.

The bill extends to retail sports wagering facilities existing law requiring certain gaming-related places outside of Indian lands to display DCP-prepared informational materials. The materials must inform the public of the programs available for the prevention, treatment, and rehabilitation of compulsive gamblers.

Under the bill, CLC's authority to operate retail sports wagering must expire upon the expiration of the State-Tribal agreements' initial or renewal period. If operating agreements are made with OTB facilities, those agreements must adhere to this same expiration schedule.

§ 3 — Online Casino Gaming by the Tribes

The bill authorizes the DCP commissioner to issue a license to each tribe to operate one skin for online casino gaming in the state (presumably, outside of Indian lands) if: (1) the State-Tribal agreements are effective, (2) related DCP regulations adopted under the bill are effective, and (3) it is operated according to the bill's requirements (see below). The bill requires such a tribe's license to expire (1) upon the expiration of the State-Tribal agreements' initial or renewal period or (2) if a tribe operates E-bingo machines on Indian lands at any time during the 10-year initial term of the agreements. Additionally, the bill authorizes each tribe to enter into an agreement with a person or entity to provide skin services.

§§ 1, 4 & 15-16 — Online Keno by CLC

Under current law, CLC exclusively operates keno in Connecticut outside of Indian lands pursuant to memoranda of agreement (MOAs) with each tribe (CGS §§ 12-806 & -806d). CLC's keno is currently played by purchasing paper tickets from lottery sales agents as both the agreements and current law prohibit playing keno through a video facsimile machine (e.g., through a computer). Current law specifically

excludes games operated on a video facsimile machine from the current statutory definition of “keno.” The bill eliminates that exclusion.

Relatedly, the bill authorizes CLC to operate keno through its website, online service, or mobile application if the State-Tribal agreements and related DCP regulations adopted under the bill are effective. Additionally, CLC must develop an electronic platform or combination of hardware, software, and data networks used to manage, administer, offer, or control keno over the Internet, including through a website or a mobile device, to, at a minimum: (1) verify that keno account holders are at least 18 years old and located in the state; (2) provide a mechanism to prevent the unauthorized use of a keno account; and (3) maintain the security of data and other confidential information. CLC must also limit drawings to no more than once every three minutes.

Under the MOAs, the state must distribute to each tribe 12.5% of the “gross operating revenues” (i.e., total sum wagered, less amounts paid out as prizes) from CLC’s current operation of keno. Under the bill, the state must make similar payments to each tribe, specifically 12.5% of “gross gaming revenue from keno,” in relation to CLC’s expanded keno operations. Under the bill, “gross gaming revenue from keno” means the total of all sums received by CLC from operating keno both through lottery sales agents and through CLC’s website, online service, or mobile application, less the total of all sums paid as winnings to patrons and any federal excise tax applicable to such sums received, subject to certain conditions. For purposes of calculating winnings, the bill excludes merchandise or other things of value included in a jackpot or payout. The bill also generally excludes from the calculation of gross gaming revenue coupons or credits issued to and played by patrons under a promotional program, so long as the aggregate amount does not exceed the following limits:

1. 25% of gross gaming revenue for any month during the first year keno operates under the bill,

2. 20% of gross gaming revenue for any month during the second year keno operates under the bill, or
3. 15% of gross gaming revenue for any month during the third or succeeding year keno operates under the bill.

If coupons or credits exceed these limits, the bill requires 25% of the applicable excess face amount of coupons or credits used in the calendar month to be included in the calculation of gross gaming revenue.

§§ 4 & 17 — Online Lottery by CLC

The bill authorizes CLC to operate a program to sell lottery tickets for lottery draw games through CLC's website, online service, or mobile application if the State-Tribal agreements and related DCP regulations adopted under the bill are effective. Additionally, CLC must:

1. sell the tickets through the program regularly and not more frequently than once every four minutes;
2. submit to the DCP commissioner official game rules for each lottery draw game that CLC seeks to offer through the program and not offer a lottery draw game through the program until the DCP commissioner approves, in writing, the official rules for a game;
3. verify that a person who establishes an online lottery account to purchase a lottery ticket through the program is at least 18 years old and is located in the state;
4. limit lottery ticket sales to ones initiated and received within the state;
5. require the program to (a) allow a person to establish an online lottery account and use a credit card, debit card, or verified bank account to purchase lottery tickets through the account; (b) limit a person with an online lottery account to the use of only one

- debit card or credit card; and (c) provide that any money in an online lottery account belongs solely to the account owner and may be withdrawn by the owner;
6. 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;
 7. subject the program to an independent review for responsible play as assessed by industry standards at least every five years;
 8. require the program to provide responsible gambling and problem gambling information;
 9. limit the amount of money a person may (a) deposit into an online lottery account and (b) spend per day through the program; and
 10. display the results of lottery draw game drawings on CLC's website, online service, or mobile application, so long as the lottery draw game drawings do not take place on CLC's website, online service, or mobile application.

After establishing its online lottery program, the bill requires CLC to conduct a public awareness campaign to educate the public on responsible gambling and inform them of available programs that prevent, treat, and rehabilitate compulsive gamblers in Connecticut. Additionally, CLC may implement initiatives to promote purchasing lottery tickets through lottery sales agents and online lottery draw games.

Relatedly, the bill also authorizes CLC to advertise lottery games on its website, online service, or mobile application. CLC may also offer interactive lottery games for promotional purposes through its website, online service, or mobile application, so long as (1) there is no cost to play the game; (2) no prizes or rewards of any monetary value are given for playing; and (3) no lottery ticket purchase is required to play.

§ 13 — Fantasy Contests

Current law establishes a framework for legalizing and regulating fantasy contests under which prospective fantasy contest operators register with DCP. However, to date, the necessary conditions for that framework to go into effect have not been satisfied. Current law specifically requires State-Tribal agreements that authorize fantasy contests. The bill eliminates that requirement and makes several conforming changes to modify the framework from a registration to a licensing system. Specifically, the bill allows the DCP commissioner to issue licenses to operate fantasy contests outside of Indian lands if the State-Tribal agreements under the bill go into effect.

Current law required the DCP commissioner to adopt regulations by July 1, 2018, on the operation of, participation in, and advertisement of fantasy contests in Connecticut. The bill specifies that these regulations must also address fantasy contest licensing and extends the due date for their adoption to January 1, 2022. Under existing law and unchanged by the bill, the regulations must protect players who pay an entry fee to play fantasy contests from unfair or deceptive acts or practices; violations are subject to a fine of up to \$1,000 per violation. The regulations must also include:

1. a prohibition against operators allowing anyone under age 18 to participate in a contest they operate,
2. protections for the players' funds on deposit with the operators,
3. truthful advertising requirements for operators,
4. procedures to ensure the integrity of fantasy contests offered by operators,
5. procedures to ensure operators provide players with (a) information on responsible playing and where they can seek assistance for addictive or compulsive behavior and (b) protections against compulsive behavior, and
6. reporting requirements and procedures to demonstrate

eligibility for reducing the initial licensing fee and annual licensing renewal fee.

Under the bill, the initial and annual fees for a license are the same, \$15,000, as under current law for registrations. Additionally, provisions requiring the DCP commissioner to reduce an operator's registration fees so that the fees do not exceed 10% of the operator's gross receipts for the registration period are carried forward for licenses.

The bill requires all fantasy contest operator licenses to expire upon the expiration of the State-Tribal agreements' initial or renewal period. Additionally, if either tribe holds a license, the bill requires the license to expire if the tribe operates E-bingo machines on Indian lands at any time during the 10-year initial term of the agreements.

§ 14 — Off-Reservation Casino Gaming Facility

Current law authorizes the operation of an off-reservation casino gaming facility in East Windsor, Connecticut by MMCT Venture, LLC, which is a company jointly owned and operated by the Mashantucket Pequot and Mohegan tribes. The bill delays this authorization through the 10-year initial term of the bill's State-Tribal agreements.

PROVISIONS AFFECTING MULTIPLE GAME TYPES

§§ 1 & 6 — Age Monitoring and Restrictions

Under the bill, only people who are at least 21 years old and physically present in the state may place wagers through online sports wagering, retail sports wagering, and online casino gaming operations that are conducted outside of Indian lands. Relatedly, any online sports wagering or online casino gaming operator's electronic wagering platform must (1) verify that respective account holders are at least 21 years old and physically present in the state when placing a wager; (2) provide a mechanism to prevent the unauthorized use of an account; and (3) maintain the security of data and other confidential information. Under the bill, an "electronic wagering platform" refers to hardware, software, and data networks used to manage, administer, offer, or control online sports wagering or commercial casino gaming,

including through a website or mobile device.

§§ 8 & 22 — General Fund Payments & Transfers; Taxes

Under the bill, the following entities must pay to the General Fund 13.75% of their respective “gross gaming revenue from sports wagering” from the following sources:

1. each tribe from the online sports wagering it operates outside of Indian lands,
2. CLC from both its retail and online sports wagering, and
3. any OTB facility under an agreement with CLC from its retail sports wagering.

In all instances, the entities must make their payments not later than 30 days after the date they begin operations and on a monthly basis afterwards.

For online casino gaming conducted outside Indian lands, each tribe must pay to the General Fund 18% of its “gross gaming revenue from online casino gaming” during the first five years of operation and then 20% during the sixth and any succeeding year of operation. Payments must be made not later than 30 days after the date they begin operations and on a monthly basis afterwards.

The bill establishes the same formulas for calculating gross gaming revenue for sports wagering and online casino gaming as for keno. Under the bill, gross gaming revenue for both activities is the total of all sums received, less the total of all sums paid as winnings to patrons and any federal excise tax applicable to such sums received, subject to certain conditions. Like keno revenue, for purposes of calculating winnings the bill excludes merchandise or other things of value included in a jackpot or payout. It also generally excludes from the calculation of gross gaming revenue coupons or credits issued to and played by patrons under a promotional program, as long as the aggregate amount does not exceed the following limits:

1. 25% of gross gaming revenue for any month during the first year the activity operates,
2. 20% of gross gaming revenue for any month during the second year the activity operates, or
3. 15% of gross gaming revenue for any month during the third or succeeding year the activity operates.

If coupons or credits exceed these limits, the bill requires 25% of their applicable excess face amount used in the calendar month to be included in the calculation of gross gaming revenue.

The bill specifies that CLC's operation of gaming authorized under the bill is considered performing an essential government function, and this operation must be free from any taxes as is the case under current law for existing games. By law, CLC must transfer to the General Fund on a weekly basis any balance of the lottery revenues that exceeded the corporation's needs for paying lottery prizes and meeting operating expenses and reserves, with an exception for payments to instead be directed to the Connecticut Teachers' Retirement Fund Bonds Special Capital Reserve Fund in certain circumstances (CGS § 12-812).

Existing law, unchanged by the bill, imposes a 10.5% tax on the gross receipts of each fantasy contest operator, which must be reported and remitted to the Department of Revenue Services commissioner. "Gross receipts" means the total of all entry fees collected by an operator from all players, less the total amount paid out as prizes to players, multiplied by the location percentage. "Location percentage" means the percentage rounded to the nearest tenth of a percent of the total entry fees collected from players located in Connecticut, divided by the total entry fees collected from all players in fantasy contests (CGS §§ 12-578aa & -578bb).

§§ 9 & 17 — DCP Regulatory Assessments

The bill requires the DCP commissioner to estimate and assess the reasonable and necessary costs the department will incur each fiscal

year to regulate gaming authorized under the bill. She must do this at the commencement of any fiscal year in which a game is conducted and by September 30 of each fiscal year afterwards. She must consult with the tribes for costs associated with online sports wagering or online casino gaming and with OTB operators for costs associated with operating retail sports wagering under agreements with CLC. The bill requires that these estimated costs not exceed the estimate of expenditure requirements that the commissioner must transmit as part of biennial budget requests.

Each tribe and OTB operator that is assessed by the commissioner must submit payment by the date she specifies, so long as it is at least 30 days after the assessment date. The bill requires the commissioner to remit all funds received to the state treasurer, who in turn must deposit them into a fund established by the bill (the "State Sports Wagering and Online Gaming Regulatory Fund"). This fund must contain any moneys required or permitted to be deposited in it and must be held by the treasurer separate and apart from all other moneys, funds, and accounts. Any balance remaining in the fund at the end of any fiscal year must be carried forward for the next fiscal year. The treasurer must expend money in the fund to pay the costs incurred by DCP to regulate sports wagering and online casino gaming.

The bill requires the comptroller to annually, by September 30, calculate the actual reasonable and necessary costs incurred DCP to regulate retail sports wagering, online sports wagering, or online casino gaming during the prior fiscal year. The treasurer must set aside amounts received in excess of those actual costs, which must be considered a surplus. Under the bill, assessments for any fiscal year must be reduced pro rata by any surplus amount or increased pro rata by any deficit amount from the prior fiscal year's amount.

If a tribe or OTB operator is aggrieved by an assessment, it may request a hearing before the DCP commissioner within 30 days of the assessment. The commissioner must hold a hearing, in accordance with the Uniform Administrative Procedure Act, within 30 days after

receiving the request.

Relatedly, by law, the Office of Policy and Management must annually assess CLC an amount that is enough to compensate DCP for its reasonable and necessary costs for regulating specific CLC activities (CGS § 12-806b). The bill adds to those activities the operation of the lottery, keno, retail sports wagering, and online sports wagering.

§ 10 — *Tribe Minimum Contributions*

Under the state's existing MOUs with the tribes, they must pay the state a minimum contribution each fiscal year to maintain their exclusive rights to operate video facsimile machines and other casino games (see BACKGROUND). The bill requires that online sports wagering and online casino gaming revenue payments from operations outside of Indian lands during the first five years of operation be counted toward the minimum contribution.

§§ 25 & 26 — *Credit Cards*

The bill specifically allows the use of credit cards for online casino gaming, online sports wagering, and retailer sports wagering conducted outside of Indian lands and for online lottery. It does this by exempting participation in those games from the laws voiding and recovering certain wagering contracts.

§§ 27-29 — *Gambling Ban Exemptions*

The bill exempts from the state's illegal gambling law online casino gaming, online sports wagering, and retail sports wagering conducted on or outside Indian lands, along with the devices or equipment used to participate in those, if done or used in accordance with the bill's requirements. Relatedly, the bill also provides that the criminal laws on illegal gambling do not apply to advertising, operating, or participating in online casino gaming, online sports wagering, and retail sports wagering that is conducted outside of Indian lands.

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). Additionally, anyone who, among other

things, knowingly owns, possesses, or rents a gambling device is 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).

OTHER PROVISIONS AFFECTING CLC AND DCP

§ 18 — *DCP Oversight of CLC*

The bill extends DCP's authority to regulate CLC's activities to online and retail sports wagering. Additionally, CLC must, before implementing a procedure designed to assure the integrity of online or retail sports wagering, obtain the DCP commissioner's written approval, as is the case under existing law for state lottery-related procedures. By law, a "procedure" is generally a statement by a quasi-public agency of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization or procedure of the agency (CGS § 1-120).

§ 19 — *Freedom of Information Act (FOIA) and CLC*

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

By law, FOIA applies to 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).

§§ 20 & 23 — *Prohibitions on Gaming by DCP and CLC Personnel*

The bill extends a prohibition on CLC directors, officers, and employees directly or indirectly participating in, or sharing in the winnings from, existing CLC games to the ones authorized under the bill.

Additionally, as is currently the case for making wagers on other forms of gambling (e.g., state lottery and OTB), the bill prohibits the

DCP commissioner and unit heads from placing a sports wager or participating in online casino gaming. By law, a “unit head” is any managerial employee with direct oversight of a legalized gambling activity. Under existing law, the commissioner may adopt regulations prohibiting DCP employees from engaging, directly or indirectly, in any legalized gambling activity in which employees are involved because of their employment.

BACKGROUND

Tribal-State Procedures and Compact

Under IGRA, the Mashantucket Pequot and Mohegan tribes currently operate the Foxwoods and Mohegan Sun casinos, respectively, on their reservations. Gambling at the Foxwoods Casino is conducted under federal procedures, which are a legal substitute for an IGRA-negotiated gaming 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.

Video Facsimiles

Under both the procedures and compact, “video facsimile” is any mechanical, electrical, or other device, contrivance, or machine, which, upon insertion of a coin, currency, token or similar object therein, or upon payment of any consideration whatsoever, is available to play or operate. The play or operation is a facsimile of a game of chance, which may deliver or entitle the person playing or operating the machine to receive cash or tokens to be exchanged for cash or to receive any merchandise or thing of value, whether the payoff is made automatically from the machine or in any other manner whatsoever. A common example of a video facsimile is a slot machine.

Moratorium on Video Facsimiles

The Mashantucket Pequot procedures and the Mohegan 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 can operate video facsimile machines because of the MOU each has with the state.

Tribal-State MOUs

The Mashantucket Pequot and Mohegan tribes have separate, binding MOUs with the state that give them the exclusive right to operate video facsimile machines and other casino games in exchange for a monthly contribution of, generally, 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.

Tribal-State MOUs Minimum Contribution

Under both existing MOUs, the minimum contribution each tribe must contribute each fiscal year is the lesser of (1) 30% of gross operating revenues from video facsimiles during the fiscal year or (2) the greater of 25% of gross operating revenues from video facsimiles during the fiscal year or \$80 million.

Related Bills

sSB 146, reported favorably by the Public Safety and Security Committee, expands (1) grants to municipalities from the Mashantucket Pequot and Mohegan Fund and (2) funding for the state's debt-free community college program. These expansions are contingent on the legalization of and revenue generated from, respectively, (1) sports wagering and online casino gaming outside of Indian lands and (2) online lottery draw games.

sSB 570, reported favorably by the Public Safety and Security Committee, contains many of the same provisions in this bill, sHB 6451, and sSB 146 but also (1) authorizes a request for proposals to establish a casino gaming facility in Bridgeport; (2) requires that online casino gaming or sports wagering equipment must be in a facility located in Bridgeport; and (3) prevents the tribes from using a third-party vendor to operate their skins for online sports wagering and

casino gaming unless the legislature approves the contract.

sHB 6512, reported favorably by the Public Safety and Security Committee, regulates sports wagering contingent upon it becoming legal in the state. The bill includes provisions that restrict who is permitted to wager on sports and place a number of requirements on sports wagering operators.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 22 Nay 2 (03/24/2021)