

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1513-03
Bill No.: SB 431
Subject: Gambling
Type: Original
Date: March 11, 2019

Bill Summary: This proposal modifies provisions relating to illegal gambling.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	(\$796,774)	(\$640,971)	(\$648,134)
Total Estimated Net Effect on General Revenue	(\$796,774)	(\$640,971)	(\$648,134)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Lottery Proceeds Fund (0291)	\$0 to \$768,000	\$0 to \$1,536,000	\$0 to \$1,536,000
Highway (0644)	Unknown	Unknown	Unknown
Total Estimated Net Effect on Other State Funds	Could exceed \$768,000	Could exceed \$1,536,000	Could exceed \$1,536,000

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	4	4	4
Total Estimated Net Effect on FTE	4	4	4

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§311.660, 311.710, 311.720, 313.004, 313.255, 572.010 and 572.100 - Gambling

Officials from the **Lottery Commission (LOT)** estimate illegal gambling machines have resulted in \$3.2 million in lost sales over the last six months. This proposal will reduce or eliminate illegal gambling which will restore lost Lottery sales.

The LOT estimates \$3.2 million in lost sales will be restored in the first year and \$6.4 million in the second and subsequent years. Lottery proceeds to education will increase by \$768,000 in year one and \$1,536,000 in year two and beyond.

Oversight notes representatives from the LOT state there has been a significant dip in sales due to “gray machine market penetration”. These machines are no longer limited to fraternal and private clubs but are now in convenience stores, truck stops, bars, clubs, etc. The LOT stated retailers that do not have “gray machines” have higher lottery sales year over year compared to retailers who do have “gray machines”. The LOT stated Lottery sales along just the I-44 corridor (Rolla, St. James, and Lebanon) are down approximately \$800,000 from August 2018 to January 2019 compared to the same time frame a year ago.

Oversight has requested additional information from the Missouri Lottery Commission regarding additional statistics for “gray machines” and how they determined their estimate loss to sales. Upon the receipt of this information, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note. Therefore, Oversight will reflect a \$0 to \$768,000 for FY20 and \$0 to \$1,536,000 for each FY21 and FY22.

Officials from the **Department of Public Safety - Missouri State Highway Patrol (MHP)** state this bill addresses the ability of three existing state agencies to take enforcement action against any gambling device defined as "any device, machine, paraphernalia or equipment not approved by the Missouri gaming commission or state lottery commission under the provisions of chapter 313...". The three existing state agencies are Alcohol and Tobacco Control, Missouri Gaming Commission (Patrol by virtue of the a Memorandum of Understanding (MOU) with the Gaming Commission), and Missouri Lottery Commission.

The Patrol assumes it will need four new sergeants to perform the primary function of fulfilling 313.004.13(1), RSMo, which states, "The commission shall establish a telephone contact number, which shall be prominently displayed on the commission's website, to receive reports of suspected illegal gambling activities. Upon the receipt of such report, the commission shall

ASSUMPTION (continued)

initiate an investigation of such suspected illegal activity....". This language requires an investigation on every complaint received on the statutorily mandated telephone contact number. The four sergeants would be assigned throughout the state: 1 in St. Louis, 1 in Kansas City, 1 in the northern half of the state, and 1 in the southern half of the state.

In addition to the General Revenue expense indicated for the four Sergeants that will be transferring from the Highway fund, it is assumed there will be some savings to the Highway fund as those four formerly Highway-funded Sergeants are ultimately replaced by four Highway-funded Probationary Troopers. While the exact dollar amount of that savings cannot be determined, due to the cost of promotions that will occur during the backfilling process, etc., there will likely be some amount of savings to the Highway fund.

Oversight does not have any information contrary to that provided by MHP. Therefore, Oversight will reflect MHP's impact for fiscal note purposes.

Officials from the **Department of Public Safety-Gaming Commission (MGC)** state section 313.004.9 allows the MGC to enter into an agreement with certain agencies to carry out the duties of the commission which will include investigating and enforcing of provisions of Chapter 572 related to illegal gambling. MGC currently has an agreement with the MHP and would revise the agreement to include this responsibility.

Additionally, section 313.004.13 requires the MGC to establish a telephone contact number and have it displayed on the Commission's website in order to receive reports of suspected illegal gambling activity. Through the agreement with the MHP, the Patrol will investigate the suspected illegal gambling activity and MGC will notify the subject of such investigation within thirty days. If the subject of the investigation is a person or establishment licensed under Chapter 311, MGC will notify ATC which will temporarily suspend the liquor license pending the completion of the investigation.

If there is sufficient evidence, the MHP will refer the case to the prosecuting attorney. If the prosecuting attorney determines not to file the case, MGC may forward the case to the Attorney General's Office (AGO) for review and possible prosecution. The cost for the telephone contact number and publishing the number of the MGC website is estimated to be under \$1,000 annually. The tracking of complaints and notifying of any investigation of suspected illegal gambling activity to the person, ATC, prosecuting attorney, or AGO will be minimal.

Oversight does not have any information contrary to that provided by MGC. Therefore, Oversight will reflect MDC's no impact for fiscal note purposes.

ASSUMPTION (continued)

Oversight notes the provisions of §313.004 do not provide a funding source for conducting investigations. Therefore, it would be unlikely that any law enforcement agency would be willing to enter a contract to conduct these investigations without funding.

Oversight notes that the **Attorney General’s Office, Department of Public Safety - Alcohol and Tobacco Control, Office of State Courts Administrator, State Public Defender’s Office, Joplin Police Department and Springfield Police Department** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriffs’ departments were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
GENERAL REVENUE FUND			
<u>Costs - MHP (§313.004)</u>			
Personal services	(\$257,520)	(\$312,114)	(\$315,235)
Fringe benefits	(\$229,837)	(\$278,562)	(\$281,347)
Vehicle and equipment	(\$250,628)	\$0	\$0
Weapons and personal equipment	(\$17,900)	\$0	\$0
Expenses - gas, cell phone, uniform allowance, vehicle maintenance	<u>(\$40,889)</u>	<u>(\$50,295)</u>	<u>(\$51,552)</u>
<u>Total Costs - MHP</u>	<u>(\$796,774)</u>	<u>(\$640,971)</u>	<u>(\$648,134)</u>
FTE Change - MHP	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$796,774)</u>	<u>(\$640,971)</u>	<u>(\$648,134)</u>
Estimated Net FTE Change for the General Revenue Fund	4 FTE	4 FTE	4 FTE

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOTTERY PROCEEDS FUND (0291)			
<u>Income - LOT (§313.255)</u>			
Increased sales and profits from elimination of illegal machines	<u>\$0 to \$768,000</u>	<u>\$0 to \$1,536,000</u>	<u>\$0 to \$1,536,000</u>
ESTIMATED NET EFFECT ON THE LOTTERY PROCEEDS FUND	<u>\$0 to \$768,000</u>	<u>\$0 to \$1,536,000</u>	<u>\$0 to \$1,536,000</u>
 HIGHWAY FUNDS (0644)			
<u>Savings - MHP (§313.255)</u>			
Replacing existing Sergeants with probationary troopers (less expensive)	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO HIGHWAY FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
Estimated Net FTE Change for the Highway Fund	0 FTE	0 FTE	0 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2020 (10 Mo.)	 FY 2021	 FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses convicted of, or who have pleaded guilty to, having illegal gambling devices shall have their Lottery retailer license and liquor license permanently revoked and may possibly face prosecution.

FISCAL DESCRIPTION

Current law allows the Missouri Gaming Commission to enter into agreements with various federal, state, and local agencies to carry out the duties of the Commission. This act also allows the Commission to enter into agreements with such agencies for investigations relating to and the enforcement of criminal provisions relating to illegal gambling.

This act requires the Gaming Commission to establish a telephone contact number, which shall be prominently displayed on the Commission's website, to receive reports of suspected illegal gambling activity. The Commission shall initiate an investigation upon receiving such report. If the subject of an investigation is licensed under the Liquor Control Law or under provisions of law relating to gaming, such license shall be suspended pending the outcome of the investigation. If the Commission finds sufficient evidence of illegal gambling, it shall refer such violation to the violation, the Commission may forward the case to the Attorney General's office for review. If the Attorney General determines there is probable cause of a violation of state law, the Attorney General may prosecute such case.

Any person or establishment licensed under current law relating to gaming that is convicted of or pleads guilty to illegal gambling, and any affiliated company of such person or establishment, shall be permanently prohibited from being licensed to participate in any way in a program implementing video lottery gaming terminals should such a program be implemented in this state. (Section 313.004)

This act also allows the supervisor of liquor control to refer to the Commission any suspected illegal gambling activity being conducted on the premises of a location licensed under the Liquor Control Law. (Section 311.660)

Current law allows a sheriff, peace officer, or eight or more citizens of a county or city to bring an action in circuit court to initiate proceedings to suspend or revoke a license issued under the Liquor Control Law as a result of certain offenses committed by a licensee. This act adds permitting illegal gambling on the licensed premises of a licensee to such list of offenses. (Section 311.710)

This act provides that any conviction in this state for illegal gambling shall result in the automatic and permanent revocation of a license issued under the Liquor Control Law, as well as any lottery game retailer license. (Sections 311.720 and 313.255)

This act modifies the definition of "gambling device" for the purposes of provisions of law relating to the prosecution of illegal gambling by including any device, machine, paraphernalia, or equipment not approved by the Missouri Gaming Commission or State Lottery Commission. (Section 572.010)

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Public Safety -
 Alcohol and Tobacco Control
 Missouri Gaming Commission
 Missouri State Highway Patrol
Lottery Commission
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
Joplin Police Department
Springfield Police Department



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