



19-0029

November 13, 2019

VIA PERSONAL DELIVERY

Anabel Renteria, Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95 814

RECEIVED

NOV 14 2019

**INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE**

RE: Request for Title and Summary for Proposed Initiative

Dear Ms. Renteria:

Pursuant to Article II, Section 10(d) of the California Constitution, we submit the attached proposed Initiative, entitled "California Sports Wagering Regulation and Unlawful Gambling Enforcement Act," to your office and request that your office prepare a title and summary. Included with this submission is the required proponent certification pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for \$2,000.00.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 400, Sacramento, CA 95814, (916) 442-2952.

Thank you for your assistance.

Very truly yours,

Edwin "Thorpe" Romero

Attachments: Proponent Certifications



AGUA CALIENTE BAND OF CAHUILLA INDIANS
TRIBAL COUNCIL

JEFF L. GRUBBE CHAIRMAN • REID D. MILANOVICH VICE CHAIRMAN
VINCENT GONZALES III SECRETARY/TREASURER • ANTHONY W. PURNEL MEMBER

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Jeff L. Grubbe
Chairman, Tribal Council
AGUA CALIENTE BAND OF
CAHUILLA INDIANS

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November 12, 2019

Tribal Council

Anthony Roberts
Chairman

James Kinter
Secretary

Matthew Lowell, Jr.
Treasurer

Mia Durham
Member

Diamond Lomeli
Member

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A handwritten signature in black ink, appearing to read "Anthony Roberts".

ANTHONY ROBERTS, CHAIRMAN

Attachments: Proponent Certifications

Yocha Dehe Wintun Nation

PO Box 18 Brooks, California 95606 p) 530.796.3400 f) 530.796.2143 www.yochadehe.org



PECHANGA INDIAN RESERVATION
Temecula Band of Luiseño Mission Indians

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Tribal Chairman:
Mark Macarro

Tribal Council:
Raymond J. Basquez Jr.
Catalina R. Chacon
Marc Luker
Robert "R.J." Munoa
Russell "Butch" Murphy
Michael A. Vasquez

Tribal Secretary:
Louise Burke

Tribal Treasurer:
Robyn Delfino

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Mark Macarro
Tribal Chairman

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This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends a section of the California Constitution and adds sections to the Business and Professions Code. Therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

SECTION 1. Title

This measure shall be known as “California Sports Wagering Regulation and Unlawful Gambling Enforcement Act”

SEC. 2 Findings and Declarations

(a) In May 2018, the United States Supreme Court eliminated the federal prohibition on sports wagering. As a result, states now have the freedom to authorize sports wagering within their borders and establish regulations, consumer protections, responsible gambling measures and taxes on sports wagering. Already 19 states have chosen to regulate and tax sports wagering in a manner that provides for consumer protections, responsible gambling, and gives adults the choice to participate in this activity.

(b) Unregulated and untaxed sports wagering is happening throughout California without any consumer or responsible gambling protections. Leading economists and industry experts estimate that during the federal prohibition on sports wagering, a thriving black market flourished with published estimates ranging between \$50 billion and \$380 billion wagered annually across the United States. The illegal sports wagering market in California continues to thrive and will continue to be an attractive option due to its untaxed, unregulated, and unlicensed nature.

(c) Unregulated gambling enterprises are a threat to public safety and public health as they are often conducted by criminal elements. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by federal, state, or local law.

(d) Leading economists and industry experts estimate a legal and regulated sports wagering market in California could generate hundreds of millions of dollars in economic activity in the initial years, which would result in tens of millions of dollars in annual tax revenue for the State of California.

(e) Sports wagering should be regulated and taxed in California to stamp out the black market of illegal gambling operations to allow adults the choice to participate in this activity with strong consumer protections.

(f) Taxing sports wagering would create new revenue to increase funding for programs related to preventing problems associated with problem gambling and mental health, and help finance the state's general fund priorities related to education and public safety.

(g) Californians over 21 years of age should have the choice to participate in legal sports wagering in highly regulated and safe facilities that are experienced in gaming operations and are in good standing with the appropriate federal, state, and local regulatory agencies.

(h) In keeping with our California values of protecting our children and young people, sports wagering must be tightly regulated. It must be limited to only adults over 21 years old. Existing law recognizes that gambling can become addictive and is not an activity to be promoted or legitimized as entertainment for children and families. Accordingly, there shall be no advertising or marketing of sports wagering to children.

(i) In order to protect our students and our colleges and universities, sports wagering on high school sports and on California-based college teams must also be strictly prohibited.

(j) To prevent the exploitation of animals, sports wagering will not be allowed on any currently prohibited form of animal contests, such as greyhound or other dog races.

(k) Public confidence that legal gambling, including sports wagering, will not endanger public health, safety, or welfare requires that comprehensive measures be enacted and enforced to ensure that gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted only at suitable locations. The California gaming industry must be held accountable to ensure they are complying with anti-money laundering laws and other applicable laws and regulations.

(l) Current enforcement of gambling laws are inadequate. California needs more ways to enforce our state's gambling laws to protect children and vulnerable adults from unscrupulous organizations that run illegal gambling operations. Californians should be able to report and enforce violations of California laws against illegal gambling activities.

(m) A well supervised sports wagering system will limit sports wagering to highly regulated and safe facilities that are experienced in gambling operations and with the financial resources to responsibly operate the activity. The best entities to safely operate sports wagering are Indian gaming casinos and Licensed Racing Associations.

(n) Since 2000, California tribal governments have operated Indian gaming casinos on their own tribal lands, generating much-needed resources to help reverse the brutal history endured by California Native Americans. These resources have allowed California tribes to provide services including healthcare, schools, scholarships, cultural resource protection, fire services, law enforcement services, water systems, environmental protection, and more. Importantly, in the last 20 years, California tribes have shared more than \$1 billion in revenues with non-gaming tribes to help strengthen tribal communities.

(o) In 2016, Indian gaming in California directly and indirectly generated the following total economic and fiscal impacts on the California economy: 124,300 jobs; \$20 billion in output; \$9 billion in wages to employees; \$3.4 billion in taxes and revenue sharing payments to federal, state, and local governments including nearly \$1 billion to the State of California and \$378 million to local governments.

(p) Horse racing in California represents the oldest form of sports wagering in California. Over 17,000 licensed jobs are tied to the horse racing industry. According to the California Horse Racing Board, over \$3 billion is wagered each year. This brings in millions of dollars in revenue to the state, to the world's premier equine chemistry laboratory, the Kenneth L. Maddy Equine Analytical Chemistry Laboratory at the University of California, Davis, and to local governments from sales taxes.

(q) The California Sports Wagering Regulation and Unlawful Gambling Enforcement Act ensures that sports wagering is regulated and taxed, so adults who choose to participate in this activity can do so legally, while raising revenue for education, public safety and for mental health, ensuring strong consumer protections especially for children and strengthening enforcement of gambling laws.

SEC. 3. Purposes and Intent

The purpose of the California Sports Wagering Regulation and Unlawful Gambling Enforcement Act is to regulate and tax sports wagering in California and strengthen California's gambling regulations and safeguards, by:

(a) Regulating and taxing sports wagering, to take sports wagering out of the black market and create a regulatory structure that prevents access by minors and protects public safety by allowing sports wagering at highly regulated and safe facilities that are experienced in gaming operations.

(b) Permitting tribal governments to offer sports wagering, roulette, and games played with dice, after negotiations pursuant to state and federal law, as tribal governments have an expertise in gaming operations and possess the financial resources to responsibly operate sports wagering.

(c) Permitting Licensed Racing Associations to offer sports wagering as these associations are also highly regulated and are experienced in gaming operations.

(d) Ensuring that these facilities and operators are in good standing with the appropriate federal, state, and local regulatory agencies.

(e) Creating strict consumer protections to promote responsible sports wagering and protect children and public health, such as:

(1) Requiring adults over 21 to be physically present in a facility to place sports wagers.

- (2) Only permitting sports wagering by those over 21 to safeguard against underage gambling.
- (3) Prohibiting the marketing and advertising of sports wagering to persons younger than 21 years old.
- (4) Permitting sports wagering only on professional, college, or amateur sport or athletic events.
- (5) Prohibiting wagering on any high school sports or athletic events to protect our students.
- (6) Prohibiting wagering on any sports event in which any California college team participates, to protect our students and our colleges and universities.
- (7) Prohibiting wagering on any currently illegal animal races, such as greyhound or other dogs races, to prevent the exploitation of animals.
- (8) Allowing the Legislature to provide for anti-corruption measures to ensure the integrity of sporting events.

(f) Imposing a 10 percent tax on sports wagering activity conducted by Licensed Racing Associations to fund programs related to problem gambling prevention and mental health and the implementation and oversight of sports wagering and other forms of gaming, and help finance the state's general fund priorities related to education and public safety.

(g) Auditing expenditures of sports wagering revenue to ensure this revenue is spent properly and effectively.

(h) Protecting public safety by strengthening the enforcement of California's current gambling laws to allow Californians to hold illegal gambling activities and operations accountable.

(i) Increasing enforcement of existing gambling rules to ensure that all establishments that offer gambling opportunities play by the rules and follow the law. These increased enforcement measures will ensure that all lawful gambling is free from criminal and corruptive elements and that it is conducted honestly and competitively by suitable operators and hold gambling enterprises accountable without burdening local law enforcement.

(j) Ensuring that establishments that offer legal sports wagering play by the rules by making them subject to appropriate audit standards

SEC. 4. Section 19 of Article IV of the California Constitution is amended to read:

SEC. 19. (a) The Legislature has no power to authorize lotteries, and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games, *roulette, games played with dice, and sports wagering* by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, banking and percentage card games, *roulette, games played with dice, and sports wagering* are hereby permitted to be conducted and operated on *Indian tribal* lands subject to those compacts.

(f) (g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

(h) Notwithstanding subdivision (a) and (e), beginning on January 1, 2022, Licensed Racing Associations, as defined by section 19670 of the Business and Professions Code, may offer sports wagering, provided that all wagers authorized to be made pursuant to this subdivision shall be physically placed by patrons, and accepted by the Licensed Racing Association, within the Licensed Racing Association's approved enclosure at the race track at which the Licensed Racing Association hosts live horse race meetings.

(i)(1) For the purposes of subdivisions (f) and (h), "sports wagering" shall mean wagering on the results of any professional, college, or amateur sport or athletic event. But, sports wagering shall not mean wagering on:

(A) Any high school sport or athletic event;

(B) A sport or athletic event in which any California college team participates regardless of where the event takes place, however a sport or athletic event in which any California college team participates shall not include other games of a collegiate sport or athletic tournament in which a California college team participates;

(C) Any sport or athletic event, including horse races, that has already occurred;

(2) The Legislature shall authorize by law, statutes necessary to implement this subdivision, which shall also provide for consumer protections and anti-corruption measures to ensure the integrity of sport or athletic events.

SEC. 5. Sports Wagering Regulation and Unlawful Gambling Enforcement.

SEC. 5.1. Article 12 (commencing with Section 19670) is added to Chapter 4 of Division 8 of the Business and Professions Code, to read:

Article 12. Sports Wagering at Licensed Horse Racing Facilities

19670. Definitions.

For the purposes of this article and Section 19 of Article IV of the California Constitution, "Licensed Racing Associations" shall mean an association licensed by the California Horse Racing Board to conduct live horse race meetings at racing tracks located in the Counties of Alameda, Los Angeles, Orange, or San Diego and operated by a private entity as of January 1, 2020, and shall not include racing tracks of "state designated fairs," as defined by subdivision (a) of section 19418 of the Business and Professions Code as that section read on January 1, 2020.

19671. Sports Wagering Tax.

(a) The daily total of sports wagers with a Licensed Racing Association, less the daily total of winnings by patrons, shall be subject to a 10 percent tax.

(b) The California Department of Tax and Fee Administration shall administer and collect the tax imposed by subdivision (a) and may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this section, including, but not limited to, collections, reporting, refunds, and appeals.

(c) All revenues resulting from the tax pursuant to subdivision (a) shall be deposited into the California Sports Wagering Fund created by section 19672.

19672. California Sports Wagering Fund.

(a) The California Sports Wagering Fund is hereby established in the State Treasury and, notwithstanding Government Code section 13340, is continuously appropriated without regard for fiscal year for carrying out the purposes of this article.

(b) All revenues raised pursuant to the tax imposed by section 19671 shall be deposited into the California Sports Wagering Fund.

(c) Payments made to the state pursuant to tribal-state compacts related to sports wagering may be deposited into the California Sports Wagering Fund.

(d) For purposes of the calculations required by Section 8 of Article XVI of the California Constitution, funds transferred to the California Sports Wagering Fund shall be considered General Fund revenues which may be appropriated pursuant to Article XIII B.

19673. Distribution of Moneys from the California Sports Wagering Fund.

(a) Any actual and reasonable costs incurred by the Controller and the California Department of Tax and Fee Administration in connection with the administration of the California Sports Wagering Fund and the collection of the tax established by section 19671 as determined by the Director of Finance, shall be deducted from the California Sports Wagering Fund before funds are disbursed pursuant to subdivision (b).

(b) Each fiscal year beginning in 2022-23, the Controller shall disburse the money deposited in the California Sports Wagering Fund remaining after disbursement is made pursuant to subdivision (a), as follows:

(1) Fifteen percent to the California Department of Health for research, development, and implementation of programs and grants for problem gambling prevention and mental health, and for grants to counties and cities for local programs to address problem gambling and mental health.

(2) Fifteen percent to the Bureau of Gambling Control within the Department of Justice for the actual and reasonable costs of the enforcement and implementation of sports wagering and other forms of gaming within the State of California. The Bureau of Gambling Control shall not spend more than 5 percent of the total funds it receives from the California Sports Wagering Fund on an annual basis for administrative costs as determined by the Director of Finance.

(3) Seventy percent to the General Fund.

(c) Every two years, the Controller shall conduct an audit of the programs operated by the agencies specified in paragraphs (1) and (2), of subdivisions (b) to ensure the funds are disbursed and expended solely according to this article and shall report their findings to the Legislature and the public.

(d) The funding described in paragraphs (1) and (2) of subdivision (b) shall be used to expand programs for purposes to this Act. These funds shall not be used to supplant existing state or local funds utilized for these purposes.

19674. Age Limit for Sports Wagering

(a) A person under 21 years of age shall not place wagers on, be allowed to place wagers on, or collect winnings from, whether personally or through an agent, any sport event at a Licensed Racing Association racing track.

(b) A person under 21 years of age shall not present or offer to any Licensed Racing Association racing track, or to an agent of a Licensed Racing Association racing track, any written, printed, or photostatic evidence of age and identity that is false, fraudulent, or not actually their own for the purpose of placing a wager on a sports event.

(c) Any person under 21 years of age who violates this section is guilty of a misdemeanor.

SEC. 5.2. Article 18 (commencing with Section 19990) is added to Chapter 5 of Division 8 of the Business and Professions Code, to read:

Article 18. Unlawful Gambling Enforcement.

19990. The Private Attorneys General Act for the Gambling Control Act

(a) In addition to any other penalty provided by law, any person in violation of any conduct made unlawful by Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code shall be liable for a civil penalty of up to \$10,000 per violation in a civil action brought in the name of the people of the State of California by the Attorney General. In addition, the Attorney General is empowered to enforce this section by issuing a closure order of twenty-four (24) hours for the first offense, a closure order of forty-eight hours (48) for the second offense, and a permanent closure order for the third offense.

(b) Any person or entity that becomes aware of any person in violation of any conduct made unlawful by Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code may file a civil action for civil penalties as provided in subdivision (a), if prior to filing such action, the person or entity files with the Attorney General a written request for the Attorney General to commence the action. The request shall include a clear and concise statement of the grounds for believing a cause of action exists.

(1) If the Attorney General files suit within 90 days from receipt of the written request to commence the action, no other action may be brought unless the action brought by the Attorney General is dismissed without prejudice.

(2) If the Attorney General does not file suit within 90 days from receipt of the written request to commence the action, the person or entity requesting the action may proceed to file a civil action.

(3) The time period within which a civil action shall be commenced shall be tolled from the date of receipt by the Attorney General of the written request to either the date that the civil action is dismissed without prejudice, or for 150 days, whichever is later, but only for a civil action brought by the person or entity who requested the Attorney General to commence the action.

(c) If a judgment is entered against the defendant or defendants in an action brought pursuant to this section, or the matter is settled, amounts received as civil penalties or pursuant to a settlement of the action shall be allocated as follows:

(1) If the action was brought by the Attorney General upon a request made by a person or entity, pursuant to subdivision (a), the State shall be entitled to a recovery of all civil penalties, which shall be deposited in the California Sports Wagering Fund created by section 19672.

(2) If the action was brought by the person or entity who made the request pursuant to subdivision (a), all civil penalties shall be deposited in the California Sports Wagering Fund created by section 19672.

19991. Prohibition Of Marketing and Advertising Sports Wagering Directed to Minors.

(a) For purposes of this section:

(1) "Advertise" means the publication or dissemination of an advertisement.

(2) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to promote sports wagering, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media. This term shall not include any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any facility operating sports wagering, and which is not written by or at the direction of the facility operating sports wagering.

(3) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting sports wagering.

(4) "Market" or "Marketing" means any act or process of promoting sports wagering, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

(b) Any advertising or marketing placed in broadcast, cable, radio, print, and digital communications shall only be displayed where the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by a facility operating sports wagering shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older before engaging in that communication or dialogue controlled by the facility operating sports wagering. For purposes of this subdivision, that method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) A facility operating sports wagering shall not:

(1) Advertise or market sports wagering in a manner intended to encourage persons under 21 years of age to participate in sports wagering.

(2) Publish or disseminate advertising or marketing that is attractive to children.

19992. Audit for Sports Wagering Facilities

The Bureau of Gambling Control within the Department of Justice shall perform all investigatory and auditing functions provided in sections 19826 and 19827 over facilities that operate sports wagering, unless otherwise provided in a tribal-state compact.

SEC. 6. Amendments

This Act shall be broadly construed to accomplish its purposes. The provisions of Section 5 may be amended so long as such amendments are consistent with and further the intent of this act by a statute that is passed by a two-thirds vote of the members of each house of the Legislature and signed by the Governor.

SEC. 7. Severability

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.