

Subject Sports betting

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## Overview

In May 2018, the U.S. Supreme Court issued a decision in *Murphy v. National Collegiate Athletic Association*. Before that decision, the federal Professional and Amateur Sports Protection Act (PASPA) prohibited a state from authorizing sports wagering in any form, but the court invalidated PASPA, permitting states to authorize sports wagering. Since the decision, sports betting has been established in different ways around the country. In some states, including Iowa, mobile sports betting is legal. In others, including North Dakota, South Dakota, and Wisconsin, in-person sports betting can take place at certain specified locations.

Sports bookmaking is currently illegal in Minnesota. Article 1 of this bill authorizes wagering on certain athletic and esports events and regulates mobile sports betting. Article 2 contains tax provisions related to wagering on sports. Article 3 establishes crimes related to sports wagers. Article 4 creates grants administered by the Minnesota Amateur Sports Commission, funds a study on gambling by young adults, and appropriates money for the establishment and regulation of mobile sports betting.

## Article 1: Lawful Sports Betting

Article 1 provides for the licensing and regulation of sports betting in Minnesota.

### Section Description – Article 1: Lawful Sports Betting

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#### 1 Definitions.

Defines terms as used in chapter 299L in relation to lawful sports betting including “athletic event,” “esports event,” “Indian Tribe,” “mobile sports betting,” “sporting event,” “sports betting,” and “wager.”

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**2 Scope.**

Establishes that a person who is at least 21 years old and is not otherwise prohibited may participate in sports betting. Establishes that the new sections of law provide for the exclusive means of lawful sports betting except for Class III sports betting conducted by an Indian Tribe pursuant to a Tribal-state compact.

**3 Powers and duties of commissioner.**

Provides the commissioner of public safety with the authority to regulate lawful sports betting to assure that it is conducted in a fair and lawful manner. Directs the commissioner to adopt and enforce rules related to the conduct of sports betting. Provides for expedited rulemaking until January 1, 2023. Permits the commissioner to delegate authority to the director of the Division of Alcohol and Gambling Enforcement (AGED). Establishes a process for sports governing bodies to petition the commissioner to exclude or prohibit certain bets.

**4 License types; transfers prohibited.**

Establishes that the commissioner may issue two master mobile sports betting licenses, up to 11 mobile sports betting operator licenses, mobile sports betting provider licenses, and sports betting supplier licenses. Prohibits the transfer of licenses.

**5 General licensing requirements; disqualifications; background investigations.**

Establishes the requirements and disqualifications for applicants seeking a license. Provides that applicants must have paid any applicable fees, not be employed by an agency that regulates sports betting, and not owe or have failed to pay taxes. Establishes disqualifications for criminal offenses including felonies other than fifth degree possession of a controlled substance, any crime involving gambling, and any crime involving theft or fraud that would be a gross misdemeanor under Minnesota law. Directs the commissioner to perform a background check and criminal history records check of applicants.

**6 License application and renewal; general requirements; procedure.**

Requires applications for licensure to be made in the form and manner established by the commissioner. Requires that applications include certain information including a consent form relating to service of lawsuits and a declaration to comply with the laws of Minnesota, including the applicable provisions of the Human Rights Act. Directs applicants to submit completed applications, provides for a deficiency notice, and permits rejected applicants to reapply.

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**7 Duty to update.**

Requires applicants and license holders to update the commissioner if there is a change in any information submitted as part of an application or a change in the ownership of the license holder.

**8 Master mobile sports betting license.**

Permits the commissioner to issue two master mobile sports betting licenses. Establishes that licenses are valid for 20 years. Requires recipients to be organizations comprised of two or more Indian Tribes that submit an application and meet other eligibility requirements. Provides that one master mobile sports betting license may be issued to a Tribal entity comprised of the Ojibwe Indian Tribes and one to a Tribal entity comprised of the Dakota Indian Tribes. Provides that no license may issue until an operational agreement has been filed. Provides that the license may be renewed every 20 years. Authorizes the license holder to coordinate mobile sports betting in Minnesota and contract with mobile sports betting operators.

**9 Mobile sports betting operator license.**

Permits the commissioner to issue up to 11 mobile sports betting operator licenses that are valid for one year. Permits the license holder to contract with a master mobile sports betting licensee to operate mobile sports betting in the state. Permits the license holder to contract with platform providers and suppliers, and perform other actions approved by the commissioner. Establishes license requirements including being an entity wholly owned and controlled by a Tribe, maintaining mechanisms to detect fraud and other unauthorized actions in any mobile platform or application, and providing a detailed plan for the implementation of mobile sports betting to the commissioner. Requires regular reporting on wagers to the commissioner.

**10 Mobile sports betting platform provider and service provider license.**

Requires a mobile sports betting platform provider or services provider to hold a license. Authorizes license holders to provide platforms and applications to facilitate sports betting to the mobile sports betting operators. Establishes application requirements. Establishes an application fee of \$6,000; a licensing fee of \$38,250; and a renewal fee of \$8,500. Provides that licenses must be renewed annually.

**11 Sports betting supplier license.**

Requires a sports betting supplier to hold a license. Authorizes sports betting suppliers to provide information and support necessary to conduct mobile sports betting. Establishes application requirements. Establishes an application fee of \$6,000; a licensing fee of \$38,250; and a renewal fee of \$8,500. Provides that licenses must be renewed annually.

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**12 Deposit and appropriation of fees.**

Requires application fees to be deposited in the special revenue account and appropriates those fees to the commissioner for processing license applications and renewals. Requires license and renewal fees to be deposited in the general fund.

**13 Wagering.**

**Subd. 1. Placing wagers.** Establishes that a person who is 21 years of age or older may place a mobile sports wager unless that person is otherwise disqualified, prohibited, or excluded from doing so.

**Subd. 2. Wager type.** Establishes that wagers may only be accepted if the commissioner approves the type of wagers. Provides that the commissioner may authorize wagers on topics including who will win an event or by how many points, the total points scored in the event, an outcome contingency or proposition incidental to an event, and parlay wagers on two or more events or contingencies.

**Subd. 3. Mobile sports betting account; establishment.** Provides that a mobile sports betting account may be established by electronic means and may be funded in any manner approved by the commissioner.

**Subd. 4. Consideration; wager account.** Requires an authorized participant to provide consideration in the form of a withdrawal from a wager account at the time the person places a wager. Provides that a person may withdraw the balance of a wager account at any time with proof of identity.

**Subd. 5. Wager location.** Requires mobile sports betting wagers to be made online from a person physically present in the state. Establishes that an incidental routing of a wager may not be used to establish a person's location.

**Subd. 6. Information provided at the time of wager.** Requires a mobile sports betting operator to disclose the betting line and terms of a wager prior to accepting a wager.

**Subd. 7. Outcome determined.** Prohibits accepting a wager on an event or proposition that has already been determined.

**Subd. 8. Receipt.** Requires a mobile sports betting operator to provide a receipt at the time of sale.

**14 Exclusion list and prohibition on wagering.**

Directs the commissioner to establish an exclusion list of individuals who are not eligible to wager. Directs that the exclusion list must include individuals who submit their own names, those whose names have been submitted by a legal guardian, and

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those submitted by mobile sports betting operators. Establishes categories of prohibited wagers by certain individuals including prohibiting wagers by a player placing a bet on a contest in which that person is competing. Prohibits knowingly accepting a wager from a person on the exclusion list or who is prohibited from placing a certain wager.

**15 Financial responsibility.**

Establishes that wagers must be treated as an enforceable contract. Asserts that mobile sports betting operators and platform providers bear all risk of loss. Requires the mobile sports betting operator or platform provider to maintain cash reserves of at least \$25,000 or an amount calculated based on mobile sports betting accounts, bets accepted, and amounts owed and unpaid. Requires the mobile sports betting operator or platform provider to maintain a bond in an amount deemed necessary by the commissioner.

**16 Integrity monitoring.**

Requires each mobile sports betting operator or platform provider to contract with a third party to provide integrity monitoring to identify unusual betting patterns that may indicate the need for action. Directs the commissioner to establish minimum requirements and to report suspicious activity.

**17 Inspection and auditing of licensees.**

Permits the commissioners of public safety and revenue, and the director of the Division of Alcohol and Gambling Enforcement, to inspect the records and accounts of a mobile sports betting operator with 24 hours' notice. Requires mobile sports betting operators to contract with a third-party to conduct a financial audit of the operator and provide the audit to the commissioner within 120 days of the end of the operator's fiscal year.

**18 License violations; enforcement.**

**Subd. 1. Schedule of penalties.** Directs the commissioner to adopt a schedule of penalties for license violations.

**Subd. 2. Authority to act.** Establishes that the commissioner has the authority to issue administrative orders, impose civil penalties, temporarily suspend licenses, and take action to revoke a license. Provides that action against one license holder does not prevent other license holders from conducting mobile sports betting.

**Subd. 3. Temporary suspension.** Permits the commissioner to temporarily suspend a license, for up to 90 days, if the license holder fails to make certain payments or if suspension is necessary to protect the public from harm. Permits the commissioner to lift the suspension if the matter is resolved. Permits the

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commissioner to extend the suspension if the commissioner begins actions to revoke a license and no hearing has been held.

**Subd. 4. Notice of violation; administrative orders; request for reconsideration; demand for hearing.** Permits the commissioner to issue administrative orders to require a license holder to take, or stop taking, certain actions and to impose civil penalties. Establishes a procedure to request reconsideration or a hearing on any order.

**Subd. 5. Revocation, nonrenewal, civil penalties; contested case.** Provides that, if the commissioner takes action to revoke a license or impose a civil penalty of more than \$2,000, the action must be a contested case and must proceed under chapter 14 (Administrative Procedures Act).

**19 Reporting.**

Requires the commissioner to submit a report to legislative committees by June 1 of each year that describes the financial status of sports betting in the state. Requires the commissioner to submit a report by February 1 of each year that includes the status of licensing activity, an overview of the sports betting market, a review of revenue generated and spent, and a description of enforcement actions taken by the commissioner.

**20 Data protections.**

Classifies certain data on individuals who make wagers as private data on individuals. Classifies certain data on mobile sports betting operators as nonpublic data. Prohibits the sale of private data on individuals.

**21 Local restrictions; prohibition on local taxes or fees.**

Prohibits a political subdivision from requiring a local license to offer sports betting or imposing a tax or fee on sports betting conducted pursuant to the new law.

**22 Indian tribes; compacts to be negotiated.**

Directs the governor or the governor' designated representatives to negotiate new Tribal-state compacts regulating the conduct of Class III sports betting on the lands of a Tribe requesting negotiations. Prohibits amending existing compacts.

## **Article 2: Taxation of Sports Betting**

Article 2 provides for the taxation of mobile sports betting in Minnesota.

**Section Description – Article 2: Taxation of Sports Betting**

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**1 Nontaxable sports betting losses.**

Provides that losses from the business of conducting wagering on athletic or esports events under chapter 299L that are not subject to tax under chapter 290 are an addition.

**2 Exempt sports betting income.**

Provides that income or gains from the business of conducting wagering on athletic or esports events under chapter 299L that are not subject to tax under chapter 290 are a subtraction.

**3 Nontaxable sports betting losses.**

Provides that losses from the business of conducting wagering on athletic or esports events under chapter 299L that are not subject to tax under chapter 290 are an addition.

**4 Exempt sports betting income.**

Provides that income or gains from the business of conducting wagering on athletic or esports events under chapter 299L that are not subject to tax under chapter 290 are a subtraction.

Effective dates for sections 1 through 4 are for taxable years beginning after an unspecified date.

**5 Definitions.**

Defines terms in the new chapter related to the taxation of sports betting, including defining “sports betting net revenue” as the total of all cash received by a mobile sports betting operator from wagers on an athletic event or esports event, less promotional credits and free bets, and less cash paid out as winnings and cash equivalent of noncash prizes paid out as winnings.

**6 Tax on sports betting net revenue.**

**Subd. 1. Tax imposed.** Establishes a tax rate of ten percent on online sports betting net revenue received based on a percentage of wagers placed online as authorized by the new law. Bets placed on Tribal land would be specifically exempt from the proposed tax.

**Subd. 2. Sports betting net revenue tax is in lieu of other taxes.** Establishes that income derived by a mobile sports betting operator from conducting wagering is not subject to the individual income or corporate franchise taxes, and that wagers accepted are not subject to the state sales or sports bookmaking taxes.

**Section Description – Article 2: Taxation of Sports Betting**

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**Subd. 3. Returns; due dates.** Establishes a monthly return requirement for the proposed tax which would be due on the 20<sup>th</sup> day of the month. Proceeds from the tax would be deposited as required under subdivision 7.

**Subd. 4. Public information.** Provides that all records concerning the administration of taxes under the chapter are public information.

**Subd. 5. Refunds.** Authorizes a person who has paid tax in an amount that exceeds the tax due to seek a refund and appropriates the amount necessary to pay a refund from the new sports betting revenue account established in subdivision 7 to the commissioner of revenue.

**Subd. 6. Extensions.** Authorizes the commissioner of revenue to extend the time for filing tax returns, paying taxes, or both by six months for good cause.

**Subd. 7. Distribution of funds.** Establishes that money collected in tax revenue must be distributed as follows: (1) 10 percent to AGED for the cost of performing the duties related to regulating sports betting, (2) 40 percent to the commissioner of human services for the gambling treatment program, and (3) 50 percent to the amateur sports integrity and participation account established in article 4.

**7 Mobile sports betting operator reports, records, and audits.**

Requires mobile sports betting operators to file a monthly report with the commissioner of revenue that shows all sports betting activity conducted by the operator in the previous month. Requires mobile sports betting operators to maintain records that support the reports sent to the commissioner for at least 3-1/2 years. Permits the commissioner to require a financial audit of a mobile sports betting operator's betting activities if the operator has failed to comply with this chapter.

Effective dates for sections 5 through 7 are for sports betting net revenue received after an unspecified date.

## **Article 3: Crimes Related to Sports Betting**

Article 3 establishes and amends crimes related to the conduct of licensed and unlicensed sports betting.



**Section Description – Article 3: Crimes Related to Sports Betting**

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- 1 Juvenile petty offender; juvenile petty offense.**  
Establishes that a violation in which a person under age 18 places a bet on a sporting event shall be treated as a juvenile petty offense.
- 2 Crimes relating to wagering on sporting events.**  
Establishes crimes related to wagering on sporting events. Establishes a misdemeanor penalty for the sale or transfer of private data. Establishes a misdemeanor penalty for a person under age 21 who places a bet or misrepresents the person’s age. Establishes a gross misdemeanor penalty for accepting a wager from a person under age 21. Establishes misdemeanor, gross misdemeanor, and felony penalties for making or accepting certain unauthorized wagers. Provides for aggregation of violations. Establishes requirements related to the proof of a person’s age and an affirmative defense for relying on apparently valid proof of age.
- 3 What are not bets.**  
Establishes that a wager on the outcome of a sporting event that may be legally wagered on under the new law does not constitute a bet for the purposes of criminal laws prohibiting certain bets.
- 4 Gambling device.**  
Establishes that a website or mobile application, or device used to access the website or mobile application, is not a gambling device if it is authorized to be used in mobile sports betting.
- 5 Sports bookmaking.**  
Establishes that sports bookmaking does not include legalized mobile sports betting.
- 6 Sporting event.**  
Defines the term “sporting event” for use in the criminal laws that prohibit unauthorized betting.
- 7 Gambling; misdemeanor.**  
Establishes an exception stating that the crime does not apply to wagering on a sporting event.
- 8 Unauthorized sports betting.**  
Establishes misdemeanor, gross misdemeanor, and felony offenses for placing bets on sporting events with a person or entity who is not authorized to receive those bets and licensed by the commissioner. Establishes a felony offense for unlicensed sports bookmaking.

**Section Description – Article 3: Crimes Related to Sports Betting**

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**9 Sporting events; fraud; bribery.**

Establishes new offenses for offering or giving payment or another benefit to a person in order to influence that person’s performance or the outcome of an event, and for accepting payment or another benefit to intentionally lose or attempt to lose an event.

**10 Effective date.**

Provides that Article 3 is effective the day sports betting becomes legal in Minnesota and applies to crimes committed on or after that day.

## **Article 4: Amateur Sports Grants; Appropriations**

This article establishes grants administered by the Minnesota Amateur Sports Commission, a study on gambling by young adults, and appropriates money.

**Section Description – Article 4: Amateur Sports Grants; Appropriations**

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**1 Grants for promoting integrity and participation.**

Establishes the amateur sports integrity and participation account in the special revenue fund which consists of money deposited pursuant to section 297J.02. Directs the Minnesota Amateur Sports Commission to use the money to issue grants. Permits the commission to use up to four percent of the money to administer the grants. Requires that 20 percent of the money be used for grants to promote the integrity of amateur sports for activities including providing education and programming to athletes related to disordered gambling; promoting the independence, safety, and training of amateur sports leagues and officials; providing prevention programs related to performance enhancing drugs; training coaches and athletes on safe relationships and how to maintain a welcoming environment; and addressing the mental health needs of athletes. Requires that the remaining 80 percent of the money be used to facilitate participation in youth sports in areas that have experienced a disproportionately high rate of juvenile crime. Provides that grants may be used for purposes that include establishing programs, improving facilities, eliminating participation costs, and coordinating additional services for youth. Requires grant recipients to report to the Minnesota Amateur Sports Commission and requires the commission to provide an annual report to relevant legislative committees.

**2 Study on the motivations and beliefs of young adult gamblers; appropriation.**

Appropriates \$150,000 in fiscal year 2023 to the commissioner of public safety for a grant to an organization to conduct a study on gambling by young adults in Minnesota. Directs the grant recipient to coordinate a focus group of 40 young adults

**Section Description – Article 4: Amateur Sports Grants; Appropriations**

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who reflect the diversity of Minnesotans age 18 to 35. Requires the focus group to identify the reasons young adults gamble and the types of gambling in which they engage. Requires the grant recipient to use the information from the focus group to perform a qualitative survey of at least 50,000 individuals to gather additional information on gambling by young adults. Requires the recipient to report on the findings of the focus group and survey.

**3 Department of Public Safety; appropriation.**

Appropriates an unspecified amount in fiscal year 2023 to the commissioner of public safety to establish and regulate mobile sports betting. Establishes a base amount for ongoing funding.

**4 Department of Revenue; appropriation.**

Appropriates an unspecified amount in fiscal year 2023 to the commissioner of revenue to establish and enforce the taxation of mobile sports betting. Establishes a base amount for ongoing funding.



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