

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 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,” “sports betting,” and “wager.”
- 2 Scope.**

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.

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**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. Requires the commissioner to send a cease and desist letter to any individual or entity licensed to conduct sports betting before taking action against that person or entity except in situations where the new law authorizes the commissioner to summarily suspend a license. Establishes the right to challenge a cease and desist letter within 30 days of service of the letter and demand a hearing. Provides that hearings must comply with chapter 14 (the Administrative Procedure Act). Permits a court to order a person to comply with an administrative subpoena. Permits the commissioner to delegate authority to the director of the Division of Alcohol and Gambling Enforcement (AGED).

**4 Mobile sports betting licenses.**

**Subd. 1. 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 with its headquarters north of Interstate 94 and one to a Tribal entity with its headquarters south of Interstate 94. Provides that no license may issue until an operational agreement has been filed. Provides that the license may be renewed every 20 years.

**Subd. 2. Mobile sports betting operator licenses.** Permits a master mobile sports betting license holder to contract through an inter-Tribal compact with a mobile sports betting operator to operate mobile sports betting. Permits a master mobile sports betting license holder with its headquarters north of Interstate 94 to contract with up to seven mobile sports betting operators and a master mobile sports betting license holder with its headquarters south of Interstate 94 to contract with up to four mobile sports betting operators. Requires that the master mobile sports betting operators be wholly owned and controlled by an Indian Tribe or multiple Indian Tribes. Requires a mobile sports betting operator seeking a license to submit an application and required information to the commissioner and the master mobile sports betting license holder. Establishes a fee of \$2,125 for a license that must be paid to the commissioner. Prohibits a mobile sports betting operator from contracting with more than one sports betting platform provider.

**Subd. 3. Application.** Establishes that an application for a master mobile sports betting license must be on a form prescribed by the commissioner. Requires that the applicant provide specific information including the name of the applicant;

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identity of officers, directors, and shareholders in any corporation that is an applicant; a statement of the applicant's assets and liabilities; 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.

**Subd. 4. Responsibility for satisfying winning wagers.** Establishes that wagers must be treated like contracts and paid by a mobile sports betting operator. Provides that wagers not redeemed within one year may be cancelled.

**Subd. 5. Cash reserves.** Requires mobile sports betting operators, in conjunction with a mobile sports betting platform provider, to retain cash reserves that are the greater of \$25,000 or an amount determined based on the amount the mobile sports betting operator is holding on behalf of authorized participants or owes to those participants.

**Subd. 6. Bond.** Requires a mobile sports betting operator or mobile sports betting platform provider to post a bond or irrevocable letter of credit in an amount the commissioner deems necessary to protect the financial interests of people wagering on athletic events or esports events.

**Subd. 7. Contracting with equipment providers.** Permits a mobile sports betting operator to contract with mobile sports betting platform providers to facilitate the acceptance of wagers.

**Subd. 8. Reporting.** Requires a mobile sports betting operator to provide a monthly report to the commissioner on the wagers placed and redeemed in the reporting period, and the number outstanding at the time of the report.

**Subd. 9. Changes in ownership or management.** Requires both master mobile sports betting license holders and mobile sports betting operator license holders to report a change in ownership to the commissioner.

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

Requires a mobile sports betting platform provider or services provider to hold a license. 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.

**6 License disqualification; background checks; notice of denial of application.**

**Subd. 1. Disqualifications.** Permits a commissioner to reject an application, refuse to renew a license, or take action against a license if the application or license holder has ever been convicted of a felony or other crime involving gambling, owes more than \$500 in delinquent taxes, had a sale and use tax permit revoked in the previous two years, has not filed tax returns after a

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demand, or has been convicted of a felony or gross misdemeanor involving theft or fraud.

**Subd. 2. Background investigation.** Directs the commissioner to conduct background investigations of applicants and permits cooperation with the commissioner of revenue and director of the Division of Alcohol and Gambling Enforcement. Permits the commissioner to charge a fee for the investigation and requires that the fee be used to reimburse the expenses of AGED or the Department of Revenue.

**Subd. 3. Criminal history.** Requires the commissioner to perform a criminal history check on each individual applicant or person with a 15 percent interest in an applicant. Requires submission of fingerprints and authorizes a national criminal history check.

**Subd. 4. Notice of denial or issuance or renewal of mobile sports betting master license or mobile sports betting operator license.** Requires the commissioner to send a notice to any individual or entity licensed to conduct sports betting before rejecting an application, denying a license renewal, or taking licensing action against that person or entity. Establishes the right to challenge the proposed licensing action within 30 days of service of the letter and demand a hearing. Provides that hearings must comply with chapter 14 (the Administrative Procedure Act). Provides that application and licensing fees will not be reimbursed.

**7 Wagering.**

**Subd. 1. 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. 2. 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. 3. Wager location.** Requires mobile sports betting wagers to be made online from a person physically present in the state.

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**Subd. 4. 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. 5. Outcome determined.** Prohibits accepting a wager on an event or proposition that has already been determined.

**Subd. 6. Receipt.** Requires a mobile sports betting operator to provide a receipt at the time of sale.

**8 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.

**9 Enforcement; license violations.**

Directs the commissioner to establish a schedule of penalties. Permits imposition of a penalty after a hearing provided the penalty is commensurate with the violation. Permits the summary suspension of a license when immediate action is necessary to protect the public from harm or when the licensee has failed to file tax returns or pay required taxes or fees. Establishes that commission of a crime under the new law is a license violation and may be subject to a civil penalty. Requires fines to be deposited in the general fund. Establishes that a fine in excess of \$2,000 is a contested case and establishes the rules that apply to an appeal.

**10 Auditing and inspection.**

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. 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.

**11 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.

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**12 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 those submitted by mobile sports betting operators. Prohibits accepting a wager from a person on the list.

**13 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.

**14 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.

**15 Indian Tribes; compacts to be negotiated.**

Directs the governor or the governor's 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.

**16 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 who reflect the diversity of Minnesotan's 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.

**17 Effective date.**

Makes Article 1 effective the day following final enactment.

## **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.

**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 an unspecified tax rate on online sports betting net revenue 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.

**Subd. 3. Public information.** Provides that all records concerning the administration of taxes under the chapter are public information.

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**Subd. 4. 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 general fund to the commissioner of revenue.

**Subd. 5. 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. 6. 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 of which half must be provided to the state affiliate recognized by the National Council on Problem Gambling to raise awareness of problem gambling and provide education and training, and (3) 50 percent to the Minnesota Amateur Sports Commission for grants to promote the integrity of amateur sports and to promote participation in sports in areas that have experienced a high rate of juvenile crime.

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

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.

**8 Other provision apply.**

States that, except for those provisions specific to distributors, gambling products, or gambling equipment, sections 297E.11 to 297E.14 applicable to lawful gambling taxes apply to this chapter.

**9 Effective date.**

Makes Article 2 effective for wagers placed on or 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 Crimes relating to wagering on sporting events.**

**Subd. 1. Definitions.** Defines terms as used in the section, including “nonpublic information,” “accepts a wager,” and “places a wager.”

**Subd. 2. General prohibition.** Establishes that it is a crime to accept or place a wager unless the wager is authorized under the chapter and the wager is either (1) accepted at a casino or through an approved online method from a person in the state, or (2) placed at a casino or through an approved online method by a person in the state.

**Subd. 3. Misdemeanor.** Establishes misdemeanor offenses for actions including placing a wager with an unlicensed entity; placing a wager before turning 18; placing a wager on an event if the person is a participant in the event, employee of a mobile sports betting operator, employee of the Department of Public Safety, or has nonpublic information about the event.

**Subd. 4. Gross misdemeanor.** Establishes gross misdemeanor offenses for actions including accepting a wager from a person under age 18 and either committing a repeat offense or placing an illegal wager of more than \$500 but less than \$1,000.

**Subd. 5. Felony.** Establishes felony offenses based on the violations described in the misdemeanor subdivision when the amounts wagered exceed certain thresholds or involve placing multiple wagers.

**Subd. 6. Aggregation; venue.** Permits aggregating all illegal wagers made in a six-month period and authorizes prosecution for all violations in any county where a violation occurred.

**Subd. 7. Exception; certain private social bets.** Establishes exclusions to certain offenses if the wager was a private social bet.

**Subd. 8. Proof of age; defenses; seizure of false identification.** Establishes documents that may be used to prove an individual’s age, creates an affirmative defense for a person charged with accepting a wager from someone under 18 if the person relied on an authorized form of identification, and permits a mobile sports betting operator or the employee of an operator to seize identification where there are reasonable grounds to believe that the identification is false or otherwise being used to violate any law.

**2 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,

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and for accepting payment or another benefit to intentionally lose or attempt to lose an event.

**3 What are not bets.**

Establishes that a wager on the outcome of an athletic event or esports 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 Sporting event.**

Defines the term “sporting event” for use in the criminal laws that prohibit unauthorized betting. Provides that the term means any professional or amateur event except for an “athletic event” or “esports event” as defined in the new law regulating sports betting and on which wagering is legal under that new law.

**5 Gambling; misdemeanor.**

Establishes an exception stating that the crime does not apply to wagering on an “athletic event” or “esports event” as defined in the new law regulating sports betting and on which wagering is legal under that new law.

**6 Wagering on athletic events and esports events.**

Establishes that section 609.76, which includes the felony offense of bookmaking, does not apply to wagering on an “athletic event” or “esports event” as defined in the new law regulating sports betting and on which wagering is legal under that new law.

**7 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.



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