

CORRECTIONS IMPACT STATEMENT

SESSION: 19RS BILL # HB 175 HCS 1 BR # 78 DOC ID #: HB017530.100 - 78 - 4485

BILL SPONSOR(S): Rep. A. Koenig, A. Gentry, T. Burch, M. Dossett, K. Flood, D. Graham, K. Hinkle, J. Jenkins, M. Koch, D. Lewis, C. Massey, C. McCoy, J. Miller, K. Moser, J. Nemes, S. Santoro, D. Schamore, J. Sims Jr, D. St. Onge, C. Stevenson, B. Wheatley AMENDMENT SPONSOR(S): . .

SUBJECT: AN ACT relating to wagering and making an appropriation therefor.

SUMMARY OF LEGISLATION: Establish KRS Chapter 239 and create new sections to define "adjusted gross revenue," "beginner," "cabinet," "commission," "confidential information," "entry fee," "fantasy contest," "fantasy contest operator, or operator," "fantasy contest participant, or participant," "highly experienced player," "immediate family," "location percentage," "person," "principal stockholder," "registered fantasy contest operator," "script," "secretary," and "wager"; establish requirements for registration as a fantasy contest operator; require the cabinet to promulgate administrative regulations for the operation of fantasy contests; establish the wagering administration fund and direct the uses of that fund; establish the Kentucky problem gamblers assistance account and direct the uses of that fund; require an annual audit of fantasy contest registrants; establish requirements for fantasy contest procedures; amend KRS 230.210 to define sports wagering; create a new section of KRS Chapter 230 to require the racing commission to institute a system of sports wagering at tracks and other specified locations; create a new section of KRS Chapter 230 to limit the types of events upon which wagers may be placed; amend KRS 230.215 to declare the intent to allow citizens to enjoy sports wagering and allow the racing commission to promulgate administrative regulations prescribing conditions under which sports wagering is to be conducted; amend KRS 230.225, KRS 230.240, and KRS 230.260 to include sports wagering; create a new section of KRS Chapter 230 to establish sports wagering licensure requirements; amend KRS 230.320 to conform; amend KRS 230.361 to include sports wagering; amend KRS 230.3615 to conform; create a new section of KRS Chapter 138 to define "adjusted gross income" and impose a tax on sports wagering; amend KRS 230.362, KRS 230.363, KRS 230.364, KRS 230.365, KRS 230.366, KRS 230.369, KRS 230.371, KRS 230.372, KRS 230.373, KRS 230.374; and KRS 230.750 to conform; create a new section of KRS Chapter 230 to prohibit participants from wagering on events in which they participate and to prohibit tampering with the outcome of a sporting event; amend KRS 230.990 to provide penalties for participants who wager on sporting events and tampering with the outcome of a sporting event; amend KRS Chapter 154A.010 to define "net poker revenue," "online poker," and "rake"; amend KRS 154A.050 and KRS 154A.060 to include conducting online poker games; amend KRS 154A.063 to delete restriction on playing cards; amend KRS 154A.070 to include online poker; amend 154A.110 to prohibit anyone under 18 from placing a wager through an online poker game; amend KRS 154A.120 to include online poker; create a new section of KRS Chapter 154A to require licensure for online poker, require the Lottery Corporation to promulgate requirements for providers through administrative regulations, establish licensing fees, and impose a gaming fee on providers; establish a new section of KRS Chapter 154A to establish the Kentucky lottery corporation online poker account and provide for the uses of the funds deposited therein; amend KRS 154A.600 to include online poker; amend KRS 243.500 to exempt sports wagering and online poker; amend KRS 525.090 to exempt sports wagering; amend KRS 528.010 to exempt fantasy sports, sports wagering, and online poker and the devices used in the conduct of those forms of wagering; amend KRS 528.020, KRS 528.070, and KRS 528.080 to exempt fantasy sports, sports wagering, and online poker.

AMENDMENT: Retain original provisions, amend Section 1 to require any fantasy contest to comply with federal law; amend Section 8 to revise the definition of "professional sports venue," and to require sports wagering to be conducted in conformance with federal law; amend Section 10 to clarify that bets can be taken on in-state events, but not on sports events involving a Kentucky college team, allow betting on actions within a sporting event, but not allow betting on random events not integral to the course of play, remove the provision to allow wagers on nonsports events like the Oscars; amend Section 15 to reduce the initial licensing fee for sports wagering to \$500,000; amend Section 19 to clarify the tax on sports wagers made at horse race tracks; amend Section 36 to remove the prohibition on lottery games being played where winners are based on the outcome of a sports event; amend Section 41 to ensure that online poker games are conducted in conformance with federal law, that proposed vendors have not previously violated the Unlawful Internet Gambling Enforcement Act, and that licensure does not absolve a person from liability incurred due to litigation with the Commonwealth over internet poker domain names; add a severability clause.

This bill amendment committee substitute is expected to:

Have the following Corrections impact Have no Corrections impact

- | | |
|---|--|
| <input checked="" type="checkbox"/> Creates new crime(s) | <input type="checkbox"/> Repeals existing crime(s) |
| <input type="checkbox"/> Increases penalty for existing crime(s) | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration | <input type="checkbox"/> Decreases incarceration |
| <input type="checkbox"/> Reduces inmate/offender services | <input type="checkbox"/> Increases inmate/offender services |
| <input type="checkbox"/> Increases staff time or positions | <input type="checkbox"/> Reduces staff time or positions |
| <input checked="" type="checkbox"/> Changes elements of offense for existing crime(s) | |

Otherwise impacts incarceration (Explain) .

STATE IMPACT: Class A, B & C felonies are based on an average daily prison rate of \$71.10. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$32.78 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The proposed legislation creates a new Class C felony offense of tampering with the outcome of a sporting event. Tampering occurs when a person interacts with a player, coach, referee, or other participant with the intent to persuade the participant to act in a way that would alter the outcome of the sporting event, or alter actions within the sporting event upon which people may place a sports wager.

Tampering with the outcome of a sporting event would be a Class C felony under KRS 230.990, subject to possible incarceration in a Kentucky state prison at an average cost of \$71.10 per day.

Additionally, wagering on a sporting event in which he or she is a participant is prohibited and shall be subject to a Class A misdemeanor. A participant is defined as: players; coaches; referees or other officials involved in enforcing the rules of the game; spouses and close family members of players, coaches, referees/officials; owners or shareholders of professional sports teams who might have influence over players and coaches through the ability to hire or fire; and employees of companies supplying technology or services related to sports wagering to a professional sports venue or track.

Under modifications to KRS 528.020 unlawful gambling activity is specified as gambling activity not authorized by Section 1 - 7 of this legislation, KRS Chapter 154A, or KRS Chapter 230. Promoting Gambling 1st Degree is when an individual knowingly profits from unlawful gambling activity by 1) engaging in bookmaking by employing three or more persons in bookmaking activity and receiving more than \$500 in bets in one day, 2) receiving in connection with a lottery or mutuel scheme money or written records (from a person other than a player) whose chances or plays are represented by money or records, or receiving more than \$500 in one day played in the scheme or enterprise, or 3) setting up and operating a gambling device.

Under KRS 528.070 activities not licensed under KRS Chapter 239, KRS 154A, and KRS Chapter 230 are added. Permitting gambling is having possession or control of premises which are known to advance unlicensed gambling activity and failing to halt the gambling activity within a reasonable period of time. Permitting Gambling is a Class B misdemeanor.

Additionally, KRS 528.080 also adds gambling devices not authorized under KRS Chapter 239, KRS 154A, and KRS Chapter 230. Possession of a Gambling Device is when an individual knowingly manufactures, sells, transports, places, or possesses a gambling device or conducts a transaction affecting ownership, custody, or use of a gambling device, believing it to be used in the advancement of unlawful gambling activity. Possession of a Gambling Device is a Class A misdemeanor.

Provisions for severability are included.

AOC records do not reflect any offenders convicted in FY2016-FY2018 under KRS 518.040 Sports Bribery, KRS 518.050 Receiving Sports Bribe, or KRS 518.060 Tampering with or rigging Sports Contest.

The Department does not currently have any offenders in custody for Sports Bribery, Receiving Sports Bribe, or Tampering/Rigging Sports Contest. The Department of Corrections does not currently have any offenders on supervision for Permitted Gambling under KRS 528.070, but does have two (2) offenders on supervision for Possession of a Gambling Device under KRS 528.080, and one (1) offender on supervision for Promoting Gambling 1st Degree.

It is not possible to estimate how many offenses of tampering with the outcome of a sporting event would occur in the Commonwealth. Overall, the impact to the Department of Corrections resulting from this legislation is not expected to be significant due to limited convictions of this specific offense.

A Class C Felony sentence is 5 to 10 years.
1 Class C Felon costs KY \$129,753 to \$259,506

10 Class C Felons cost KY \$1.3M to \$2.6M
100 Class C Felons cost KY \$13M to \$26M

LOCAL IMPACT: Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Projected Impact: NONE MINIMAL to MODERATE (< \$1 million) SIGNIFICANT (> \$1 million)

The legislation establishes a Class C felony. Class C offenders may be eligible to serve their sentences at the county jail if qualifying for community custody, based on length of sentence remaining and custody classification. Jails receive \$31.34 per diem for state offenders serving their sentence in a county jail.

The legislation establishes a Class A misdemeanor for wagering on a sporting event if a participant. Misdemeanors are subject to the jurisdiction and cost of the county.

The modifications for Promoting Gambling, Permitting Gambling, or Possession of a Gambling Device under this legislation are not expected to significantly alter the number of convictions under these offenses.

Overall, it is expected that the number of offenders sentenced to incarceration for this offense is likely to be minimal.

A Class A misdemeanor is 90 days to 1 year in jail.
1 Class A misdemeanor: \$2,821 to \$11,439

10 Class A misdemeanants: \$28,206 to \$114,391
100 Class A misdemeanants: \$282,060 to \$1,143,910

Corrections Impact from Amendments:

There is no additional impact to Corrections stemming from the Committee Substitute.

The following offices contributed to this Corrections Impact Statement:

Dept. of Corrections Dept. of Kentucky State Police Administrative Office of the Courts Parole Board Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.

APPROVED BY:  2/21/2019
Deputy Commissioner, Kentucky Department of Corrections Date