

S.C. No. 7782-11 – Sports Wagering

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Date: January 13, 2021

ARTICLE 1 – WAGERING ON SPORTING EVENTS

Article 1 makes wagering on sporting events legal, when conducted in accord with this chapter. Wagers may be placed at casinos or racetracks. After a year of licensing bookmakers for wagering at casinos and racetracks, wagering is allowed via a website or mobile application offered by a tribal casino operator on devices located in the state. The chapter establishes a new Sports Wagering Commission to regulate sports wagering. The commission is authorized to allow sports wagering on professional, college, and certain amateur sports.

Section 1 [Definitions] defines the following terms for purposes of this chapter: casino, commission, esports, licensed bookmaker; participant in a sporting event; racetrack; sporting event; wager; and wager on a sporting event.

Section 2 [Scope] describes that new chapter 240B sets forth the exclusive means for wagering on sporting events or on propositions involving sporting events and that it is unlawful to wager on sports except in compliance with the chapter or rules adopted under the chapter, other than parimutuel wagering on horse racing conducted under existing law.

Section 3 [Sports Wagering Commission] establishes a new Sports Wagering Commission.

Subdivision 1 [Membership; terms; vacancies] specifies that the commission has nine members, including the Commissioner of Public Safety, the Racing Commissioner Chair, five members appointed by the governor according to the open appointment statute, and two members appointed by the governor, after

considering the advice of the Indian Affairs Council, who are representative of a reservation or tribal community authorized to serve by tribal resolution.

Appointments are made with the advice and consent of the senate. Terms are for six years. Vacancies are filled for the remainder of the term, also with the advice and consent of the senate.

Subdivision 2 [Chair] requires the governor to designate one member to serve as chair.

Subdivision 3 [Qualifications] requires members to have been residents of Minnesota for a specified time, with qualifying background and experience. Precludes commissioners and family residing in the household of a commissioner from holding a license issued by the commission or to have financial interests in licensed entities.

Subdivision 4 [Compensation] provides for commissioners to be compensated for days spent on commissioner activities at the rate provided under statutes for other multimember agencies, and to be reimbursed for expenses in the manner provided in the commissioner's plan.

Subdivision 5 [Removal; vacancies] provides for removal of commissioners at any time for cause or after missing three consecutive meetings.

Subdivision 6 [Director] requires the governor to appoint a director for the commission with the duty to operate and manage the day-to-day functions of the commission and to execute authority delegated by the commission or law; and to advise the commission. The director serves in the unclassified service at the pleasure of the governor and has compensation that is capped in statute. Specifies duties of the director.

Subdivision 7 [Additional staff] allows the commission to employ other officers, staff, and agents. Compensation of employees is as provided in chapter 43A.

Subdivision 8 [Actions] authorizes the commission to bring civil actions and to be subject of civil actions, commenced by service as provided in the Minnesota rules of court.

Precludes actions against commissioners in the performance of their duties in good faith. Makes the attorney general the legal counsel for the commission.

Subdivision 9 [Annual report] requires a report annually on the commission's activities, receipts and disbursements, and recommendations for changes to the laws relating to sports wagering, with draft legislation.

Subdivision 10 [Audit] requires the legislative auditor to audit the books and accounts of the commission as the auditor's resources permit, with the cost of the audit transferred by the commission to the general fund.

Section 4 [Powers and Duties of the Sports Wagering Commission as to Wagering at Racetracks and Online] ascribes powers and duties to the Sports Wagering Commission.

Subdivision 1 [Regulate sports wagering] establishes that the commission has the power and duty to regulate sports wagering and to administer and enforce the chapter, except for criminal penalties.

Subdivision 2 [Rulemaking] authorizes the commission to adopt rules on specified topics.

Subdivision 3 [Orders] authorizes the commission to order a person subject to its jurisdiction to correct violations of this chapter.

Subdivision 4 [Court orders] authorizes the district court to order appearances or production of documents or evidence when a person refuses to obey a subpoena. Failure to obey a court order is punishable as contempt of court.

Subdivision 5 [Delegation] authorizes the commission to delegate authority to the director.

Section 5 [Bookmaker License] provides for the licensing of bookmakers to offer sports wagering through designated venues and partners.

Subdivision 1 [Bookmaker license] authorizes the Sports Wagering Commission to issue one or more licenses to bookmakers to offer sports wagering at designated venues through specified partners.

Subdivision 2 [Application] specifies application requirements to obtain a bookmaker license.

Subdivision 3 [Bookmaker license requirements] requires the commission to issue a license to a bookmaker who submits a complete application, provides other specified documentation, and meets various other requirements for tax compliance and background checks, and pays required fees. Licenses are renewed annually under conditions required by rule.

Subdivision 4 [Responsibility for satisfying winning wagers] specifies that a wager on a sporting event that is placed with a licensed bookmaker is an enforceable contract. The bookmaker bears risk of loss to satisfy winnings on the wager. A wager that is not redeemed within ten years may be canceled by the bookmaker.

Subdivision 5 [Cash reserves] requires a licensed bookmaker to maintain a specified amount of cash reserves.

Subdivision 6 [Bond] requires a bookmaker to post a bond or other securities in an amount determined by the commission in a specified form.

Subdivision 7 [Contracting with casinos and racetracks] authorizes a licensed bookmaker to contract with the owner of a casino or racetrack to accept sports wagers on behalf of the bookmaker. The bookmaker is responsible for actions of officers and employees of the casino, racetrack, or lottery retailer that violate requirements in this chapter.

Subdivision 8 [Reporting] requires a licensed bookmaker to report to the commission monthly on wagers placed and redeemed during the reporting month and wagers outstanding at the time of the report.

Subdivision 9 [Changes in ownership or management] requires a licensed bookmaker to notify the commission of changes in officers, directors, shareholders, those with a financial interest in the bookmaker, or ownership, and to submit required affidavits.

Section 6 [Affiliate Licenses for Racetracks]

Subdivision 1 [Affiliate license] requires an affiliate license to accept wagers on sporting events on behalf of a licensed bookmaker.

Subdivision 2 [Issuance; renewal] specifies qualifications for a racetrack in good standing to obtain an affiliate license to be able to accept wagers on sporting events on behalf of a licensed bookmaker.

Section 7 [License Disqualification; Background checks; Notice of Denial of Application]

Subdivision 1 [Disqualifications] requires the commission to reject an application, refuse to renew a license, or revoke a license under specified circumstances.

Subdivision 2 [Background investigation] requires the commission to perform a background investigation on applicants for licenses under this chapter.

Subdivision 3 [Criminal history] requires the commission to perform a check on criminal history records on officers, directors, and stakeholders in a licensee or applicant.

Subdivision 4 [Notice of denial of issuance or renewal of bookmaker license] defines a process for providing notice and a hearing on a commission determination that a license application and renewal should be denied.

Section 8 [Wagering] specifies types and manner of wagering allowed under this chapter.

Subdivision 1 [Wager type] specifies types of wagers allowed under this chapter and authorizes the commission to approve wager types before they are offered by a bookmaker.

Subdivision 2 [Consideration; wager account] precludes a bookmaker from accepting wagers unless consideration is provided at the time of the wager. Consideration must be withdrawn from a wager account maintained by the bookmaker for the benefit of and in the name of the wagerer. A bookmaker may only accept deposits into the wager account that are made in person at a casino or racetrack. A person may withdraw the balance of the wager account at any time with proof of identity.

Subdivision 3 [Wager location] specifies the locations where wagers may be placed as follows: in person at a casino; in person at a racetrack; or, after a year of licensing bookmakers, online through a website or mobile application offered by a tribal casino operator, while physically within the state. The website or application must be hosted by a bookmaker under contract with a tribe under a compact that authorizes wagers on sporting events.

Subdivision 4 [Information provided at the time of wager] requires a bookmaker to disclose the betting line and terms of the wager prior to accepting a wager.

Subdivision 5 [Outcome determined] precludes a bookmaker from accepting a wager on the outcome of an event that has already been determined.

Subdivision 6 [Receipt] requires a bookmaker to provide a receipt to a person placing a wager at the time of sale that contains specified information.

Section 9 [Deposit and Appropriation of Fees] provides for application fees to be deposited into a special revenue account and appropriates those fees annually to the commission. License and renewal fees are deposited in the general fund.

Section 10 [Enforcement; License Violations] requires the commission to adopt rules and impose penalties for license violations.

Subdivision 1 [Schedule of penalties] requires the commission to adopt rules with a graduated schedule of penalties for violation of license requirements, ranging from warnings to fines and suspension and revocation of licenses.

Subdivision 2 [Imposition of penalty] authorizes the commission to impose a penalty from the schedule after adjudication. The commission may impose a penalty before adjudication in certain circumstances.

Subdivision 3 [Criminal penalty] makes commission of a crime related to sports wagering a violation of a license, and authorizes the commission to impose a license violation penalty that may be in addition to a criminal penalty imposed for the same conduct.

Subdivision 4 [Fines paid to commission] requires the commission to transfer fines collected by the commission to the commissioner of management and budget for deposit in the general fund.

Subdivision 5 [Contested case] makes fines in excess of \$2,000 a contested case.

Subdivision 6 [Appeal] specifies the manner of appeal of a decision of the commission.

Subdivision 7 [Referral to Department of Public Safety] requires the commission to report to the director of the Department of Public Safety's Division of Alcohol and Gambling Enforcement an act or practice in violation of criminal laws relating to sports wagering.

Section 11 [Auditing and Inspection]

Subdivision 1 [Annual audit] requires licensed bookmakers to commission an annual financial audit by an independent third party according to industry standards; the bookmaker must submit the audit to the commission by November 1 of each year.

Subdivision 2 [Inspection] authorizes the commission, the commissioner of revenue, the commissioner of public safety, and the director of the Division of Alcohol and Gambling Enforcement, to inspect the accounting records for a licensed bookmaker at any time without notice.

Section 12 [Reporting] establishes reporting requirements of the commission.

Subdivision 1 [Financial report] requires the commission to submit an annual report on its finances to the legislature.

Subdivision 2 [License activity report] requires the commission to submit an annual report regarding its licensing activities to the legislature.

Section 13 [Exclusion List] establishes a list of people from whom bookmakers may not accept wagers.

Subdivision 1 [Exclusion list] requires the commission to maintain a list of people who are not eligible to wager on sporting events. The list includes the names of people who request to put themselves on the list and people whose names are submitted by their legal guardians. Information on the list is classified as private data on individuals.

Subdivision 2 [Prohibition on wagering] precludes a bookmaker from accepting wagers from people on the exclusion list

Section 14 [Data Protections] specifies treatment of private data.

Subdivision 1 [Data classification] identifies that certain data related to wagering on sporting events is private data on individuals and data on casino earnings is nonpublic data.

Subdivision 2 [Sale of private data on individuals] makes the sale of private data on individuals grounds for revocation of licenses issued under this chapter.

Section 15 [Local Restrictions]

Subdivision 1 [No local taxes or fees] precludes political subdivisions from requiring a local license for the conduct of sports bookmaking.

Subdivision 2 [Local ordinances] permits statutory or home rule charter cities or townships to preclude wagering within their jurisdiction on sporting events.

Section 16 [Authority of Commissioner of Public Safety to Enforce Sports Wagering Crimes] authorizes the commissioner of public safety to investigate and enforce crimes related to sports wagering. Requires the commissioner of public safety to notify the commission regarding investigations into and enforcement actions against a person licensed under this chapter. The commission has no authority to investigate crimes but is required to report a crime or attempt to commit a crime to the commissioner of public safety.

Section 17 [Indian Tribes; Compacts to be Negotiated] requires the governor to negotiate tribal-state compacts regarding sports wagering on tribal lands. This section is effective the day after final enactment.

ARTICLE 2 – TAXATION OF SPORTS WAGERING

Sections 1 to 4 provide for addbacks and subtractions for losses and gains from the business of conducting wagering on a sporting event for purposes of calculating Minnesota taxable income. As provided in section 7, the tax on sports wagering net revenue is in lieu of Minnesota income, sales, and charitable gambling taxes. Gains and losses from the business of conducting wagering on a sporting event are included in the calculation of federal adjusted gross income, but because they are not subject to Minnesota income tax, they must be accounted for in the calculation of Minnesota taxable income.

Section 1. Nontaxable sports wagering losses. Requires the addition of losses from the business of conducting wagering on a sporting event for purposes of calculating Minnesota individual income tax.

Section 2. Exempt sports wagering income. Requires the subtraction of gains from the business of conducting wagering on a sporting event for purposes of calculating Minnesota individual income tax.

Section 3. Nontaxable sports wagering losses. Requires the addition of losses from the business of conducting wagering on a sporting event for purposes of calculating Minnesota corporate franchise tax.

Section 4. Exempt sports wagering income. Requires the subtraction of gains from the business of conducting wagering on a sporting event for purposes of calculating Minnesota corporate franchise tax.

Section 5. Collection; disposition. Requires one-half of one percent of net sports wagering revenue deposited in the general fund to be transferred to the special revenue fund and appropriated to the commissioner of human services for the compulsive gambling treatment program.

Section 6. Definitions. Defines terms relevant to the article, most of which also appear in Article 1. In pertinent part, “sports wagering net revenue” means the total cash received by a licensed bookmaker from wagers on a sporting event, minus cash paid out as winnings. Cash received by the licensed bookmaker for activities other than sports wagering and cash received as promotional credits, free bets, or other incentives are not included in the calculation.

Section 7. Tax on sports wagering net revenue. Imposes a tax on sports wagering net revenue of six percent for wagers placed at a casino or racetrack, and an eight percent tax for wagers placed online. Provides that the tax is in lieu of income, sales, and charitable gambling taxes. Provides that sports wagering net revenue taxes owed are the personal debt of the person required to file a return and that records concerning the administration of the sports wagering net revenue tax are public information. Authorizes taxpayers to claim refunds owed for excess taxes paid and authorizes the commissioner to grant extensions for filing returns and paying taxes for up to six months. Requires that tax revenues be deposited to the general fund.

Section 8. Licensed bookmaker reports and records. Requires licensed bookmakers to file a monthly report with the commissioner of revenue showing all sporting event wagering activity in the month. Requires licensed bookmakers to maintain business records supporting the reported sports wagering activity and preserve the records for at least three and one-half years. Records are subject to inspection by the commissioner at a reasonable time without notice or warrant. Authorizes the commissioner to require audits of licensed bookmakers on sporting event wagering activities and requires the commissioner to prescribe audit standards. Audits must be performed by an accountant licensed under chapter 326A.

Section 9. Other sections apply. Applies the provisions in the charitable gambling chapter pertaining to time limits for assessing tax, civil penalties, tax-related criminal penalties, and interest to the newly established chapter for sports wagering taxes.

ARTICLE 3 – CRIMES RELATED TO WAGERING ON SPORTING EVENTS

Section 1 provides a range of criminal penalties for placing and accepting wagers on sporting events in a manner not authorized under chapter 240B (article 1). The basic penalty for these acts is a misdemeanor. However, higher penalties (gross misdemeanors and felonies) apply to more egregious acts. These egregious acts include accepting wagers from underage betters (those under 18 years old) and placing or accepting unauthorized wagers in higher dollar amounts or by those with prior convictions. Defines terms. Exempts certain private social bets.

Section 2 adds a new criminal code section prohibiting the “throwing” of sporting events. A violation is a felony (statutory maximum penalty of five years imprisonment and/or \$10,000 fine).

Sections 3 to 6 amend the criminal code's provisions on gambling to make conforming changes to ensure that those who make illegal sports bets are covered not under these provisions but rather under section 1.

ARTICLE 4 – MISCELLANEOUS

Section 1 [Group II Salary Limits] places the director of the Sports Wagering Commission in the “Group II” list for purposes of a salary cap.

Section 2 [Revisor Instruction] provides for the Revisor to replace a calculated date for the start of legal wagering through a website or mobile application with a date certain when a condition – that the first bookmaker is licensed – is met.