
HOUSE BILL 2370

State of Washington

64th Legislature

2016 Regular Session

By Representatives Hurst and Sawyer

Read first time 01/12/16. Referred to Committee on Commerce & Gaming.

1 AN ACT Relating to prohibiting fantasy sports games; amending RCW
2 9.94A.515; adding new sections to chapter 9.46 RCW; creating a new
3 section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that fantasy
6 sports games are games of chance rather than skill and therefore
7 constitute illegal gambling under the laws of this state.

8 (2) The legislature further finds that fantasy sports games offer
9 participants the opportunity to bet less than one dollar up to over
10 ten thousand dollars per contest, with the chance to win upwards of
11 one million dollars, and that operators of fantasy sports games often
12 take a cut of between six percent to more than fourteen percent of
13 the sum of participants' bets.

14 (3) The legislature further finds that structural characteristics
15 of fantasy sports games make fantasy sports games particularly
16 dangerous to problem gamblers, including the ability to make large
17 bets, the offer of winning large payouts, the short interval between
18 placing a bet and determining the bet's outcome, and the
19 misperception that skill is the dominant determinant of the outcome.

1 (4) The legislature further finds that, in fantasy sports games,
2 the relative success of a participant is determined almost entirely
3 by the element of chance rather than the element of skill.

4 (5) The legislature further finds that at least one major
5 operator of fantasy sports games has made public statements
6 describing the operator's fantasy sports games as gambling and that
7 the operator's web site included keywords related to gambling hidden
8 in the web site's computer code designed to lead internet search
9 engines to suggest the operator's web site to internet users
10 searching for gambling.

11 (6) The legislature further finds that, as reported in November
12 2015 by British journalist John Oliver, some operators of fantasy
13 sports games have secured gambling licenses necessary to operate
14 their fantasy sports games as legal sports betting operations in
15 Europe, and that authorities in the United States are actively
16 investigating or prosecuting some operators of fantasy sports games
17 for violations of gambling laws.

18 (7) The legislature further finds that operators of fantasy
19 sports games have caused the state of Washington to be inundated with
20 advertisements intended to entice Washington citizens into placing
21 illegal wagers on the collective performance of individuals
22 participating in sporting events, in violation of Washington statute,
23 the state Constitution and, potentially, federal law.

24 (8) The legislature further finds that operators of fantasy
25 sports companies are misleading consumers about consumers' chances of
26 winning money through the use of advertising slogans, such as "The
27 giant check is no myth . . . become a millionaire!" and "taking home
28 your share is simple: Just pick your sport, pick your players, and
29 pick your cash. That's it. It's the simplest way of winning life-
30 changing piles of cash."

31 (9) The legislature therefore intends to expressly prohibit
32 fantasy sports games in the state of Washington in which a
33 participant provides valuable consideration of any kind, and to
34 impose criminal sanctions on those who offer for play, operate, or
35 advertise such games.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.46 RCW
37 to read as follows:

38 (1) Fantasy sports games in which a participant provides valuable
39 consideration of any kind are a form of illegal gambling and are

1 therefore prohibited. It is unlawful to offer for play, operate, or
2 advertise a fantasy sports game in this state.

3 (2) A violation of this section is a class C felony as defined in
4 RCW 9A.20.021.

5 (3) As used in this section, "fantasy sports game" means an
6 imaginary or simulated game or contest, of any duration, and that
7 contains the following elements:

8 (a) Participation in the game that requires a player to provide
9 valuable consideration of any kind including, but not limited to, a
10 fee, charge, bet, wager, promise to pay, or other thing of value, to
11 another individual or entity;

12 (b) A player competes against other players or a target score, or
13 other benchmark, as the owner, manager, or coach of an imaginary or
14 simulated team of athletes that compete in imaginary or simulated
15 games; and

16 (c) The game involves the use of statistics accumulated by the
17 athletes in real-world sporting events to determine the scores or
18 outcomes of imaginary or simulated games.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.46 RCW
20 to read as follows:

21 (1) It is unlawful to advertise a fantasy sports game in this
22 state. For the purposes of this section, each discrete advertisement
23 constitutes a separate offense.

24 (2) A violation of this section is a class C felony as defined in
25 RCW 9A.20.021.

26 (3) As used in this section:

27 (a) "Advertise" means to disseminate, circulate, or place before
28 the public, or cause to be disseminated, circulated, or placed before
29 the public, directly or indirectly, through any medium, a message or
30 announcement that is intended to cause or encourage a person to
31 participate in a fantasy sports game.

32 (b) "Fantasy sports game" has the same meaning as in section 2 of
33 this act.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.46 RCW
35 to read as follows:

36 The legislature finds that the practices covered in sections 2
37 and 3 of this act are matters vitally affecting the public interest
38 for the purpose of applying the consumer protection act, chapter

1 19.86 RCW. A violation of section 2 or 3 of this act is not
2 reasonable in relation to the development and preservation of
3 business. A violation of section 2 or 3 of this act is an unfair or
4 deceptive act in trade or commerce and an unfair method of
5 competition for the purpose of applying the consumer protection act,
6 chapter 19.86 RCW.

7 **Sec. 5.** RCW 9.94A.515 and 2015 c 261 s 11 are each amended to
8 read as follows:

9 TABLE 2

10 CRIMES INCLUDED WITHIN
11 EACH SERIOUSNESS LEVEL

- 12 XVI Aggravated Murder 1 (RCW
13 10.95.020)
- 14 XV Homicide by abuse (RCW 9A.32.055)
15 Malicious explosion 1 (RCW
16 70.74.280(1))
17 Murder 1 (RCW 9A.32.030)
- 18 XIV Murder 2 (RCW 9A.32.050)
19 Trafficking 1 (RCW 9A.40.100(1))
- 20 XIII Malicious explosion 2 (RCW
21 70.74.280(2))
22 Malicious placement of an explosive 1
23 (RCW 70.74.270(1))
- 24 XII Assault 1 (RCW 9A.36.011)
25 Assault of a Child 1 (RCW 9A.36.120)
26 Malicious placement of an imitation
27 device 1 (RCW 70.74.272(1)(a))
28 Promoting Commercial Sexual Abuse
29 of a Minor (RCW 9.68A.101)
30 Rape 1 (RCW 9A.44.040)
31 Rape of a Child 1 (RCW 9A.44.073)
32 Trafficking 2 (RCW 9A.40.100(3))
- 33 XI Manslaughter 1 (RCW 9A.32.060)
34 Rape 2 (RCW 9A.44.050)

1 Rape of a Child 2 (RCW 9A.44.076)
2 Vehicular Homicide, by being under
3 the influence of intoxicating liquor
4 or any drug (RCW 46.61.520)
5 X Child Molestation 1 (RCW 9A.44.083)
6 Criminal Mistreatment 1 (RCW
7 9A.42.020)
8 Indecent Liberties (with forcible
9 compulsion) (RCW
10 9A.44.100(1)(a))
11 Kidnapping 1 (RCW 9A.40.020)
12 Leading Organized Crime (RCW
13 9A.82.060(1)(a))
14 Malicious explosion 3 (RCW
15 70.74.280(3))
16 Sexually Violent Predator Escape
17 (RCW 9A.76.115)
18 IX Abandonment of Dependent Person 1
19 (RCW 9A.42.060)
20 Assault of a Child 2 (RCW 9A.36.130)
21 Explosive devices prohibited (RCW
22 70.74.180)
23 Hit and Run—Death (RCW
24 46.52.020(4)(a))
25 Homicide by Watercraft, by being
26 under the influence of intoxicating
27 liquor or any drug (RCW
28 79A.60.050)
29 Inciting Criminal Profiteering (RCW
30 9A.82.060(1)(b))
31 Malicious placement of an explosive 2
32 (RCW 70.74.270(2))
33 Robbery 1 (RCW 9A.56.200)
34 Sexual Exploitation (RCW 9.68A.040)
35 VIII Arson 1 (RCW 9A.48.020)

1 Commercial Sexual Abuse of a Minor
2 (RCW 9.68A.100)

3 Homicide by Watercraft, by the
4 operation of any vessel in a
5 reckless manner (RCW
6 79A.60.050)

7 Manslaughter 2 (RCW 9A.32.070)

8 Promoting Prostitution 1 (RCW
9 9A.88.070)

10 Theft of Ammonia (RCW 69.55.010)

11 Vehicular Homicide, by the operation
12 of any vehicle in a reckless
13 manner (RCW 46.61.520)

14 VII Burglary 1 (RCW 9A.52.020)

15 Child Molestation 2 (RCW 9A.44.086)

16 Civil Disorder Training (RCW
17 9A.48.120)

18 Dealing in depictions of minor engaged
19 in sexually explicit conduct 1
20 (RCW 9.68A.050(1))

21 Drive-by Shooting (RCW 9A.36.045)

22 Homicide by Watercraft, by disregard
23 for the safety of others (RCW
24 79A.60.050)

25 Indecent Liberties (without forcible
26 compulsion) (RCW 9A.44.100(1)
27 (b) and (c))

28 Introducing Contraband 1 (RCW
29 9A.76.140)

30 Malicious placement of an explosive 3
31 (RCW 70.74.270(3))

32 Negligently Causing Death By Use of a
33 Signal Preemption Device (RCW
34 46.37.675)

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct 1 (RCW
4 9.68A.060(1))
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW 9A.72.160)
18 Intimidating a Juror/Witness (RCW
19 9A.72.110, 9A.72.130)
20 Malicious placement of an imitation
21 device 2 (RCW 70.74.272(1)(b))
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 1 (RCW 9.68A.070(1))
25 Rape of a Child 3 (RCW 9A.44.079)
26 Theft of a Firearm (RCW 9A.56.300)
27 Unlawful Storage of Ammonia (RCW
28 69.55.020)
29 V Abandonment of Dependent Person 2
30 (RCW 9A.42.070)
31 Advancing money or property for
32 extortionate extension of credit
33 (RCW 9A.82.030)
34 Bail Jumping with class A Felony
35 (RCW 9A.76.170(3)(b))
36 Child Molestation 3 (RCW 9A.44.089)

1 Criminal Mistreatment 2 (RCW
2 9A.42.030)
3 Custodial Sexual Misconduct 1 (RCW
4 9A.44.160)
5 Dealing in Depictions of Minor
6 Engaged in Sexually Explicit
7 Conduct 2 (RCW 9.68A.050(2))
8 Domestic Violence Court Order
9 Violation (RCW 10.99.040,
10 10.99.050, 26.09.300, 26.10.220,
11 26.26.138, 26.50.110, 26.52.070,
12 or 74.34.145)
13 Driving While Under the Influence
14 (RCW 46.61.502(6))
15 Extortion 1 (RCW 9A.56.120)
16 Extortionate Extension of Credit (RCW
17 9A.82.020)
18 Extortionate Means to Collect
19 Extensions of Credit (RCW
20 9A.82.040)
21 Incest 2 (RCW 9A.64.020(2))
22 Kidnapping 2 (RCW 9A.40.030)
23 Perjury 1 (RCW 9A.72.020)
24 Persistent prison misbehavior (RCW
25 9.94.070)
26 Physical Control of a Vehicle While
27 Under the Influence (RCW
28 46.61.504(6))
29 Possession of a Stolen Firearm (RCW
30 9A.56.310)
31 Rape 3 (RCW 9A.44.060)
32 Rendering Criminal Assistance 1
33 (RCW 9A.76.070)

1 Sending, Bringing into State
2 Depictions of Minor Engaged in
3 Sexually Explicit Conduct 2
4 (RCW 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault by Watercraft (RCW
18 79A.60.060)
19 Bribing a Witness/Bribe Received by
20 Witness (RCW 9A.72.090,
21 9A.72.100)
22 Cheating 1 (RCW 9.46.1961)
23 Commercial Bribery (RCW
24 9A.68.060)
25 Counterfeiting (RCW 9.16.035(4))
26 Endangerment with a Controlled
27 Substance (RCW 9A.42.100)
28 Escape 1 (RCW 9A.76.110)
29 Hit and Run—Injury (RCW
30 46.52.020(4)(b))
31 Hit and Run with Vessel—Injury
32 Accident (RCW 79A.60.200(3))
33 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under
2 Age Fourteen (subsequent sex
3 offense) (RCW 9A.88.010)

4 Influencing Outcome of Sporting Event
5 (RCW 9A.82.070)

6 Malicious Harassment (RCW
7 9A.36.080)

8 Possession of Depictions of a Minor
9 Engaged in Sexually Explicit
10 Conduct 2 (RCW 9.68A.070(2))

11 Residential Burglary (RCW
12 9A.52.025)

13 Robbery 2 (RCW 9A.56.210)

14 Theft of Livestock 1 (RCW 9A.56.080)

15 Threats to Bomb (RCW 9.61.160)

16 Trafficking in Stolen Property 1 (RCW
17 9A.82.050)

18 Unlawful Advertising of Fantasy
19 Sports Game (section 3 of this act)

20 Unlawful factoring of a credit card or
21 payment card transaction (RCW
22 9A.56.290(4)(b))

23 Unlawful Operation of Fantasy Sports
24 Game (section 2 of this act)

25 Unlawful transaction of health
26 coverage as a health care service
27 contractor (RCW 48.44.016(3))

28 Unlawful transaction of health
29 coverage as a health maintenance
30 organization (RCW 48.46.033(3))

31 Unlawful transaction of insurance
32 business (RCW 48.15.023(3))

33 Unlicensed practice as an insurance
34 professional (RCW 48.17.063(2))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicle Prowling 2 (third or
5 subsequent offense) (RCW
6 9A.52.100(3))
7 Vehicular Assault, by being under the
8 influence of intoxicating liquor or
9 any drug, or by the operation or
10 driving of a vehicle in a reckless
11 manner (RCW 46.61.522)
12 Viewing of Depictions of a Minor
13 Engaged in Sexually Explicit
14 Conduct 1 (RCW 9.68A.075(1))
15 Willful Failure to Return from
16 Furlough (RCW 72.66.060)
17 III Animal Cruelty 1 (Sexual Conduct or
18 Contact) (RCW 16.52.205(3))
19 Assault 3 (Except Assault 3 of a Peace
20 Officer With a Projectile Stun
21 Gun) (RCW 9A.36.031 except
22 subsection (1)(h))
23 Assault of a Child 3 (RCW 9A.36.140)
24 Bail Jumping with class B or C Felony
25 (RCW 9A.76.170(3)(c))
26 Burglary 2 (RCW 9A.52.030)
27 Communication with a Minor for
28 Immoral Purposes (RCW
29 9.68A.090)
30 Criminal Gang Intimidation (RCW
31 9A.46.120)
32 Custodial Assault (RCW 9A.36.100)
33 Cyberstalking (subsequent conviction
34 or threat of death) (RCW
35 9.61.260(3))
36 Escape 2 (RCW 9A.76.120)

1 Extortion 2 (RCW 9A.56.130)
2 Harassment (RCW 9A.46.020)
3 Intimidating a Public Servant (RCW
4 9A.76.180)
5 Introducing Contraband 2 (RCW
6 9A.76.150)
7 Malicious Injury to Railroad Property
8 (RCW 81.60.070)
9 Mortgage Fraud (RCW 19.144.080)
10 Negligently Causing Substantial
11 Bodily Harm By Use of a Signal
12 Preemption Device (RCW
13 46.37.674)
14 Organized Retail Theft 1 (RCW
15 9A.56.350(2))
16 Perjury 2 (RCW 9A.72.030)
17 Possession of Incendiary Device (RCW
18 9.40.120)
19 Possession of Machine Gun or Short-
20 Barreled Shotgun or Rifle (RCW
21 9.41.190)
22 Promoting Prostitution 2 (RCW
23 9A.88.080)
24 Retail Theft with Special
25 Circumstances 1 (RCW
26 9A.56.360(2))
27 Securities Act violation (RCW
28 21.20.400)
29 Tampering with a Witness (RCW
30 9A.72.120)
31 Telephone Harassment (subsequent
32 conviction or threat of death)
33 (RCW 9.61.230(2))
34 Theft of Livestock 2 (RCW 9A.56.083)
35 Theft with the Intent to Resell 1 (RCW
36 9A.56.340(2))

1 Trafficking in Stolen Property 2 (RCW
2 9A.82.055)
3 Unlawful Hunting of Big Game 1
4 (RCW 77.15.410(3)(b))
5 Unlawful Imprisonment (RCW
6 9A.40.040)
7 Unlawful Misbranding of Food Fish or
8 Shellfish 1 (RCW 69.04.938(3))
9 Unlawful possession of firearm in the
10 second degree (RCW 9.41.040(2))
11 Unlawful Taking of Endangered Fish
12 or Wildlife 1 (RCW
13 77.15.120(3)(b))
14 Unlawful Trafficking in Fish, Shellfish,
15 or Wildlife 1 (RCW
16 77.15.260(3)(b))
17 Unlawful Use of a Nondesignated
18 Vessel (RCW 77.15.530(4))
19 Vehicular Assault, by the operation or
20 driving of a vehicle with disregard
21 for the safety of others (RCW
22 46.61.522)
23 Willful Failure to Return from Work
24 Release (RCW 72.65.070)
25 II Commercial Fishing Without a License
26 1 (RCW 77.15.500(3)(b))
27 Computer Trespass 1 (RCW
28 9A.52.110)
29 Counterfeiting (RCW 9.16.035(3))
30 Engaging in Fish Dealing Activity
31 Unlicensed 1 (RCW 77.15.620(3))
32 Escape from Community Custody
33 (RCW 72.09.310)

1 Failure to Register as a Sex Offender
2 (second or subsequent offense)
3 (RCW 9A.44.130 prior to June 10,
4 2010, and RCW 9A.44.132)
5 Health Care False Claims (RCW
6 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(3))
8 Improperly Obtaining Financial
9 Information (RCW 9.35.010)
10 Malicious Mischief 1 (RCW
11 9A.48.070)
12 Organized Retail Theft 2 (RCW
13 9A.56.350(3))
14 Possession of Stolen Property 1 (RCW
15 9A.56.150)
16 Possession of a Stolen Vehicle (RCW
17 9A.56.068)
18 Retail Theft with Special
19 Circumstances 2 (RCW
20 9A.56.360(3))
21 Scrap Processing, Recycling, or
22 Supplying Without a License
23 (second or subsequent offense)
24 (RCW 19.290.100)
25 Theft 1 (RCW 9A.56.030)
26 Theft of a Motor Vehicle (RCW
27 9A.56.065)
28 Theft of Rental, Leased, ~~((or))~~ Lease-
29 purchased, or Loaned Property
30 (valued at ~~((one))~~ five thousand
31 ~~((five hundred))~~ dollars or more)
32 (RCW 9A.56.096(5)(a))
33 Theft with the Intent to Resell 2 (RCW
34 9A.56.340(3))
35 Trafficking in Insurance Claims (RCW
36 48.30A.015)

1 Unlawful factoring of a credit card or
2 payment card transaction (RCW
3 9A.56.290(4)(a))
4 Unlawful Participation of Non-Indians
5 in Indian Fishery (RCW
6 77.15.570(2))
7 Unlawful Practice of Law (RCW
8 2.48.180)
9 Unlawful Purchase or Use of a License
10 (RCW 77.15.650(3)(b))
11 Unlawful Trafficking in Fish, Shellfish,
12 or Wildlife 2 (RCW
13 77.15.260(3)(a))
14 Unlicensed Practice of a Profession or
15 Business (RCW 18.130.190(7))
16 Voyeurism (RCW 9A.44.115)
17 I Attempting to Elude a Pursuing Police
18 Vehicle (RCW 46.61.024)
19 False Verification for Welfare (RCW
20 74.08.055)
21 Forgery (RCW 9A.60.020)
22 Fraudulent Creation or Revocation of a
23 Mental Health Advance Directive
24 (RCW 9A.60.060)
25 Malicious Mischief 2 (RCW
26 9A.48.080)
27 Mineral Trespass (RCW 78.44.330)
28 Possession of Stolen Property 2 (RCW
29 9A.56.160)
30 Reckless Burning 1 (RCW 9A.48.040)
31 Spotlighting Big Game 1 (RCW
32 77.15.450(3)(b))
33 Suspension of Department Privileges 1
34 (RCW 77.15.670(3)(b))
35 Taking Motor Vehicle Without
36 Permission 2 (RCW 9A.56.075)

1 Theft 2 (RCW 9A.56.040)
2 Theft of Rental, Leased, ~~((or))~~ Lease-
3 purchased, or Loaned Property
4 (valued at ~~((two))~~ seven hundred
5 fifty dollars or more but less than
6 ~~((one))~~ five thousand ~~((five~~
7 ~~hundred))~~ dollars) (RCW
8 9A.56.096(5)(b))
9 Transaction of insurance business
10 beyond the scope of licensure
11 (RCW 48.17.063)
12 Unlawful Fish and Shellfish Catch
13 Accounting (RCW
14 77.15.630(3)(b))
15 Unlawful Issuance of Checks or Drafts
16 (RCW 9A.56.060)
17 Unlawful Possession of Fictitious
18 Identification (RCW 9A.56.320)
19 Unlawful Possession of Instruments of
20 Financial Fraud (RCW 9A.56.320)
21 Unlawful Possession of Payment
22 Instruments (RCW 9A.56.320)
23 Unlawful Possession of a Personal
24 Identification Device (RCW
25 9A.56.320)
26 Unlawful Production of Payment
27 Instruments (RCW 9A.56.320)
28 Unlawful Releasing, Planting,
29 Possessing, or Placing Deleterious
30 Exotic Wildlife (RCW
31 77.15.250(2)(b))
32 Unlawful Trafficking in Food Stamps
33 (RCW 9.91.142)
34 Unlawful Use of Food Stamps (RCW
35 9.91.144)
36 Unlawful Use of Net to Take Fish 1
37 (RCW 77.15.580(3)(b))

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Unlawful Use of Prohibited Aquatic
Animal Species (RCW
77.15.253(3))
Vehicle Prowl 1 (RCW 9A.52.095)
Violating Commercial Fishing Area or
Time 1 (RCW 77.15.550(3)(b))

--- **END** ---