

AMENDED IN SENATE MAY 25, 2012  
AMENDED IN SENATE APRIL 19, 2012  
AMENDED IN SENATE APRIL 9, 2012  
AMENDED IN SENATE MARCH 28, 2012

**SENATE BILL**

**No. 1390**

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**Introduced by Senator Wright  
(Coauthor: Senator Anderson)**

February 24, 2012

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An act to amend Section 19868 of, and to add Chapter 4.7 (commencing with Section 19750) to Division 8 of, the Business and Professions Code, and to amend Sections 336.9 and 337a of the Penal Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as amended, Wright. Gambling: sports wagering.

(1) The California Constitution prohibits various gaming activities within the state, including casino-style gaming, but authorizes the Governor, subject to ratification by the Legislature, to negotiate and conclude compacts for the operation of slot machines and the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. The California Constitution also authorizes the Legislature to provide for the regulation of horse racing, charitable bingo games, the California State Lottery, and charitable raffles.

Existing law prohibits a person, whether or not for gain, hire, or reward, from making a betting pool or placing a bet or wager on the result of any contest or event, including a sporting event, as specified.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. Existing law provides for the enforcement of those regulations by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

The Horse Racing Law provides for the licensure of every person who participates in, or has anything to do with, the racing of horses, and every employee of a parimutuel department by the California Horse Racing Board. The board is responsible for adopting rules and regulations for the protection of the public, the control of horse racing, and parimutuel wagering, as well as enforcing all laws, rules, and regulations dealing with horse racing and parimutuel wagering. The law permits the board to authorize an association licensed to conduct a racing meeting to also operate a satellite wagering facility at its racetrack inclosure, and for fairs to locate a satellite wagering facility at their fairgrounds, under specified conditions. Any violation of these provisions is punishable as a misdemeanor.

This bill would authorize the owner or operator of a gambling establishment, horse racing track, or satellite wagering facility, with a current license, to conduct wagering on professional and collegiate sports or athletic events by applying to the California Gambling Control Commission or the California Horse Racing Board, as specified, for authorization to conduct sports wagering. The bill would require the ~~commission~~ department and the board to adopt regulations to implement these provisions. *The bill would authorize the department and the board to adopt regulations establishing fees in a reasonable amount to recover their costs relating to the administration and enforcement of these provisions.* The bill would require the department to, among other things, investigate any request made by the board or the commission in connection with an application for authorization, and to investigate alleged violations of the above provisions. Any violation of these provisions would be punishable as a crime. By creating a new crime, the bill would impose a state-mandated local program.

(2) Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification

by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.

This bill would provide that a federally recognized Indian tribe may conduct sports wagering on Indian lands consistent with the requirements of the federal Indian Gaming Regulatory Act of 1988, and under terms no more stringent than those applicable to any other owner or operator in the state.

(3) The Gambling Control Act requires the Department of Justice to investigate an applicant for a gambling license. Existing law provides that, if denial of the application, or approval of the license with restrictions or conditions on the license, is recommended, the chief of the entity within the department that is responsible for enforcing these provisions shall prepare and file with the commission his or her written reasons upon which the recommendation is based.

This bill would require the chief of that entity within the department to file with the commission the written reasons upon which the recommendation is based, together with all relevant documents and information.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Chapter 4.7 (commencing with Section 19750)  
2 is added to Division 8 of the Business and Professions Code, to  
3 read:

4  
5 CHAPTER 4.7. SPORTS WAGERING

6  
7 19750. The following entities may conduct wagering on  
8 professional and collegiate sports or athletic events as authorized  
9 pursuant to this chapter:

10 (a) The owner or operator of a gambling establishment with a  
11 current license issued by the California Gambling Control

1 Commission pursuant to Chapter 5 (commencing with Section  
2 19800).

3 (b) The owner or operator of a horse racing track or satellite  
4 wagering facility with a current license issued by the California  
5 Horse Racing Board pursuant to Chapter 4 (commencing with  
6 Section 19400).

7 19751. A federally recognized Indian tribe may conduct sports  
8 wagering on Indian lands consistent with the requirements of the  
9 federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs.  
10 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.), and under  
11 terms no more stringent than those applicable to any other owner  
12 or operator in the state.

13 19752. As used in this chapter, the following definitions shall  
14 apply:

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

16 (b) "Commission" means the California Gambling Control  
17 Commission.

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

19 (d) "Licensed operator" means any of the entities listed in  
20 Section 19750 that is authorized pursuant to this chapter to conduct  
21 sports wagering.

22 (e) "Sports event" shall include any professional sports or  
23 athletic event, and any collegiate sports or athletic event.

24 (f) "Sports wagering" means the business of accepting wagers  
25 on a sports event by any legal system or method of wagering,  
26 including, but not limited to, exchange wagering, parlays, over  
27 and under, money line, and straight bets.

28 19754. (a) (1) An owner or operator of a gambling  
29 establishment seeking to conduct sports wagering shall apply to  
30 the commission for authorization to conduct sports wagering.

31 (2) An owner or operator of a horse racing track or satellite  
32 wagering facility seeking to conduct sports wagering shall apply  
33 to the board for authorization to conduct sports wagering.

34 (b) The board or the commission, as the case may be, shall hear  
35 and decide promptly, and in reasonable order, all applications to  
36 conduct sports wagering from owners and operators of licensed  
37 gambling establishments, licensed horse racing tracks, and satellite  
38 wagering facilities. Authorization to conduct sports wagering shall  
39 not be unreasonably withheld for any applicant that is in good  
40 standing and has a current license issued pursuant to Chapter 4

(commencing with Section 19400) or Chapter 5 (commencing with Section 19800).

19756. (a) Application for authorization to conduct sports wagering shall be made on forms furnished by the board and the commission.

(b) The application for authorization to conduct sports wagering shall include all of the following:

(1) The name of the licensee.

(2) The name and location of the gambling establishment, horse racing track, or satellite wagering facility.

(3) The names of all persons directly or indirectly interested in the business and the nature of the interest.

(4) A description of the proposed sports wagering operation.

(5) Any other information and details the board or the commission may require in order to discharge its duty properly.

19758. (a) The board and the ~~commission~~ department shall adopt regulations for the administration and enforcement of this chapter, *and may adopt regulations establishing fees in a reasonable amount necessary to recover costs incurred by the board or the department relating to the administration and enforcement of this chapter.*

(b) The board and the ~~commission~~ department shall consult with each other, ~~and the department~~, in the adoption of regulations pursuant to this section, and may adopt joint regulations.

19760. The regulations adopted by the board and the ~~commission~~ department shall do all of the following:

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

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

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

(3) The method of issuing tickets.

(b) Govern all of the following:

(1) The extension of credit.

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

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

(4) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the

1 department, the method of accounting to be used by licensed  
2 operators, and the types of records required to be maintained.

3 19762. (a) The sports wagering authorized pursuant to this  
4 chapter may be conducted only at the gambling establishment,  
5 horse racing track, or satellite facility of the licensed operator, or  
6 on Indian lands consistent with the federal Indian Gaming  
7 Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, incl., and  
8 25 U.S.C. Sec. 2701 et seq.).

9 (b) The licensed operators of horse racing tracks, satellite  
10 wagering facilities, and gambling establishments may enter into  
11 an agreement to jointly conduct a sports wagering operation. Any  
12 joint sports wagering operation authorized pursuant to this  
13 subdivision shall be conducted only at a horse racing track.

14 19764. A licensed operator shall not accept a wager on a sports  
15 event from any person who is not physically present at the facility  
16 where the sports wagering is conducted.

17 19766. A licensed operator shall establish the odds it will pay  
18 on wagers placed on sports events.

19 19768. (a) A licensed operator shall not conduct any sports  
20 wagering in violation of any provision of this chapter, any  
21 regulation adopted pursuant to this chapter, or any governing local  
22 ordinance.

23 (b) Any person who willfully violates any provision of this  
24 chapter is guilty of a misdemeanor.

25 19770. (a) The department shall have all of the following  
26 responsibilities:

27 (1) To investigate any request made by the board or the  
28 commission in connection with an application for authorization  
29 pursuant to this chapter. The department may recommend the  
30 denial or the limitation, conditioning, or restriction of any  
31 authorization.

32 (2) To monitor the conduct of all licensed operators and other  
33 persons having a material involvement, directly or indirectly, with  
34 a sports wagering operation.

35 (3) To investigate suspected violations of this chapter.

36 (4) To investigate complaints that are lodged against licensed  
37 operators, or other persons associated with a sports wagering  
38 operation, by members of the public.

39 (5) To initiate, where appropriate, disciplinary actions. In  
40 connection with any disciplinary action, the department may seek

1 restriction, limitation, suspension, or revocation of any license,  
2 permit, authorization, or approval pursuant to this chapter, Chapter  
3 4 (commencing with Section 19400), or Chapter 5 (commencing  
4 with Section 19800), or the imposition of any fine upon any person  
5 licensed, permitted, authorized, or approved pursuant to those  
6 chapters.

7 (6) To adopt regulations reasonably related to its functions and  
8 duties as specified in this chapter.

9 (b) The department has all powers necessary and proper to  
10 enable it to carry out fully and effectually its duties and  
11 responsibilities specified in this chapter.

12 19772. (a) The department shall make appropriate  
13 investigations as follows:

14 (1) To determine whether there has been any violation of this  
15 chapter or any regulations adopted under this chapter.

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

19 (3) To aid in adopting regulations.

20 (b) If, after any investigation, the department is satisfied that a  
21 license, permit, authorization, or approval pursuant to this chapter,  
22 Chapter 4 (commencing with Section 19400), or Chapter 5  
23 (commencing with Section 19800) should be suspended or revoked,  
24 it shall file an accusation in accordance with Chapter 5  
25 (commencing with Section 11500) of Part 1 of Division 3 of Title  
26 2 of the Government Code.

27 (c) In addition to any action that the board or commission may  
28 take against a license, permit, finding of suitability, or approval,  
29 the board or commission may also require the payment of fines or  
30 penalties. However, no fine imposed shall exceed twenty thousand  
31 dollars (\$20,000) for each separate violation of any provision of  
32 this chapter or any regulation adopted under this chapter.

33 SEC. 2. Section 19868 of the Business and Professions Code  
34 is amended to read:

35 19868. (a) Within a reasonable time after the filing of an  
36 application and any supplemental information the department may  
37 require, and the deposit of any fee required pursuant to Section  
38 19867, the department shall commence its investigation of the  
39 applicant and, for that purpose, may conduct any proceedings it  
40 deems necessary. To the extent practicable, all applications shall

1 be acted upon within 180 calendar days of the date of submission  
2 of a completed application. If an investigation has not been  
3 concluded within 180 days after the date of submission of a  
4 completed application, the department shall inform the applicant  
5 in writing of the status of the investigation and shall also provide  
6 the applicant with an estimated date on which the investigation  
7 may reasonably be expected to be concluded.

8 (b) If denial of the application, or approval of the license with  
9 restrictions or conditions on the license, is recommended, the chief  
10 shall prepare and file with the commission his or her written  
11 reasons upon which the recommendation is based, together with  
12 all relevant documents and information.

13 (1) Prior to filing his or her recommendation with the  
14 commission, the chief shall meet with the applicant, or the  
15 applicant's duly authorized representative, and inform him or her  
16 generally of the basis for any proposed recommendation that the  
17 application be denied, restricted, or conditioned.

18 (2) Not less than 10 business days prior to the meeting of the  
19 commission at which the application is to be considered, the  
20 department shall deliver to the applicant a summary of the chief's  
21 final report and recommendation.

22 (3) This section requires the department neither to divulge to  
23 the applicant any confidential information received from any law  
24 enforcement agency or any information received from any person  
25 with assurances that the information would be maintained  
26 confidential, nor to divulge any information that might reveal the  
27 identity of any informer or jeopardize the safety of any person.

28 (c) If a restriction or condition on the license is recommended,  
29 the chief shall prepare and file with the commission his or her  
30 written reasons upon which the recommendation is based, together  
31 with all relevant documents and information.

32 (1) Prior to filing his or her recommendation with the  
33 commission, and not less than 10 business days prior to the meeting  
34 of the commission at which the application is to be considered,  
35 the chief shall inform the applicant in writing generally of the basis  
36 for any proposed recommendation that the application be restricted  
37 or conditioned, including the legal and factual grounds on which  
38 the recommendation is based.

39 (2) This section does not require the department to divulge to  
40 the applicant any confidential information received from any law



1 enforcement agency or any information received from any person  
2 with assurances that the information would be maintained  
3 confidential, or to divulge any information that might reveal the  
4 identity of any informer or jeopardize the safety of any person.

5 (d) A recommendation of denial of an application shall be  
6 without prejudice to a new and different application filed in  
7 accordance with applicable regulations.

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

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

23 (b) Subdivision (a) does not apply to any of the following  
24 situations:

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

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

29 (3) Any sports wagering authorized pursuant to Chapter 4.7  
30 (commencing with Section 19750) of Division 8 of the Business  
31 and Professions Code.

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

33 337a. (a) Except as provided in Section 336.9 and as authorized  
34 pursuant to Chapter 4.7 (commencing with Section 19750) of  
35 Division 8 of the Business and Professions Code, every person  
36 who engages in one of the following offenses shall be punished  
37 for a first offense by imprisonment in a county jail for a period of  
38 not more than one year or in the state prison, or by a fine not to  
39 exceed five thousand dollars (\$5,000), or by both imprisonment  
40 and fine:

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

3 (2) Whether for gain, hire, reward, or gratuitously, or otherwise,  
4 keeps or occupies, for any period of time whatsoever, any room,  
5 shed, tenement, tent, booth, building, float, vessel, place, stand,  
6 or enclosure, of any kind, or any part thereof, with a book or books,  
7 paper or papers, apparatus, device, or paraphernalia, for the purpose  
8 of recording or registering any bet or bets, any purported bet or  
9 bets, wager or wagers, any purported wager or wagers, selling  
10 pools, or purported pools, upon the result, or purported result, of  
11 any trial, purported trial, contest, or purported contest, of skill,  
12 speed, or power of endurance of person or animal, or between  
13 persons, animals, or mechanical apparatus, or upon the result, or  
14 purported result, of any lot, chance, casualty, unknown, or  
15 contingent event whatsoever.

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

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

36 (5) Being the owner, lessee, or occupant of any room, shed,  
37 tenement, tent, booth, building, float, vessel, place, stand,  
38 enclosure, or grounds, or any part thereof, whether for gain, hire,  
39 reward, or gratuitously, or otherwise, permits that space to be used

1 or occupied for any purpose, or in any manner prohibited by  
2 paragraph (1), (2), (3), or (4).

3 (6) Lays, makes, offers, or accepts any bet or bets, or wager or  
4 wagers, upon the result, or purported result, of any trial, or  
5 purported trial, or contest, or purported contest, of skill, speed, or  
6 power of endurance of person or animal, or between persons,  
7 animals, or mechanical apparatus.

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

27 (c) In any accusatory pleading charging a violation of this  
28 section, if the defendant has been previously convicted two or  
29 more times of a violation of any subdivision of this section, each  
30 previous conviction shall be charged in the accusatory pleadings.  
31 If two or more of the previous convictions are found to be true by  
32 the jury, upon a jury trial, or by the court, upon a court trial, or are  
33 admitted by the defendant, the defendant shall, if he or she is not  
34 imprisoned in the state prison, be imprisoned in the county jail for  
35 a period of not more than one year or pay a fine of not less than  
36 one thousand dollars (\$1,000) nor more than fifteen thousand  
37 dollars (\$15,000), or be punished by both imprisonment and fine.  
38 Nothing in this paragraph shall prohibit a court from placing a  
39 person subject to this subdivision on probation. However, that  
40 person shall be required to pay a fine of not less than one thousand

1 dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000),  
2 or be imprisoned in the county jail for a period of not more than  
3 one year as a condition thereof. In no event does the court have  
4 the power to absolve a person convicted and subject to this  
5 subdivision from either being imprisoned or from paying a fine of  
6 not more than fifteen thousand dollars (\$15,000).

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

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

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