

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 422 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Dave Jaye
Committee: Gaming and Casino Oversight

Date Completed: 9-14-99

RATIONALE

Under the Michigan Penal Code, it is a misdemeanor, punishable by imprisonment for up to one year or a fine of up to \$500, for a person to register bets, buy or sell pools, or keep or operate any place with apparatus, books, or devices for registering bets or buying or selling pools upon the result of a trial or contest of skill, speed, or endurance or upon the result of a game, competition, political nomination, or election. A person also is prohibited from, and subject to the same penalty for, possessing policy or pool tickets, slips, checks, or memoranda, or other policy or pool books or sheets. ("Policy" refers to a form of gambling in which bets are made on unpredictable numbers; "pool" refers to the total amount staked by all players in certain gambling games.)

These provisions, then, make it illegal to participate in games in which persons pay a small amount of money to purchase a square or squares on a grid, or pay a minimum entry fee for the chance to select the teams that might advance through a bracket by winning a series of contests. Typically, such games are conducted in conjunction with large sporting events, such as the Super Bowl or the NCAA college basketball tournament. In these games, the participants' entry fees or wagers are pooled and, in general, awarded to the person who selected the correct squares or teams, based on the outcome of the relevant contests. Some people believe that since the games usually involve a minimal investment by each individual bettor, and are used for entertainment by great numbers of people, participation should be decriminalized under certain circumstances.

CONTENT

The bill would amend the Michigan Penal Code to specify that the Code's prohibitions against registering bets and buying or selling pools would not apply to a "sports betting game", or to a card, list, or other item related to the conducting of a sports betting game, in which a person 21 years old or over wagered \$10 or less on a specific sporting event. Under the bill, "sports betting game" would mean a game in which the outcome depended upon the

outcome of a seasonal sporting event that included one entire game or series of playoff games completed by a professional or college-sponsored team; in which the total possible payout to one person for one sporting event was \$1,000 or less; that was composed of squares of equal dimensions in which the spaces next to the left column of squares and the top row of squares were at random assigned the digits 0 to 9, or was a game in which a player selected successive winners in a bracketed playoff hierarchy; and in which a person who conducted the game received no compensation from the payout for conducting the game.

The bill would prohibit a person from advertising a sports betting game. A person who violated this provision would be liable to pay a civil fine of at least \$500 but not more than \$1,000. "Advertise" would mean issuing or ordering the printing or distribution of a card, sign, or device; causing, permitting, or allowing a sign or marking on or in a building or structure; or placing material in a newspaper, magazine, or directory or on radio, television, or the Internet.

The bill also would prohibit a person who was a member or employee of a college athletic team from conducting or engaging in a sports betting game that involved the person's team, or another team of the college at which the person was a member or employee of a college athletic team. "Employee" would mean a person who was paid by the college to coach or otherwise assist an athletic team. "Member" would mean a person who was carried on a team roster at any time during the preceding year. "College" would mean a community college or four-year college or university in this State.

MCL 750.304 & 750.306

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Currently, it is a misdemeanor for a person to sign a square on a football betting card, or to participate in predicting the winners of NCAA basketball tournament contests by filling in the tournament brackets, if the participants must pay to enter the games and prizes are awarded to the winners. These games, particularly when they involve major sporting events, are highly popular. In fact, participation is so widespread that many people who join in the games don't even realize that the games are illegal. Typically, the games involve very low wagers and are used by participants as a form of entertainment, rather than an opportunity to gamble. By requiring that the games in question maintain minimal wagers, limiting prize payouts, and prohibiting those who run the games from taking a profit from the wagers, the bill would allow people to participate in a harmless activity without fear of prosecution.

Supporting Argument

Laws that serve to contain uncontrolled gambling must be maintained to protect the public from the influences of organized crime. It is questionable, however, whether it is in the best interests of the State to criminalize a gambling activity that involves little money, provides great fun and entertainment, and has no impact on the outcome of a game or tournament. While the law enforcement community is duty-bound to enforce the laws, it is difficult for the police effectively to contain an activity that is so widespread and, in relation to other criminal activity, of relatively minor importance. Though many people would agree that it is in the best interests of everyone to limit and/or regulate high stakes gambling, many believe that prohibiting participation in minor stakes office pools, for example, is not realistic or necessary. Furthermore, it is contradictory for the State to penalize these small-time games of chance while allowing casinos to operate, and promoting numerous lottery games.

Opposing Argument

Some people have great difficulty resisting the temptation to gamble and become addicted. This can lead to terrible consequences, not only for the gamblers but also for their families, who can be left in poverty trying to pay off gambling debts. Any attempt to make it easier for people to gamble should be opposed, on the ground that it would lead to more gambling.

Response: The bill contains specific limits on participation in sports betting, meaning that while it would allow participation without fear of prosecution under certain circumstances, it also would prevent individuals from using these games in an abusive manner. A person who has a gambling problem need only go to the nearest State lottery outlet or casino, neither of which places restrictions on total wagers. It is highly unlikely that the \$10 maximum wager allowed by the bill would encourage a

gambling addiction.

Legislative Analyst: G. Towne

FISCAL IMPACT

Senate Bill 422 (S-2) would have an indeterminate fiscal impact on local government.

There are no data available on a statewide basis to indicate how many people are currently convicted of this gambling offense, nor are there data available to estimate how many fewer people would be convicted of this crime if "sports betting games" were removed from the scope of the crime. Because this crime is punishable by a maximum term of imprisonment of one year or a fine of \$500, local governments would forego fine revenue or save the cost of incarceration. The cost of incarceration varies from county to county.

Fiscal Analyst: K. Firestone

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.