



SENATE BILL 38: Sports Wagering Amendments.

2021-2022 General Assembly

Committee:	House Judiciary 1. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 20, 2022
Introduced by:	Sens. Perry, Lazzara, Johnson	Prepared by:	Erika Churchill and Nicholas Giddings, Staff Attorneys
Analysis of:	PCS to First Edition S38-CSSTxfr-50		

OVERVIEW: *The proposed committee substitute for Senate Bill 38 would amend Senate Bill 688, 2021 Regular Session, if it becomes law.*

CURRENT LAW: In 1992, Congress passed the Professional and Amateur Sports Protection Act (PASPA), which effectively prohibited sports betting nationwide. However, PASPA grandfathered in states that had legal sports gambling regulations in place at the time of the act took effect¹ and provided states that operated licensed casino games for the previous ten-year period prior to the act taking effect a one-year deadline to pass legislation permitting sports wagering.² In 2014, New Jersey repealed its previous legislation prohibiting certain sports gambling in the state in an effort to challenge PASPA and was sued by the NCAA, among others. The case made it to the United States Supreme Court which struck down PASPA as unconstitutional in 2018.³ Since PASPA was overturned, states have been authorized to legalize and regulate sports betting. Currently, according to the American Gaming Association over 30 states, plus the District of Columbia, authorize sports wagering in some capacity.

Sports wagering is generally not authorized in North Carolina; however, certain approved Indian lands are authorized to conduct sports wagering in the State.⁴

Senate Bill 688, 2021 Regular Session, passed the Senate on August 19, 2021. The bill would:

- Authorize, regulate, and tax sports wagering in North Carolina. The Lottery Commission would be responsible for issuing licenses to involved parties and regulating sports wagering in North Carolina.
- Create and provide funding for the North Carolina Major Events, Games, and Attractions Fund, which would be administered by the Department of Commerce to provide grants for local governments or nonprofit entities working with local governments to attract major entertainment,

¹ Only four states had regulations in place: Delaware, Montana, Nevada, and Oregon. Only Nevada authorized and regulated sports betting of all types, while Delaware, Montana and Oregon authorized and regulated limited forms of sports betting.

² New Jersey had operated licensed casino games for the previous ten-year period, but did not pass legislation to authorize sports wagering within the grace period afforded by Congress.

³ *Murphy v. National Collegiate Athletic Association*, 584 U.S. ____ (2018).

⁴ G.S. 14-292.2 authorizes certain federally recognized Indian tribes with a valid Tribal-State Gaming Compact to accept wagers on the outcome of professional and collegiate sports contests. Currently, only the Eastern Band of Cherokee Indians and the Catawba Indian Nation have valid Tribal-State Gaming Compacts with the State of North Carolina.

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Senate 38 PCS

Page 2

musical, political, sporting, and theatrical events to the State to stimulate economic activity and create jobs.

BILL ANALYSIS: The PCS would amend Senate Bill 688, 2021 Regular Session, as follows:

- Establishes a prospective effective date of January 1, 2023, applicable to the authorization for sports wagering and the establishment of new crimes.
- Changes the proposed 8% tax on adjusted gross revenue to a 14% privilege tax on interactive sports wagering operators to be paid monthly or the operator is subject to revocation of the interactive sports wagering license. Similar to Senate Bill 688, the privilege tax would be calculated against gross wagering revenue minus all of the following:
 - Winnings paid to registered players.
 - Costs paid for any personal property distributed to a registered player as a result of a sports wager.
 - Promotional credits or bonuses given to registered players, at cash value, when returned to the operator in the form of a wager or deposit. This deduction would be phased out over 5 years.
 - Uncollectible receivables from registered players, not to exceed 4% of gross wagering revenue.
 - Federal excise tax payments.

Revenues collected, after costs of the agencies, would remain distributed to problem gambling (\$1 million annually), then 50% to the Major Events, Games and Attraction Fund and 50% to the General Fund.

- Authorizes parimutuel wagering as a form of sports wagering. Parimutuel wagering would be a betting system in which all bets of a particular type are placed together in a pool and the wager is placed against other bettors on the same event of horse racing, dog racing, or other sporting event in which the participants finish in a ranked order.
- Requires all interactive sports wagering operators to geolocate their sports wagerers at the time the sports wager is initiated, to determine that the sports wagerer is in North Carolina and not on tribal lands.
- Raises the licensure fees as follows:
 - Interactive Sports Wagering Operator – \$1 million on application, \$1 million on renewal.
 - Service Provider – \$50,000 on application, \$50,000 on renewal.
 - Supplier – \$30,000 on application, \$30,000 on renewal.
- Clarifies that licenses are not assignable or transferrable unless authorized by the Commission, that licensees are to update changes in key personnel, and that the suppliers are subject to a background check and reciprocity.
- Clarifies that the Commission is responsible for establishing and maintaining the voluntary exclusion program, and that the program participants' identities are not public records.
- Amends the definition of 'sports facility' to be any one of the following:
 - A motorsports facility that hosts a NASCAR national touring race and has a minimum seating capacity of 17,000 people.

Senate 38 PCS

Page 3

- A facility that hosts a professional golf tournament with more than 50,000 live spectators anticipated to attend based on similar prior tournaments.
- A facility that is the home location of a professional sports team that competes in any of the following professional leagues:
 - Major League Baseball.
 - Major League Soccer.
 - National Basketball Association.
 - National Football League.
 - National Hockey League.
 - National Women's Soccer League.

The change to the definition of 'sports facility' would impact places of public accommodation, where a sports wagerer could bring cash to a cashier for adding to an interactive account, and would also impact potential distributions from the Major Events, Games and Attractions Fund in accordance with guidelines set by the Department of Commerce.

- Modify the places of public accommodation language to clarify that permanent places of public accommodation would be as follows:
 - The sports facility.
 - A property, within a ½ mile of a sports facility that is either motorsports or a professional sports team, that is owned or controlled by the owner or operator of the sports facility or an affiliated entity of the owner or operator of the sports facility.
 - A property, within 1 ½ miles of a sports facility that is the location of a professional golf tournament with more than 50,000 live spectators anticipated to attend based on similar prior tournaments, that is owned or controlled by the owner or operator of the sports facility or an affiliated entity of the owner or operator of the sports facility.
- Allows for one temporary place of public accommodation for a professional golf tournament with more than 50,000 live spectators anticipated to attend based on similar prior tournaments. The temporary place of public accommodation would not operate more than 5 days before, or 5 days after, the professional golf tournament.
- Makes conforming changes.

EFFECTIVE DATE: Effective when it becomes law.