

21-0009

Amdt. # 1

September 14, 2021

VIA HAND DELIVERY

Ms. Anabel Rentoria, Initiative Coordinator
Office of the Attorney General
Honorable Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814

RECEIVED

SEP 15 2021

**INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE**

RE: Initiative 21-0009 – First Amendment

Dear Ms. Rentoria,

Pursuant to Elections Code Section 9002 subdivision (b), enclosed please find an amendment to Initiative Number 21-0009. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

I am a proponent of the measure and request the Attorney General prepare a circulating title and summary of the measure as provided by law.

Should you have any questions or require additional information, please direct and inquiries or correspondence to:

Rebecca J. Olson
Miller & Olson LLP
400 Capitol Mall Suite 1545
Sacramento CA 95814
(916) 254-5180

Thank you in advance for your attention in this matter.

Sincerely,



Latasha Cerda

September 14, 2021

VIA HAND DELIVERY

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Sincerely,

A handwritten signature in black ink, appearing to read 'Raul Peralez', with a long horizontal flourish extending to the right.

Raul Peralez

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. Therefore, existing provisions proposed to be added are printed in italic type to indicate that they are new, provisions proposed to be deleted are printed in ~~strike-out~~ type.

SECTION 1. TITLE

This measure shall be known as the California Solutions to Homelessness, Public Education Funding, Affordable Housing and Reduction of Problem Gambling Act.

SECTION 2. FINDINGS AND DECLARATIONS.

- (a) California's homelessness and mental health crises demand effective action. And taxpayers deserve strict, clearly defined accountability for taxpayer dollars spent on solutions to these crises.*
- (b) The State of California has allocated over \$10 billion on homelessness programs in recent years, but the problem continues to worsen. Weak oversight and a lack of transparency has resulted in billions of dollars being wasted.*
- (c) Mental health disorders are a serious, all-too-common health condition lacking a permanent funding stream. Every level of government has disinvested in mental health services –leaving those in most dire need of support without help.*
- (d) Politics and lack of adequate dedicated funding have caused California schools to be chronically underfunded, leaving California lagging near the bottom in per pupil spending.*
- (e) Programs to help people addicted to gambling are woefully inadequate for those currently in need, and even more unfit if gaming was to expand.*
- (f) The People of California would greatly benefit from finding a new revenue stream to fund effective homeless, mental health, public education, affordable housing, and gambling addiction programs. Such a new revenue stream must be subject to strict public accountability measures that ensure their wise and effective use.*
- (g) In May 2018, the Supreme Court of the United States held the federal prohibition on sports wagering to be unconstitutional. As a result, states now have the freedom to authorize sports wagering within their borders and to establish regulations, consumer protections, responsible gambling measures, and taxes on sports wagering. Already, 25*

states have chosen to regulate and tax sports wagering in a manner that provides for consumer protections and responsible gambling, and gives adults the choice to participate in this activity.

- (h) 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 billions of dollars wagered annually across the United States. These illegal sports wagering operators are unlicensed and unregulated, and jeopardize the health, safety, and welfare of millions of Californians. Illegal operators pay no taxes, are unaccountable to California consumers, and put the integrity of athletic contests at risk.*
- (i) At a time when the people of California are suffering the catastrophic public health and economic consequences of a global pandemic created by COVID-19, it is unconscionable that illegal operators are reaping hundreds of millions of dollars in profits from California consumers without providing any tax revenue to support the needs of our state residents for public services and improving our economy.*
- (j) Leading economists and industry experts estimate a legal and regulated sports wagering market in California could generate billions of dollars in economic activity in the initial years, which would result in hundreds of millions of dollars in new annual tax revenue for the State of California. This revenue is currently lost to illegal betting promoters and could instead be paid by regulated sports wagering entities and used to fund vital public services, including health care and first responders.*
- (k) This act amends the State Constitution to allow the replacement of unregulated, and untaxed operators with a safe, legal online and mobile sports wagering market that is honest, regulated, and taxed. These amendments are necessary to reinvigorate California's economy as well as to protect Californians and athletic contests from the risks of cheating and criminal influence inherent in today's illegal sports wagering market.*
- (l) This act would enable the State of California to capture hundreds of millions of dollars in revenue for the benefit of Californians as we seek to recover from the health and economic damage caused by COVID-19, dollars that are currently bolstering the profits of illegal, out-of-state sports wagering operators. Experts estimate that legalizing sports wagering will generate billions of dollars in new revenue in the coming years that we can use to combat the damage caused to our state by COVID-19.*
- (m) Californians 21 years of age or older should have the choice to participate in legal sports wagering offered by highly regulated and safe entities that are experienced in gaming operations and are in good standing with the appropriate federal, state, and local regulatory agencies including Indian casinos, race tracks, and gambling establishment operators. To ensure that the intent and purposes of the act are fulfilled, the California*

State Auditor will perform annual audits of each licensed sports wagering operator and publicly report their findings to the California Department of Consumer Affairs.

- (n) To ensure transparency, an annual audit will be performed by the California State Auditor and will be made available to the public under the California Public Records Act.*
- (o) 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 21 years of age or older. Accordingly, there shall be no advertising or marketing of sports wagering directed to children.*
- (p) Safe, legal online sports wagering that allows people who are 21 years or older to enjoy sports betting over the Internet and on mobile devices should require online sports betting operators to put in place age verification technology that has been proven effective in other states in preventing minors from participating and impose penalties and fines for violations.*
- (q) 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.*
- (r) 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 casinos, race tracks, and gambling establishment operators. In order to ensure that the intent and purposes of the act are fulfilled, sports wagering operators must be required to perform annual audits and publicly report their findings to state regulators.*
- (s) This act will ensure 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 mental health, ensuring strong consumer protections especially for children, and strengthening enforcement of gambling laws. The purpose of this act is to regulate and tax sports wagering in California, including sports wagering offered over the internet, and to strengthen California's gambling regulations and safeguards as follows:*
 - (a) By regulating and taxing sports wagering, including sports wagering offered over the internet, to take sports wagering out of the black market, and to 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) By ensuring that these facilities and operators are in good standing with the appropriate federal, state, and local regulatory agencies.*

(c) By creating strict consumer protections to promote responsible sports wagering and protect children and public health, including, without limitation, all of the following:

(1) Requiring adults 21 years of age or older to be physically present in a facility to place sports wagers or to be age verified if placing a wager over the internet.

(2) Only permitting sports wagering by those 21 years of age or older to safeguard against underage gambling.

(3) Prohibiting the marketing and advertising of sports wagering intended to appeal to persons younger than 21 years of age.

(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 currently illegal sporting event or contest, including, but not limited to, animal races, such as greyhound or other dog races, to prevent the exploitation of animals.

(d) By imposing a 15 percent tax on sports wagering activity conducted by operators to assist the state in recovering from the health and economic damage caused by COVID-19, to fund programs related to problem gambling prevention, implement oversight of sports wagering, and consistent with the California Constitution and Proposition 98, to fund local governments to assist the state in dealing with issues, of public education, homelessness, affordable housing, and mental health.

(e) By requiring an audit of sports wagering revenue to ensure this revenue is spent properly and effectively.

(f) By clarifying existing state gambling policies, statutes, and rules applicable to California's licensed and regulated cardrooms to ensure that all establishments that offer gambling opportunities play by the rules and follow the law. These clarifications will help to ensure that all lawful gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively by suitable operators, and that all gambling enterprises are held accountable for compliance.

(g) By ensuring that establishments that offer legal sports wagering play by the rules, by making them subject to appropriate audit standards.

**That Section 19 of Article IV thereof 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, craps and 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, ~~and~~ banking and percentage card games, *and sports wagering* are hereby permitted to be conducted and operated on ~~tribal~~ *Indian* lands subject to those compacts.

(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 (e) or any other provision of state law, licensed gambling establishments are authorized to offer games played with cards or tiles, including "Blackjack", "21", and "Baccarat", and except those games played as banking games. A banking game means any game in which participants compete against the licensed gambling establishment rather than against one another. A banking game does not include poker games where participants wager into a common pot awarded to the winner or winners, or player-dealer games. "Player-dealer games" are games played in a licensed gambling establishment in which a participants wager against the player-dealer, the opportunity to take the player-dealer position is offered after at least every two hands of play to each of the participants, the player-dealer is*

able to win or lose only a fixed and limited wager during the play of the game, and each participant has the choice to accept or reject the player-dealer position. No participant is required to accept the offer of the player-dealer position. The licensed gaming establishment shall not occupy the player-dealer position. "Player-dealer" means the player in a game who takes on all comers, pays all winners and collects from all losers. A licensed gaming establishment may contract with a licensed third party to be a participant in the game and consistently take the player-dealer position, when available, at its gaming establishment. Pursuant to this section, licensed gambling establishments shall continue to pay fees on any revenues generated from new games as each paid on January 1, 2021 pursuant to the local ordinance by which each establishment is authorized to operate. Enforcement of this section shall be left to the Department of Justice. No violation of this section can serve as the basis of any civil claim or cause of action or for conduct made unlawful by Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the Penal Code.

(i) (1) Notwithstanding subdivisions (a) and (e), commencing on January 1, 2023, The Department of Consumer Affairs) is authorized to license operators to offer sports wagering on both professional and collegiate events.

(2) Eligible operators shall include but are not limited to State licensed racing associations, compacted federally recognized Indian tribes to the extent permitted by Federal Law and State compacts, State licensed gambling establishments, professional sports teams from Major-League Baseball, National Hockey League, National Basketball Association, National Football League, Women's National Basketball Association, and Major League Soccer. Each operator authorized to offer sports wagering may also offer online or mobile sports wagering.

(j) sports wagering offered by an approved operator pursuant to subdivision (i) or a federally recognized Indian tribe pursuant to subdivision (f), including sports wagering offered by an independent online sports wagering platform on behalf of those entities, shall be subject to the provisions of this subdivision.

(2) Any person placing a sports wager or collecting a win from a sports wager shall be 21 years of age or older.

(3) Sports wagering shall not be displayed or represented in a manner that mimics a slot machine or any other casino-style game, including, but not limited to, blackjack, roulette, or craps.

(4) No wagering on the officiating of any sport event or whether injuries may or may not occur during any sporting event shall be permitted.

(5) Marketing or advertising of sports wagering that is attractive to children or is intended to encourage persons under 21 years of age to engage in sports wagering shall be prohibited.

(6) Official league or association data shall be used for the purposes of live betting, unless such data cannot be provided in a reasonably timely manner and in accordance with commercially reasonable terms.

(7) Providers shall cooperate with leagues and associations in barring any individual from participating in sports wagering whose participation the league or association believes may harm the integrity of the sport or be unfair to consumers.

(8) The California Department of Consumer Affairs shall perform all licensing, investigatory and auditing functions over facilities that operate sports wagering, unless otherwise provided in a tribal-state compact.

(9) The California State Auditor will perform an audit of each licensee's gross revenue each year, and the results of these audits will be made available to the public under the California Public Records Act.

(10) (A) sports wagering conducted pursuant to this section shall be taxed at a rate of 15 percent of gross gaming revenue.

(B) In addition to the taxes prescribed by this paragraph, each approved operator shall remit 1 percent of their gross gaming revenue from all sports wagering, and each federally recognized Indian tribe shall remit 1 percent of their gross gaming revenue from online sports wagering, to fund problem gambling programs. The total amount collected from all operators pursuant to this subparagraph shall not exceed 10 million dollars (\$10,000,000).

(C) Each sports wagering platform shall pay a license renewal fee of one million dollars (\$1,000,000) every four years, as well as a one-time initial licensing fee of five million dollars (\$5,000,000).

(D) All funds collected pursuant to this paragraph shall be deposited in the California Sports Wagering Fund, which is hereby created in the State Treasury.

(E) Moneys in the California Sports Wagering Fund, less those remitted pursuant to subparagraph (C) for problem gambling programs, and less the regulatory costs associated with sports wagering, shall be appropriated by the Legislature consistent with the California Constitution and Proposition 98, with the remaining funds directed to local governments to assist the state in dealing with issues, of homelessness, affordable housing, public education, and mental health.

(11) The California Department of Consumer Affairs shall enact necessary regulations to implement sports wagering pursuant to this section, including consumer protection and anticorruption measures.

(12) As used in this subdivision and subdivisions (f) and (i), the following terms have the following meanings:

(A) "Gross gaming revenue" means an amount equal to the total of all wagers placed with a sports wagering operator less the total of all moneys paid as winnings to persons who placed wagers with a sports wagering operator.

(B) "Online sports wagering" means sports wagering in which a person places a wager remotely through the use of an internet website, mobile device application, or remote terminal.

(C) "Sporting event" means any professional, college, or amateur sport or athletic event, but shall not include any high school sport or athletic event, any sport or athletic event that has already been completed, or any horse race or horse race meeting.

(D) "Sports wagering" means wagering on the results of any sporting event.

(13). *Severability.*

If any provision of this Act, or part of this Act, or the application of any provision or part to any person or circumstances, is for any reason held to be invalid, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable. It is the intent of the voters that this Act would have been enacted regardless of whether any invalid provision had been included or any invalid application had been made.

(14). *Conflicting Initiatives.*

(a) In the event that this measure and another measure addressing the rights of individuals to gamble in the State of California shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by the voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

(15) *Legal Defense*

The purpose of this section is to ensure that the people's precious right of initiative cannot be improperly annulled by state politicians who refuse to defend the will of the voters. Therefore, if this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge which attempts to limit the scope or application of this Act in any way, or alleges this Act violates any state or federal law in whole or in part, and both the Governor and Attorney General refuse to defend this Act on behalf of the State of California, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division

3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) In order to support the defense of this Act in instances where the Governor and Attorney General fail to do so despite the will of the voters, a continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.