



Legislative Council Staff

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Final Fiscal Note

Drafting Number: LLS 22-0314 **Date:** August 10, 2022
Prime Sponsors: Rep. Garnett; Van Winkle **Bill Status:** Signed into Law
 Sen. Cooke **Fiscal Analyst:** Anna Gerstle | 303-866-4375
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Bill Topic: SUNSET DIVISION OF GAMING

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Sunset Bill. This bill continues the Division of Gaming in the Department of Revenue, which is scheduled to repeal on September 1, 2022. State fiscal impacts include a minimal revenue and workload impact from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The Division of Gaming is continued through 2033.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 22-1412¹

		Budget Year FY 2022-23	Out Year FY 2023-24
New Impacts			
Revenue		-	-
Expenditures		-	-
Other Budget Impacts		-	-
Continuing Impacts			
Revenue	Cash Funds ²	-	\$183,507,515
Expenditures	Cash Funds	-	\$20,632,177
	Continuing FTE	-	120.5 FTE
Other Budget Impacts	TABOR Refund	-	-

¹ Table 1 shows the new impacts from changes under the bill and the continuing impacts from extending the program beyond its current repeal date. Because the bill continues a program with minor changes, there are no new impacts. The continuing program impacts may end if the bill is not passed and the program is allowed to repeal.

² This amount includes gaming and sports betting tax revenue, as well as administrative fees and fines.

Summary of Legislation

Under current law, the Division of Gaming (division) in the Department of Revenue (DOR) repeals September 1, 2022. This bill includes the recommendations of the sunset review completed by the Department of Regulatory Agencies, which include the following:

- continuing the division until September 1, 2033;
- allowing the Limited Gaming Control Commission, at its discretion, to delegate licensing duties to the division;
- lowering the age requirement to work in a casino from 21 years old to 18 years old;
- clarifying that the Fantasy Contests Act uses the DOR's Hearings Division to conduct hearings for violations;
- repealing the requirement that applicants for sports betting licenses whose primary residences are located outside of the United States submit to a fingerprint-based criminal history record check, unless required to do so by the commission;
- requiring that sports betting winnings be subject to the Gambling Payment Intercept Act; and
- allowing the commission to determine whether unlicensed sports betting or limiting gaming is occurring in any city or county in the state, and prohibiting sports betting or games authorized as limiting gaming to the public without a license.

The bill also repeals the prohibition on people under the age of 21 lingering or sitting in the gaming area of a casino, and modifies the penalties for violating underage prohibitions. Currently, the penalty is a class 2 misdemeanor; under the bill, there is a civil penalty of \$500 or \$1,000 for a first or second offense, respectively, and a class 2 misdemeanor for a third or subsequent offense.

Background

Division of Gaming. The Limited Gaming Control Commission and the Division of Gaming regulate casino gambling in Central City, Black Hawk, and Cripple Creek, and sports betting that occurs in licensed casinos and on internet platforms that contract with a licensed casino. The division also regulates fantasy sports contents. The sunset report completed by the Department of Regulatory Agencies can be found here:

https://drive.google.com/file/d/1CtzowSNOrYiR6mHPVI7Vy7HMCH_G4_wA/view

Gambling Payment Intercept Act. The Gambling Payment Intercept Act requires the DOR to maintain, or contract with a vendor to maintain, a registry of individuals who owe unpaid child support, criminal restitution, and/or unpaid debt to the state. Prior to paying a winner, a licensee must check whether the winner is on the registry and if, listed, withhold the amount owed and send it to the DOR or the vendor, to be distributed to the applicable state agency.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. The bill changes the class 2 misdemeanor for underage gaming or permitting underage gaming so that it is applied to the third or subsequent violation only. From FY 2018-19 to FY 2020-21, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Continuing Program Impacts

Revenue. Based on the department's projections for FY 2022-23, the division is expected to collect \$183.5 million in revenue, which includes gaming and sports betting tax revenue, fines, and licensing and operation fees. If this bill is enacted, this revenue will continue starting in FY 2023-24. If the bill is not enacted, some portion of the amount in Table 1 would no longer be collected. Because the Colorado Constitution gives authority to the Limited Gaming Control Commission to regulate limited gaming, and portions of state law concerning some aspects of gaming are located in other sections of statute, this amount cannot be estimated. This fiscal note will be updated if more information becomes available. Licensing fees and other service revenue is subject to TABOR, while certain tax revenue is exempt from TABOR.

Expenditures. Based on the department's projections for FY 2022-23, the DOR is expected to have expenditures of \$20.6 million for the Division of Gaming. If this bill is enacted, current expenditures will continue for the program starting in FY 2023-24. If this bill is not enacted, the program will end on September 1, 2023, following a wind-down period, and state expenditures will decrease starting in FY 2023 24 by the amounts shown in Table 1.

The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditures sections below.

State Revenue

The bill may increase revenue from civil penalties and background check fees, as discussed below.

Civil penalties. The bill may increase General Fund revenue from civil penalties paid for violations of the prohibition on underage gaming. The penalty is \$500 for a first offense and \$1,000 for a second offense. The fiscal note assumes that this revenue will be minimal.

Background checks. The bill may increase revenue to the Department of Public Safety by a minimal amount if there is a change in the number of criminal history record checks completed. Additional checks for potential employees between the ages of 18 and 21 will increase workload, which may be offset by fewer checks completed for internationally based applicants. The fee for a check is \$39.50 per check, of which \$28.25 per check is subject to TABOR. The revenue impact is expected to be minimal.

State Expenditures

The bill increases workload for the Division of Gaming to process additional operator license applications from people between the ages of 18 and 21, modify the Gambling Payment Intercept Act, update materials, and conduct any enforcement the commission deems necessary for unlicensed gambling. Some of the increase may be offset by a reduction in workload from collecting fingerprints from internationally based applicants. No new appropriations are required.

Effective Date

The bill was signed into law by the Governor on June 7, 2022 and it took effect on August 9, 2022, except that the changes to Gambling Payment Intercept Act take effect July 1, 2023.

State and Local Government Contacts

Personnel

Public Safety

Revenue