

wishes to offer online poker gaming must obtain a license from the cabinet, with an initial licensing fee of \$250,000 and an annual renewal fee of \$10,000. A gaming fee of 6.75% of net poker revenue would also be imposed on each online poker vendor. The online poker account is established to which licensing and gaming fees would be deposited. Payments received in excess of expenses incurred would be deposited to the wagering administration fund.

Sections 10 through 34 establish a system of sports wagering, under the jurisdiction of the Kentucky Horse Racing Commission, that could only be offered by a licensed track or professional sports venue (indoor arena, outdoor stadium, or race track with seating for at least 50,000) under the Commission's jurisdiction, or by an online application available only to people who have registered at a track or professional sports venue, with certain other restrictions.

The requirement for in-person registration would sunset on January 1, 2022, after which the application could be directly downloaded upon proof that the person is at least age 18. A license to offer sports wagering would be required, with an initial licensing fee of \$500,000 and annual renewal fee of \$50,000, payable to the Commission and deposited to the wagering administration fund.

The tax rate on sports wagers would be either 9.75% or 14.25%, depending on whether placed in person or online, and appropriated to the wagering administration fund. An additional tax of 0.5% would be imposed on the adjusted gross revenue on wagers placed at a track, to be allocated to the Thoroughbred development fund or Standardbred development fund, depending on whether the wager was placed at a Thoroughbred or Standardbred racing track, or split evenly between the two funds if track revenue is from both.

Sections 33-34 prohibit a person from wagering on a game in which the person is a participant. Violation of the prohibition would be a Class A misdemeanor, and tampering with the outcome of a sporting event would be a Class C felony.

Section 36 exempts the crime of loitering from application to persons engaged in licensed sports wagering. Section 37 exempts authorized sports wagering, online poker wagering, and fantasy contest wagering activities from the definition of "gambling" that would otherwise be subject to criminal penalties. Section 38 through 40 exempt the same activities from the provisions relating to promoting gambling in the first degree, a Class D felony; permitting gambling, a Class B misdemeanor; and possession of a gambling device, a Class A misdemeanor.

HB 137 HCS 1 would have an indeterminate to moderate positive fiscal impact in those communities with tracks or professional sports venues having a license to offer sports wagering. If sports wagering results in increased business activity, those local governments authorized to impose a license or occupational tax on businesses within their jurisdiction and that have a track or professional sports venue may see an increase in collections. Cities and counties may impose a license or occupational license fee of 1.25%-

1% (counties) depending on the county population, or up to 1.25% (cities) depending on city classification, on net profits. This would currently affect only a handful of cities and counties. Given that HB 137 HCS 1 sunsets the in-person registration requirement for sports wagering eligibility, more people may be able to download the online application and thus increase overall net profits.

Most cities and counties participate in the County Employees Retirement System (CERS). Distributions to the permanent pension fund established by KRS 42.205 through Section 4 would be used to support unfunded liabilities of the Commonwealth's pension funds, and there is little likelihood that any funds would be distributed to CERS through the Kentucky Employees Retirement Plan. If any distributions were made to KERS and subsequently applied to CERS, there could be a positive fiscal impact on any unfunded actuarial liability.

The bill would have an indeterminate to minimal fiscal impact as a result of the criminal penalties. The bill creates a new Class A misdemeanor and a new Class C felony. A person convicted of a Class A misdemeanor may be incarcerated for up to twelve months. Misdemeanants are housed in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections (DOC) pays jails to house felony offenders. While the majority of misdemeanor defendants are granted bail, those who do not will also cost local jails an average of \$31.34 per day. One additional Class A misdemeanor incarcerated for 1 year would cost a local jail approximately \$11,439.10 (365 days x \$31.34/day). Since the per diem pays for the estimated average cost paid by DOC, the per diem may be less than, equal to, or greater than the actual housing cost.

When a court denies bail to a Class C felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case in one of Kentucky's 77 full service jails or three life safety jails. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the DOC pays jails to house felony offenders. Class C felons are ineligible for placement in local jails until they are classified at the lowest custody level with 24 months or less to their minimum expiration date or parole eligibility date. The Department of Corrections pays local jails \$31.34 per day to house these Class C felons. One additional Class C felon housed in a local jail for 24 months would cost the local jail approximately \$22,878.20 (365 days x 2 x \$31.34/day).

There are indeterminable to minimal costs associated with compulsive or problem gambling that may increase with the availability of sports wagering in the Commonwealth. These costs would affect not only the communities with tracks or professional sports venues having a license to offer sports wagering, but all other communities in the Commonwealth as well due to **online** sports wagering, online poker, and online fantasy sports wagering. Such local costs may involve lost occupational tax revenue due to the gambler's loss of employment, public health treatment, and associated criminal and civil costs. Given that HB 137 HCS 1 sunsets the in-person registration

requirement for sports wagering eligibility, more people may be able to download the online application and thus more people may be wagering.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II refers to HB 137 HCS 1. **The fiscal impact of HB 137 HCS 1 is essentially unchanged from that of HB 137 as introduced.** HB 137 HCS 1 keeps most of the substantive provisions of HB 137 as introduced, and makes the following changes:

- moves the oversight of online poker from the Kentucky Lottery Corporation to the Public Protection Cabinet;
- deletes the prohibition against sports wagering on college teams from Kentucky;
- sunsets the in-person registration requirement for online sports wagering; and
- makes technical changes to ensure that advance deposit wagering and sports wagering streams remain separate.

Data Source(s): LRC Staff; Department of Corrections; Kentucky League of Cities; Josephson, H., Carlbring, P., Forsberg, L., & Rosendahl, I. (2016). People with gambling disorder and risky alcohol habits benefit more from motivational interviewing than from cognitive behavioral group therapy. PeerJ, 4, e1899. doi:10.7717/peerj.1899

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