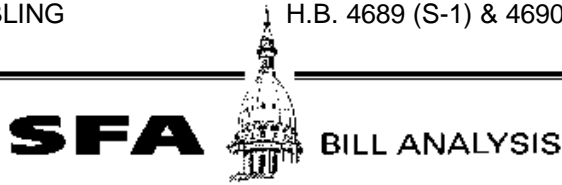


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House Bill 4689 (Substitute S-1)  
House Bill 4690 (as passed by the House)  
Sponsor: Representative James Koetje  
House Committee: Gaming and Casino Oversight (House Bill 4689)  
Criminal Law and Corrections (House Bill 4690)  
Senate Committee: Gaming and Casino Oversight (House Bill 4689)  
Judiciary (House Bill 4690)

Date Completed: 3-7-00

## **CONTENT**

**House Bills 4689 (S-1) and 4690 would amend the Michigan Penal Code and the Code of Criminal Procedure, respectively, to prohibit certain activities related gambling using the Internet, and include Internet gambling violations in the sentencing guidelines.** House Bill 4690 is tie-barred to House Bill 4689.

### **House Bill 4689 (S-1)**

#### **Definitions**

"Bet" or "wager" would mean to take, receive, or accept money or any valuable thing, directly or indirectly, with the understanding or agreement that the money or valuable thing would be paid or delivered to a person if the payment or delivery were contingent upon the result of a race, contest, or game or upon the happening of an event not known to be certain. Bet or wager would not include the purchase, sale, or trade of securities or commodities under State or Federal law.

"Gambling business" would mean a business that was conducted at a gambling establishment or involved the placing, receiving, or making of bets or wagers or that offered to engage in the placing, receiving, or making of bets or wagers. "Person" would mean an individual, association, partnership, joint venture, corporation, or financial institution or a director, executive, or officer of one of those entities; a political subdivision of the State; or a department, agency, or instrumentality of the State.

"Internet" would mean the international computer network of both Federal and nonfederal interoperable packet switched data networks. "Interactive computer service" would mean a service, system, or network or access software provider that used public communication infrastructure or operated to provide or enable computer access by multiple users to a computer server including a service or system that provided access to the Internet.

#### **Prohibited Activities & Penalties**

Except as otherwise provided, the bill would prohibit a person from doing the following:

- Using the Internet or an interactive computer service, if the person were engaged in a gambling business, to bet or wager or to offer to bet or wager.
- Establishing a location or site in Michigan from which to conduct a gambling business on or over the Internet or an interactive computer service.

A violation would be a felony. A first offense would be punishable by up to two years' imprisonment, a maximum fine of \$5,000, or both. A second offense would be punishable by up to five years' imprisonment,

a maximum fine of \$25,000, or both. Each individual bet or wager made or offered would be a separate violation. The Attorney General or the prosecuting attorney for the county in which a violation occurred to prosecute the offense.

The bill also would prohibit a person from doing the following:

- Bringing a cause of action for the collection of any bet or wager.
- Requesting or accepting the name, credit card account number, or checking, draft, or demand account number of a Michigan resident using the Internet or an interactive computer service, if the person were engaged in a gambling business using the Internet or an interactive computer service.

#### Other Sanctions

The Attorney General could notify a gambling business that its web site was illegal in Michigan and list the penalties for violating the bill. The Attorney General or prosecuting attorney could seek, and the court could enter, a preliminary restraining order enjoining a person from transmitting bets or wagers or information to assist in betting or wagering, as a condition of bond pending trial or other disposition of a case.

If a person were found guilty or pleaded guilty to a charge under the bill, the Attorney General or prosecuting attorney could seek, and the court could enter, a permanent injunction against the person or gambling business enjoining the person or business from transmitting bets or wagers or information to assist in betting or wagering.

#### State Police List/Financial Institution Responsibility

The bill would prohibit a person from presenting for payment a wager or loss made in violation of the bill that was paid or was attempted to be paid. To further this objective, the bill would require that the Department of State Police maintain a list of persons known to engage or to offer to engage in conduct that violated the bill. The Department would have to distribute the list to financial institutions.

At least 30 days after a financial institution declined to honor the payment of a wager or loss, the financial institution would have to report all of the following to the Attorney General:

- The date of any attempted payment.
- The amount of any attempted payment.
- The name and address of the gambling business to which a payment was attempted to be made.

A financial institution that dishonored or otherwise refused to pay a wager or loss would not be liable to any party to the transaction for dishonoring or refusing to pay that wager or loss.

#### Exemptions

The bill would not apply to any of the following:

- The Bureau of State Lottery and its agents and licensees, who were engaged in conduct in furtherance of activity that was expressly authorized, licensed, and regulated under the Lottery Act. This would include, but would not be limited to, the lawful sale of interstate lottery tickets for a multistate lottery operated jointly between two or more states that was expressly authorized, licensed, and regulated under State law.
- A licensee under the Horse Racing Law who was engaged in conduct in furtherance of activity that was expressly authorized, licensed, and regulated under that Law.
- A licensee under the Michigan Gaming Control and Revenue Act (the initiated law of 1996) who was engaged in conduct in furtherance of activity expressly authorized, licensed, and regulated under that Act.
- A licensee under the Bingo Act who was engaged in conduct in furtherance of activity expressly authorized, licensed, and regulated under that Act.

### **House Bill 4690**

The bill would include Internet gambling offenses in the sentencing guidelines.

Under House Bill 4690, a first offense of Internet gambling would be listed in the sentencing guidelines as a Class H felony against the public order, with a statutory maximum sentence of two years' imprisonment. A second or subsequent offense would be a Class G felony against the public order, with a statutory maximum sentence of five years' imprisonment.

Proposed MCL 750.315b (H.B. 4689)  
MCL 777.16o (H.B. 4690)

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government.

There are no data available to indicate how many offenders could be convicted of these crimes. Offenders could be sentenced to State prison or community sanctions based on the minimum sentencing grids.

In addition, House Bill 4689 (S-1) would have a minimal fiscal impact on State government. The Department of State Police would incur computer programming costs in order to maintain a list of persons known to engage or to offer to engage in conduct that was in violation of the bill. The Department also would incur clerical costs in distributing this list to financial institutions, as required under the bill.

Fiscal Analyst: K. Firestone  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.