WEST VIRGINIA CODE CHAPTER 29 ARTICLE 22D

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§29-22D-1. Short title.

This article shall be known and may be cited as the West Virginia Lottery Sports Wagering Act.

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§29-22D-2. State authorization of sports wagering at licensed racetrack facilities and historic resort hotel; legislative findings and declarations.

(a) Operation of West Virginia Lottery sports wagering. — Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are only lawful when conducted in accordance with the provisions of this article and rules of the commission.

(b) Legislative findings. —

(1) The Legislature finds that the operation of the four racetracks and the historic resort hotel in this state play a critical role in the economy of this state, and such constitutional lotteries are rightfully authorized as state enterprises consistent with the rights and powers granted to the states under the Tenth Amendment of the United States Constitution. The federal government is a government of limited and enumerated powers, and powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved for the states and its respective citizens.

(2) The Legislature finds that section 36, article VI of the Constitution of the State of West Virginia grants the state the exclusive right to lawfully own and operate a lottery in this state. Authorization of wagering on any constitutional lottery within West Virginia is within the state's sovereign rights as a state to act in the best interest of its citizens.

(3) The Legislature finds that it is in the best interests of the State of West Virginia for the state to operate a lottery in the form of sports wagering and that it is the intent of the Legislature to authorize sports wagering when federal law is enacted or repealed, or a federal court decision is issued that permits a state to regulate sports wagering, as such power is reserved to the states.

(4) The Legislature finds that illegal sports wagering channels operating throughout the United States pose a critical threat to the safety and welfare of the citizens of West Virginia and that creating civil and criminal penalties to prosecute illegal operators, while transferring this black market demand into a secure and highly regulated environment, will protect the public and positively benefit state revenues and the state's economy.

(5) The Legislature finds that in order to protect residents of this state who wager on sports or other events and to capture revenues and create jobs generated from sports wagering, it is in the best interests of this state and its citizens to regulate this activity by authorizing and establishing a secure, responsible, fair, and legal system of sports wagering immediately, when the federal ban on sports wagering is lifted.

(6) The Legislature finds that the most effective and efficient manner in which the state can operate and regulate the forms of lottery authorized by the provisions of this article is to limit the number of authorized operators to those who are licensed, pursuant to the

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provisions of §29-22A-1 et seq. of this code, and to facilities licensed to operate video lottery terminals, pursuant to the provisions of §29-25-1 et seq. of this code.

(7) The Legislature finds that the granting of licenses pursuant to the provisions of this article, while maintaining all ownership rights and exercising control through strict regulation of all West Virginia Lottery sports wagering authorized by the provisions of this article, constitutes an appropriate exercise by the Legislature of the power granted it by the provisions of section 36, article VI of the Constitution of the State of West Virginia.

(8) The Legislature finds that the operation of West Virginia Lottery sports wagering at racetracks, licensed pursuant to the provisions of §29-22A-1 et seq. of this code, and at a historic resort hotel, licensed pursuant the provisions of §29-25-1 et seq. of this code, serves to protect, preserve, promote, and enhance the tourism industry of the state as well as the general fiscal wellbeing of the state and its subdivisions.

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§29-22D-3. Definitions.

For the purposes of this article, the following terms have the meanings ascribed to them in this section:

"Adjusted gross sports wagering receipts" means an operator's gross sports wagering receipts from West Virginia Lottery sports wagering, less winnings paid to wagerers in such games.

"Collegiate sport or athletic event" means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.

"Commission" or "State Lottery Commission" means the West Virginia Lottery Commission, created by §29-22-1 *et seq*. of this code.

"Director" means the Director of the West Virginia State Lottery Commission, appointed pursuant to §29-22-6 of this code.

"E-sports event" means leagues, competitive circuits, tournaments, or similar competitions where individuals or teams play video games, typically for spectators, either in person or online, for the purpose of prizes, money, or entertainment.

"Fixed odds wager on dog racing" means a sum of money or representation of value risked by a player on an occurrence associated with a sports event involving dog races for which the outcome is uncertain. The term includes single-race bets, teaser bets, moneyline bets, in-race wagering, proposition bets, straight bets, parlays, or any other wager type approved by the West Virginia Lottery.

"Fixed odds wager on horse racing" means a sum of money or representation of value risked by a player on an occurrence associated with a sports event involving racehorses for which the outcome is uncertain. The term includes single-race bets, teaser bets, moneyline bets, in-race wagering, proposition bets, straight bets, parlays, or any other wager type approved by the West Virginia Lottery.

"Fixed odds wagering on dog racing" means the acceptance of wagers on a sports event of live dog racing with predetermined odds. Fixed odds wagering on dog races shall only occur as provided in this article. Fixed odds wagers on dog racing may be combined with other wagers on other sports events as authorized in this article.

"Fixed odds wagering on horse racing" means the acceptance of wagers on a sports event of live horse racing with predetermined odds. Fixed odds wagering on horse racing shall only occur as provided in this article. Fixed odds wagers on horse races may be combined with other wagers on other sports events as authorized in this article.

"Gaming equipment" or "sports wagering equipment" means any mechanical, electronic, or

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other device, mechanism, or equipment, and related supplies used or consumed in the operation of West Virginia Lottery sports wagering at a licensed gaming facility including, but not limited to, a kiosk installed to accept sports wagers.

"Gaming facility" means a designated area on the premises of an existing historic resort hotel, licensed under §29-25-1 *et seq*. of this code, to operate video lottery and table games or the facility of an entity authorized to operate racetrack video lottery machines pursuant to §29-22A-1 *et seq*. of this code.

"Government" means any governmental unit of a national, state, or local body exercising governmental functions, other than the United States government.

"Gross sports wagering receipts" means the total gross receipts received by a licensed gaming facility from sports wagering.

"License" means any license applied for or issued by the commission under this article including, but not limited to:

(A) A license to act as agent of the commission in operating West Virginia Lottery sports wagering at a licensed gaming facility (operator license or West Virginia Lottery sports wagering license);

(B) A license to supply a gaming facility licensed under this article to operate sports wagering with sports wagering equipment or services necessary for the operation of sports wagering (supplier license);

(C) A license to be employed at a racetrack or gaming facility licensed under this article to operate West Virginia Lottery sports wagering when the employee works in a designated gaming area that has sports wagering or performs duties in furtherance of or associated with the operation of sports wagering at the licensed gaming facility (occupational license); or

(D) A license to provide management services under a contract to a gaming facility licensed under this article to operate sports wagering (management services provider license).

"Licensed gaming facility" means a designated area on the premises of an existing historic resort hotel, pursuant to §29-25-1 *et seq*. of this code, or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 *et seq*. of this code licensed under this article to conduct West Virginia Lottery sports wagering.

"Lottery" means the public gaming systems or games regulated, controlled, owned, and operated by the State Lottery Commission in the manner provided by general law, as provided in this article, §29-22-1 *et seq*., §29-22A-1 *et seq*., §29-22B-1 *et seq*., §29-22C-1 *et seq*., and §29-25-1 *et seq*. of this code.

"National criminal history background check system" means the criminal history record

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system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

"Operator" means a licensed gaming facility which has elected to operate a sports pool and other authorized West Virginia Lottery sports wagering activities.

"Professional sport or athletic event" means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event.

"Sports event" or "sporting event" means any professional sport or athletic event, any collegiate sport or athletic event, motor race event, e-sports event, or any other special event authorized by the commission under this article. A "sports event" or "sporting event" includes "horse racing" or "dog racing" as defined in §19-23-3 of this code for the purpose of conducting "fixed odds wagering on horse racing" or "fixed odds wagering on dog racing" as defined in this article.

"Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering.

"Sports wagering account" means a financial record established by a licensed gaming facility for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed gaming facility may credit winnings or other amounts due to that patron or authorized by that patron.

"Sports wagering agreement" means a written agreement between the commission and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments.

"Sports wagering fund" means the special fund in the State Treasury created in §29-22D-17 of this code.

"Supplier" means a person that requires a supplier license to provide a sports wagering licensee with goods or services to be used in connection with operation of West Virginia Lottery sports wagering.

"Wager" means a sum of money or thing of value risked on an uncertain occurrence.

"West Virginia Lottery sports wagering" or "sports wagering" means the business of accepting wagers on sporting events, and other events, the individual performance statistics of athletes in a sporting event or other events, or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms that utilize communications technology to accept wagers originating within this state. The term includes, but is not limited to, exchange wagering, parlays, over-under, moneyline, pools, fixed odds wagering on horse

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racing, fixed odds wagering on dog racing, and straight bets. The term does not include:

(A) Pari-mutuel betting on the outcome of horse or dog races authorized by §19-23-12a and §19-23-12d of this code;

(B) Lottery games of the West Virginia State Lottery authorized by §29-22-1 *et seq*. of this code;

(C) Racetrack video lottery authorized by §29-22A-1 *et seq*. of this code;

(D) Limited video lottery authorized by §29-22B-1 *et seq*. of this code;

(E) Racetrack table games authorized by §29-22C-1 *et seq*. of this code;

(F) Video lottery and table games authorized by §29-25-1 *et seq*. of this code; and

(G) Daily Fantasy Sports (DFS).

"West Virginia Lottery sports wagering license" means authorization granted under this article by the commission to a gaming facility that is already licensed under §29-22A-1 *et seq*. or §29-25-1 *et seq*. of this code, which permits the gaming facility as an agent of the commission to operate West Virginia Lottery sports wagering in one or more designated areas or in one or more buildings owned by the licensed gaming facility on the grounds where video lottery is conducted by the licensee or through any other authorized platform developed by the gaming facility. This term is synonymous with "operator’s license".

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§29-22D-4. Commission duties and powers.

(a) In addition to the duties set forth elsewhere in this article, §29-22-1 *et seq*., §29-22A-1 *et seq*., §29-22B-1 *et seq*., §29-22C-1 *et seq*., and §29-25-1 *et seq*. of this code, the commission may regulate sports pools and the conduct of sports wagering under this article.

(b) The commission shall examine the regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory framework through promulgation of rules.

(c) The commission may, pursuant to §29A-1-1 *et seq*. and §29A-3-1 *et seq*. of this code, promulgate or otherwise enact any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article.

(1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on a sports event or a series of sports events; acceptance of fixed odds wagering on horse racing or dog racing; maximum wagers which may be accepted by an operator from any one patron on any one sports event; type of wagering tickets which may be used; method of issuing tickets; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER,", in every designated area approved for sports wagering and on any mobile application or other digital platform used to place wagers.

(2) The commission shall establish minimum internal control standards (MICS) and approve minimum internal control standards proposed by licensed operators for administration of sports wagering operations, wagering equipment and systems, or other items used to conduct sports wagering, as well as maintenance of financial records and other required records.

(d) The commission shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code that enumerates the reasons for which patrons of sports gaming may be banned from engaging in sports betting. The list of reasons for which patrons may be banned shall include, but not be limited to:

(1) A prior conviction under §61-2-15a of this code;

(2) A prior violation of an order of the commission; or

(3) If the commission determines that the person poses a threat to the safety of patrons or participants in a sporting event or determines that the person has engaged in a pattern of conduct of harassing a sports official, coach, or any participants.

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(e) The rule shall also set forth the procedure by which complaints against patrons are lodged with and investigated by the commission. The commission shall notify a patron of the commission's intent to ban the patron from sports betting, and the patron is entitled to a hearing before the commission pursuant to §29A-5-1 *et seq*. of this code.

(f) The commission shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses, and shall maintain a record of all licenses issued under this article.

(g) The commission shall levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross sports wagering receipts imposed by this article, and deposit all moneys into the sports wagering fund, except as otherwise provided under this article.

(h) The commission may sue to enforce any provision of this article or any rule of the commission by civil action or petition for injunctive relief.

(i) The commission may hold hearings, administer oaths, and issue subpoenas or subpoenas duces tecum: *Provided*, That all hearings shall be conducted pursuant to the provisions of the State Administrative Procedures Act, §29A-2-1, *et seq*. of this code and the Lottery Administrative Appeal Procedures, W.Va. CSR §179-2-1, *et seq*.

(j) The commission may exercise any other powers necessary to effectuate the provisions of this article and the rules of the commission.

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§29-22D-5. Licenses required.

(a) The commission shall not grant a license required under this article to any applicant until the commission has published the notice in the State Register, as required by §29-22D-15(f) of this code.

(b) No person may engage in any activity in connection with West Virginia Lottery sports wagering in this state unless all necessary licenses have been obtained in accordance with this article and rules of the commission. Four types of licenses: (1) Operator; (2) supplier; (3) management services provider; and (4) occupational—are issued pursuant to this article, and no person or entity may engage in any sports wagering operation or activity without first obtaining the appropriate license.

(c) The commission may not grant a license until it determines that each person who has control of the applicant meets all qualifications for licensure. The following persons are considered to have control of an applicant:

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company, or subsidiary company of the applicant who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation; this does not include any bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business;

(2) Each person associated with a non-corporate applicant who directly or indirectly holds a beneficial or proprietary interest in the applicant's business operation, or who the commission otherwise determines has the ability to control the applicant; and

(3) Key personnel of an applicant, including any executive, employee, or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

(d) License application requirements. — All applicants for any license issued under this article shall submit an application to the commission in the form the commission requires and submit fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation. The commission may require additional background checks on licensees when they apply for annual license renewal, and any applicant convicted of any disqualifying offense shall not be licensed.

(e) Each sports wagering licensee, licensed supplier, or a licensed management services provider shall display the license conspicuously in its place of business or have the license available for inspection by any agent of the commission or any law-enforcement agency.

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(f) Each holder of an occupational license shall carry the license and have some indicia of licensure prominently displayed on his or her person when present in a licensed gaming facility at all times, in accordance with the rules of the commission.

(g) Each person licensed under this article shall give the commission written notice within 30 days of any change to any information provided in the licensee's application for a license or renewal.

(h) No commission employee may be an applicant for any license issued under this article nor may any employee of any such licensee directly or indirectly hold an ownership or a financial interest in any West Virginia Lottery sports wagering license.

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§29-22D-6. Operator license; West Virginia sports wagering operators.

(a) In addition to the casino games permitted pursuant to the provisions of §29-22A-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, a licensed gaming facility may operate West Virginia Lottery sports wagering upon the approval of the commission, and the commission shall have the general responsibility for the implementation of this article and all other duties specified in §29-22-1 et seq., §29-22A-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, the provisions of this article, and applicable regulations.

(b) All sports wagering authorized by this article shall be West Virginia Lottery games owned by the State of West Virginia. An operator license granted by the commission pursuant to this article grants licensees lawful authority to conduct West Virginia Lottery sports wagering within the terms and conditions of the license and any regulations promulgated under this article.

(c) Sports wagering licenses. — The commission may issue up to five licenses to operate West Virginia Lottery sports wagering in accordance with the provisions of this article. No more than five licenses to operate a gaming facility with West Virginia Lottery sports wagering shall be permitted in this state.

(d) Grant of license. — Upon application by a gaming facility and payment of a $100,000 application fee, the commission shall immediately grant a West Virginia Lottery sports wagering license to an operator that provides for the right to conduct West Virginia Lottery sports wagering: Provided, That the applicant must hold a valid racetrack video lottery license issued by the commission, pursuant to §29-22A-1 et seq. of this code, or a valid license to operate a gaming facility, issued by the commission pursuant to §29-25-1 et seq. of this code, and otherwise meet the requirements for licensure under the provisions of this article and the rules of the commission. This license shall be issued for a five-year period, and may be renewed for five-year periods upon payment of a $100,000 renewal fee, as long as an operator continues to meet all qualification requirements.

(e) Location. — A West Virginia Lottery sports wagering license authorizes the operation of West Virginia Lottery sports wagering at locations and through any mobile application or other digital platforms approved by the commission.

(f) Management service contracts. —

(1) Approval. — A West Virginia Lottery sports wagering licensee may not enter into any management services contract that would permit any person other than the licensee to act as the commission’s agent in operating West Virginia Lottery sports wagering unless the management service contract: (A) Is with a person licensed under this article to provide management services; (B) is in writing; and (C) has been approved by the commission.

(2) Material change. — The West Virginia Lottery sports wagering licensee shall submit any

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material change in a management services contract, previously approved by the commission, to the commission for its approval or rejection before the material change may take effect.

(3) Other commission approvals and licenses. — The duties and responsibilities of a management services provider under a management services contract may not be assigned, delegated, subcontracted, or transferred to a third party without the prior approval of the commission. Third parties must be licensed as a management services provider under this article before providing services.

(g) Expiration date and renewal. —

(1) A licensed operator shall submit to the commission such documentation or information as the commission may require demonstrating to the satisfaction of the director that the licensee continues to meet the requirements of the law and regulations. Required documentation or information shall be submitted no later than five years after issuance of an operator license and every five years thereafter, or within lesser periods based on circumstances specified by the commission.

(2) If the licensee fails to apply to renew its license issued pursuant to §29-22A-1 et seq. or §29-25-1 et seq. of this code prior to expiration, the commission shall renew its license under this article at the time the expired license is renewed as long as the licensee was operating in compliance with applicable requirements in the preceding license year.

(h) Surety bond. — A West Virginia Lottery sports wagering licensee shall execute a surety bond in an amount and in the form approved by the commission, to be given to the state, to guarantee the licensee faithfully makes all payments in accordance with the provisions of this article and rules promulgated by the commission.

(i) Audits. — Upon application for a license and annually thereafter, a West Virginia Lottery sports wagering licensee shall submit to the commission an annual audit of the financial transactions and condition of the licensee's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable federal and state laws.

(j) Commission office space. — A West Virginia Lottery sports wagering licensee shall provide suitable office space at the sports wagering facility, at no cost, for the commission to perform the duties required of it by this article and the rules of the commission.

(k) Facility qualifications. — A West Virginia Lottery sports wagering licensee shall demonstrate that its gaming facility with West Virginia Lottery sports wagering will: (1) Be accessible to disabled individuals, in accordance with applicable federal and state laws; (2) be licensed in accordance with this article, and all other applicable federal, state, and local laws; and (3) meet any other qualifications specified in rules adopted by the commission. Notwithstanding any provision of this code or any rules promulgated by the Alcohol Beverage Control Commissioner to the contrary, vacation of the premises after service of

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beverages ceases is not required for any licensed gaming facility.

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§29-22D-7. Management services providers; license requirements.

(a) License. — The holder of a license to operate West Virginia Lottery sports wagering may contract with an entity to conduct that operation in accordance with the regulations of the commission. That entity shall obtain a license as a management services provider prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of this article and any regulations promulgated by the commission.

(b) License qualifications and fee. — Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee of $1,000. The commission may adopt rules establishing additional requirements for an authorized management services provider. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets authorized management services provider licensing requirements.

(c) Renewal. — Management services provider licenses shall be renewed annually to any licensee who continues to be in compliance with all requirements and who pays the annual renewal fee of $1,000.

(d) Any entity or individual who shares in revenue, including any affiliate operating under a revenue share agreement, shall be licensed under this section.

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§29-22D-8. Suppliers; license requirements.

(a) Supplier license. —

(1) The commission may issue a supplier license to a person to sell or lease sports wagering equipment, systems, or other gaming items necessary to conduct sports wagering, and offer services related to such equipment or other gaming items to a West Virginia Lottery sports wagering licensee while the license is active. The commission may establish the conditions under which the commission may issue provisional licenses, pending completion of final action on an application.

(2) The commission may adopt rules establishing additional requirements for a West Virginia Lottery sports wagering supplier and any system or other equipment utilized for wagering. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets West Virginia Lottery sports wagering supplier licensing requirements.

(b) Supplier specifications. — An applicant for a supplier license shall demonstrate that the equipment, system, or services that the applicant plans to offer to the sports wagering licensee conform to standards established by the commission and applicable state law. The commission may accept approval by another jurisdiction, that it specifically determines have similar equipment standards, as evidence the applicant meets the standards established by the commission and applicable state law.

(c) License application and renewal fees. — Applicants shall pay to the commission a nonrefundable license and application fee in the amount of $1,000. After the initial one-year term, the commission shall renew supplier licenses annually thereafter. Renewal of a supplier license will be granted to any renewal applicant who has continued to comply with all applicable statutory and regulatory requirements, upon submission of the commission issued renewal form and payment of a $1,000 renewal fee.

(d) Inventory. — A licensed sports wagering supplier shall submit to the commission a list of all sports wagering equipment and services sold, delivered to, or offered to a West Virginia Lottery sports wagering licensee in this state, as required by the commission, all of which must be tested and approved by an independent testing laboratory approved by the commission. A sports wagering licensee may continue to use supplies acquired from a licensed sports wagering supplier, even if a supplier’s license expires or is otherwise cancelled, unless the commission finds a defect in the supplies.

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§29-22D-9. Occupational licenses.

(a) All persons employed to be engaged directly in sports wagering-related activities, or otherwise conducting or operating sports wagering, shall be licensed by the commission and maintain a valid occupational license at all times and the commission shall issue such license to be employed in the operation of sports wagering to a person who meets the requirements of this section.

(b) An occupational license to be employed by a gaming facility with West Virginia Lottery sports wagering permits the licensee to be employed in the capacity designated by the commission while the license is still active. The commission may establish, by rule, job classifications with different requirements to recognize the extent to which a particular job has the ability to impact the proper operation of West Virginia Lottery sports wagering.

(c) Application and fee. — Applicants shall submit any required application forms established by the commission and pay a nonrefundable application fee of $100. The fee may be paid on behalf of an applicant by the employer.

(d) Renewal fee and form. — Each licensed employee shall pay to the commission an annual license fee of $100 by June 30 of each year. The fee may be paid on behalf of the licensed employee by the employer. In addition to a renewal fee, each licensed employee shall annually submit a renewal application on the form required by the commission.

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§29-22D-10. License prohibitions.

(a) The commission may not grant any license, pursuant to the provisions of this article, if evidence satisfactory to the commission exists that the applicant:

(1) Has knowingly made a false statement of a material fact to the commission;

(2) Has been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental authority responsible for regulation of gaming activities;

(3) Has been convicted of a gambling-related offense, a theft, or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order: *Provided*, That the Lottery Commission shall apply §29-22D-10(c) and §29-22D-10(d) of this code in determining whether an applicant's prior criminal convictions bear a rational nexus to the license being sought; or

(4) Is a company or individual who has been directly employed by any illegal or offshore book that serviced the United States, or otherwise accepted black market wagers from individuals located in the United States.

(b) The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

(1) If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;

(2) If the applicant or licensee is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business; or

(3) If the applicant or licensee is a corporation which sells more than five percent of a licensee's voting stock, or more than five percent of the voting stock of a corporation which controls the licensee, or sells a licensee's assets, other than those bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined by the commission to have met the qualifications of a licensee under this article.

(c) The Lottery Commission may not disqualify an applicant from initial licensure because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity requiring licensure. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the Lottery Commission shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

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(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(d) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from licensure because of a prior criminal conviction, the Lottery Commission shall permit the applicant to apply for initial licensure if:

(1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from licensure, to be determined by the Lottery Commission.

(e) An individual with a criminal record who has not previously applied for licensure may petition the Lottery Commission at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license. This petition shall include sufficient details about the individual's criminal record to enable the Lottery Commission to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The Lottery Commission shall provide the determination within 60 days of receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its costs for each petition.

(f) In the case of an applicant for a sports wagering license, the commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if an applicant has not met the requirements of this section or any other provision of this article.

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§29-22D-11. Sports wagering house rules; posting of rules.

(a) Each operator shall adopt comprehensive house rules for game play governing sports wagering transactions with its patrons. These comprehensive rules will be published as part of the minimum internal control standards. The rules shall specify the amounts to be paid on winning wagers and the effect of schedule changes. House rules shall be approved by the commission prior to implementation.

(b) The house rules, together with any other information the commission deems appropriate, shall be conspicuously displayed and included in the terms and conditions of the sports wagering system. Copies shall be made readily available to patrons.

(c) The commission shall license and require the display of West Virginia Lottery game logos on game surfaces, other gaming items, and any locations the commission considers appropriate.

WV Legislature

§29-22D-12. Operator duties; sports wagering operations at a licensed gaming facility.

(a) General. — All operators licensed under this article to conduct West Virginia Lottery sports wagering shall:

(1) Employ a monitoring system utilizing software to identify non-normal irregularities in volume or odds swings which could signal suspicious activities that should require further investigation which shall be immediately reported and investigated by the commission. System requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards;

(2) Promptly report to the commission any facts or circumstances related to the operation of a West Virginia Lottery sports wagering licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator that has been approved by the commission to the appropriate state or federal authorities;

(3) Conduct all sports wagering activities and functions in a manner which does not pose a threat to the public health, safety, or welfare of the citizens of this state and does not adversely affect the security or integrity of the West Virginia Lottery;

(4) Hold the commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against a licensee, the commission, the state, or employees thereof, arising from the licensee's actions or omission while acting as an agent of the commission operating West Virginia Lottery sports wagering pursuant to this article;

(5) Assist the commission in maximizing sports wagering revenues; and

(6) Keep current in all payments and obligations to the commission.

(b) Duties. — All West Virginia Lottery sports wagering licensees shall:

(1) Acquire West Virginia Lottery sports wagering gaming equipment by purchase, lease, or other assignment and provide a secure location for the placement, operation, and play of sports wagering gaming equipment;

(2) Prevent any person from tampering with or interfering with the operation of any West Virginia Lottery sports wagering;

(3) Ensure that West Virginia Lottery sports wagering conducted at a gaming facility is within the sight and control of designated employees of the licensee and such wagering at the facility or otherwise available by the licensee is conducted under continuous observation by security equipment in conformity with specifications and requirements of the commission;

WV Legislature

(4) Ensure that West Virginia Lottery sports wagering occurs only in the specific locations within designated gaming areas approved by the commission or using a commission approved mobile application or other digital platform that utilizes communications technology to accept wagers originating within this state, or on a sports wagering device. West Virginia Lottery sports wagering shall only be relocated or offered in additional authorized manners in accordance with the rules of the commission;

(5) Maintain sufficient cash and other supplies to conduct sports wagering at all times; and

(6) Maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the licensee from West Virginia Lottery sports wagering and shall timely file with the commission any additional reports required by rule or by other provisions of this code.

WV Legislature

§29-22D-13. Posting of betting limits.

A sports wagering licensee shall conspicuously post a sign at each West Virginia Lottery sports wagering location indicating the minimum and maximum wagers permitted at that location and shall comply with the same.

WV Legislature

§29-22D-14. Sports wagering agreements with other governments.

(a) On behalf of the State of West Virginia, the commission is authorized to:

(1) Enter into sports wagering agreements with other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments; and

(2) Take all necessary actions to ensure that any sports wagering agreement entered into, pursuant to this section, becomes effective.

(b) The regulations adopted by the commission pursuant to this section may include provisions prescribing:

(1) The form, length, and terms of an agreement entered into by the commission and another government, including, but not limited to, provisions relating to how: Taxes are to be treated by this state and another government; revenues are to be shared and distributed; and disputes with patrons are to be resolved;

(2) The information to be furnished to the commission by a government that proposes to enter into an agreement with this state pursuant to this section;

(3) The information to be furnished to the commission to enable the commission and director to carry out the purposes of this section;

(4) The manner and procedure for hearings conducted by the commission pursuant to this section, including any special rules or notices; and

(5) The information required to be furnished to the commission to support any recommendations made to the commission, pursuant to this section.

(c) The commission may not enter into any sports wagering agreement, pursuant to this section, unless the agreement includes provisions that:

(1) Account for the sharing of revenues by this state and another government;

(2) Permit the effective regulation of sports wagering by this state, including provisions relating to licensing of persons, technical standards, resolution of disputes by patrons, requirements for bankrolls, enforcement, accounting, and maintenance of records;

(3) Require each government that is a signatory to the agreement to prohibit operators of sports wagering, management or other service providers, or suppliers, manufacturers or distributors of sports wagering systems from engaging in any activity permitted by the sports wagering agreement unless they are licensed in this state or in a signatory jurisdiction with similar requirements approved by the commission;

WV Legislature

(4) No variation from the requirements of the sports wagering agreement is permitted for any signatory government without a lack of opposition by this state and all signatory governments;

(5) Prohibit any subordinate or side agreements among any subset of governments that are signatories to the agreement unless it relates exclusively to the sharing of revenues; and

(6) Require the government to establish and maintain regulatory requirements governing sports wagering that are consistent with the requirements of this state in all material respects if the sports wagering agreement allows persons physically located in this state to participate in sports wagering conducted by another government or an operator licensed by another government.

WV Legislature

§29-22D-15. Authorization of sports wagering in this state; requirements.

(a) An operator shall accept wagers on sports events and other events authorized under this article from persons physically present in a licensed gaming facility where authorized sports wagering occurs, or from persons not physically present who wager by means of electronic devices. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or a sports wagering device, approved by the commission, through the patron's sports wagering account.

(c) An operator may accept wagers from an individual physically located in a state or jurisdiction with which the commission has entered into a sports wagering agreement using a mobile or other digital platform or a sports wagering device through the patron's sports wagering account, so long as the device or platform is approved by the commission and all other requirements of the agreement are satisfied.

(d) Until such time as a rule proposed by the commission is approved for promulgation by the Legislature, the commission or operator may ban any person from entering a gaming area of a gaming facility conducting sports wagering or the grounds of a gaming facility licensed under this article or from participating in the play or operation of any West Virginia Lottery sports wagering. A log of all excluded players shall be kept by the commission and each licensee, and no player on the commission's exclusion list or the licensed operator's exclusion list shall wager on any West Virginia Lottery sports wagering under this article.

(e) The commission shall promulgate rules implementing the provisions of §29-22D-15(a) of this code by interpretive rule and minimum internal control standards.

(f) The commission shall, when a federal law is enacted or repealed or when a federal court decision is issued that permits a state to regulate sports wagering, publish a notice in the State Register notifying the public of the enactment or repeal of federal law or of the issuance of the court decision. The commission may not conduct sports wagering in this state until the notice prescribed in this subsection is published in the State Register.

(g) A licensed gaming facility employee may not place a wager on any sports wagering at the employer's facility or through any other mobile application or digital platform of his or her employer.

(h) A commission employee may not knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery sports wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a sports wagering licensee.

WV Legislature

§29-22D-15a. Fixed odds wagering on horse racing or dog racing.

(a) Fixed odds wagering on horse racing or dog racing is hereby authorized. Acceptance of fixed odds wagering on horse racing or dog racing shall only be conducted by a licensed operator, licensed gaming facility, or management services provider, as defined in this article.

(b) Any content authorized for fixed odds wagering on horse races from outside of West Virginia to be offered for wagering by a licensed operator, licensed gaming facility, or management services provider, shall comply with the Interstate Horseracing Act of 1978, 15 U.S.C. 3001, *et seq*.

(c) Any content authorized for fixed odds wagering on horse races from West Virginia, or fixed odds wagering on dog races from West Virginia, to be offered for wagering by a licensed operator, licensed gaming facility, or management services provider, shall require the consent of the host racetrack and recognized horsemen's group for horse races.

WV Legislature

§29-22D-16. Sports wagering revenues; accounting for the state's share of revenue imposed for the privilege of offering West Virginia Lottery sports wagering; limitation of other taxes; recoupment for improvements.

(a) Imposition and rate of assessment. — For the privilege of holding a license to operate sports wagering under this article, the state shall impose and collect ten percent of the licensee's adjusted gross sports wagering receipts from the operation of West Virginia Lottery sports wagering (hereinafter "privilege tax" or "tax"). The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee.

(b) Operator revenue reports and payment of privilege tax. —

(1) The tax levied and collected pursuant to §29-22D-16(a) of this code is due and payable to the commission in weekly installments on or before the Wednesday following the calendar week in which the adjusted gross sports wagering receipts were received and the tax obligation was accrued.

(2) The licensed operator shall complete and submit the return for the preceding week by electronic communication to the commission, on or before Wednesday of each week, in the form prescribed by the commission that provides:

(A) The total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of West Virginia Lottery sports wagering during that week;

(B) The tax amount for which the sports wagering licensee is liable; and

(C) Any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the commission.

(3) The tax amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return. All moneys received by the commission pursuant to this section shall be deposited in the sports wagering fund in accordance with the provisions of this article.

(4) When adjusted gross receipts for a week is a negative number because the winnings paid to patrons wagering on the licensee's West Virginia Lottery sports wagering exceeds the licensee's total gross receipts from sports wagering by patrons, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent weeks. The negative amount of adjusted gross receipts may not be carried back to an earlier week and moneys previously received by the commission will not be refunded, except if the licensee surrenders its operator's license and the licensee's last return reported negative adjusted gross receipts. In that case, the commission shall multiply the amount of negative adjusted gross receipts by 10 percent and pay the amount to the licensee in the manner approved by the commission.

WV Legislature

(c) Privilege tax obligation imposed by this section is in lieu of other taxes. — With the exception of the ad valorem property tax collected under chapter eleven-a of this code, the privilege tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of West Virginia Lottery sports wagering, except as otherwise provided in this section. The consumers sales and services tax imposed pursuant to §11-15-1 et seq. of this code, the use tax imposed by §11-15A-1 et seq. of this code and any similar local tax imposed at the municipal or county level, shall not apply to the licensee's gross receipts from any West Virginia Lottery sports wagering or to the licensee's purchase of sports wagering equipment, supplies, or services directly used in operation of the sports wagering authorized by this article.

(d) Acquisition of any system or wagering equipment and other items related to the operation of West Virginia sports wagering shall be considered "facility modernization improvements" eligible for recoupment as defined in §29-22A-10(b)(2) and §29-25-22(c) of this code.

(e) Prohibition on credits. — Notwithstanding any other provision of this code to the contrary, no credit may be allowed against the privilege tax obligation imposed by this section or against any other tax imposed by any other provision of this code for any investment in gaming equipment or for any investment in or improvement to real property that is used in the operation of West Virginia Lottery sports wagering.

WV Legislature

§29-22D-17. West Virginia Lottery Sports Wagering Fund; distribution of funds.

(a) The special fund in the State Treasury known as the West Virginia Lottery Sports Wagering Fund is hereby created and all moneys collected under this article by the commission shall be deposited with the State Treasurer to the West Virginia Lottery Sports Wagering Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the sports wagering fund pursuant to §29-22D-17(b) of this code.

(b) The commission shall deduct an amount sufficient to reimburse its actual costs and expenses incurred in administering sports wagering at licensed gaming facilities from the gross deposits into the sports wagering fund. The amount remaining after the deduction for administrative expenses is the net profit.

(1) Administrative allowance. — The commission shall retain up to 15 percent of gross deposits for the fund operation and its administrative expenses: Provided, That in the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate but may not exceed $250,000. On a monthly basis, the director shall report any surplus in excess of $250,000 to the Joint Committee on Government and Finance and remit the entire amount of those surplus funds in excess of $250,000 to the State Treasurer which shall be allocated as net profit.

(2) Distribution of net profit. — In each fiscal year, net profit shall be deposited into the State Lottery Fund created by §29-22-18 of this code until a total of $15 million is deposited; thereafter, the remainder shall be deposited into the Public Employees Insurance Agency Financial Stability Fund to stabilize and preserve the future solvency of PEIA, and such amount may not be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

WV Legislature

§29-22D-17a. Fixed Odds Horse Racing Wagering Purse Supplement Fund creation; distribution of funds.

(a) There is hereby created within the State Treasury a fund known as the West Virginia Lottery Fixed Odds Horse Racing Wagering Purse Supplement Fund. The fund shall be administered by the Director of the West Virginia Lottery.

(b) Ten percent of the licensee's adjusted gross wagering receipts from fixed odds wagering on horse racing shall be collected in the same manner as prescribed by §29-22D-16 of this code. The funds shall be distributed as follows:

(1) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from fixed odds wagers on horse races excluding parlays, 25 percent of such collections shall be deposited into the West Virginia Lottery Fixed Odds Horse Racing Wagering Purse Supplement Fund created by this section.

(2) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from fixed odds wagers on horse races excluding parlays, 25 percent of such collections shall be collected and distributed equally among the licensed thoroughbred racetracks in this state.

(3) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from parlays, 25 percent of the portion of such collections wagered on horse race events in the parlays shall be deposited into the West Virginia Lottery Fixed Odds Horse Racing Wagering Purse Supplement Fund created by this section. For the avoidance of doubt, only the horse racing portion(s) of any parlay bet shall be included in this calculation.

(4) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from parlays, 25 percent of the portion of such collections wagered on horse race events in the parlays shall be collected and distributed equally among licensed thoroughbred racetracks in this state. For the avoidance of doubt, only the horse racing portion(s) of any parlay bet shall be included in this calculation.

(c) All moneys collected under this section by the West Virginia Lottery from fixed odds wagering on horse racing shall be deposited with the State Treasurer in the West Virginia Lottery Fixed Odds Horse Racing Wagering Purse Supplement Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the West Virginia Lottery incurred in the administration and enforcement of this article shall be paid from the West Virginia Sports Wagering Fund pursuant to §29-22D-17(b) of this code.

(d) Moneys in the fund shall be invested by the State Treasurer in the same manner as moneys in the state general fund. Interest earned on the investments of moneys in the fund shall be deposited in and credited to the fund.

(e) Within 30 days of the beginning of each fiscal year, 50 percent of the amount of moneys

WV Legislature

in the fund shall be distributed into the special funds created by thoroughbred racetrack licensees to be used for the payment of regular purses offered for thoroughbred racing and established under §19-23-9(b)(1) of this code, and 50 percent shall be distributed equally among licensed thoroughbred racetracks in this state.

(f) In distributing the funds collected under this section into the special funds of the thoroughbred racetrack licensees to be used for the payment of regular purses offered for thoroughbred racing established under §19-23-9(b)(1) of this code, the Lottery Director shall allocate proportionally based upon the total handle, or amount wagered, at each licensed thoroughbred racetrack, as calculated annually by the West Virginia Racing Commission, for the preceding calendar year.

WV Legislature

§29-22D-17b. Fixed Odds Dog Racing Wagering Purse Supplement Fund creation; distribution of funds.

(a) There is hereby created in the State Treasury a fund known as the West Virginia Lottery Fixed Odds Dog Racing Wagering Purse Supplement Fund. The fund shall be administered by the Director of the West Virginia Lottery.

(b) Ten percent of the licensee's adjusted gross wagering receipts from fixed odds wagering on dog racing shall be collected in the same manner as prescribed by §29-22D-16 of this code. The funds shall be distributed as follows:

(1) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from fixed odds wagers on dog races, excluding parlays, 25 percent of such collections shall be deposited into the West Virginia Lottery Fixed Odds Dog Racing Wagering Purse Supplement Fund established by this section.

(2) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from fixed odds wagers on dog races excluding parlays, 25 percent of such collections shall be collected and distributed equally among the licensed dog racetracks in this state.

(3) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from fixed odds wagers on dog races from parlays, 25 percent of the portion of such collections wagered on dog race events in the parlays shall be deposited into the West Virginia Lottery Fixed Odds Dog Racing Wagering Purse Supplement Fund created by this section. For the avoidance of doubt, only the dog racing portion(s) of any parlay bet shall be included in this calculation.

(4) Of the 10 percent collected from the licensee's adjusted gross wagering receipts from parlays, 25 percent of the portion of such collections wagered on dog race events in the parlays shall be collected and distributed equally among licensed dog racetracks in this state. For the avoidance of doubt, only the dog racing portion(s) of any parlay bet shall be included in this calculation.

(c) Subject to the provisions of subsection (b) of this section, all moneys collected under this section by the West Virginia Lottery from fixed odds wagering on dog racing shall be deposited with the State Treasurer in the West Virginia Lottery Fixed Odds Dog Racing Wagering Purse Supplement Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the West Virginia Lottery incurred in the administration and enforcement of this article shall be paid from the West Virginia Sports Wagering Fund pursuant to §29-22D-17(b) of this code.

(d) Moneys in the fund shall be invested by the State Treasurer in the same manner as moneys in the state General Fund. Interest earned on the investments of moneys in the fund shall be deposited in and credited to the fund.

WV Legislature

(e) Within 30 days of the beginning of each fiscal year, 50 percent of the amount of moneys in the fund shall be distributed to the West Virginia Greyhound Breeding Development Fund created under §19-23-10 of this code, and 50 percent shall be distributed equally among licensed dog racetracks in this state.

WV Legislature

§29-22D-17c. Use of funds by licensed racetrack facilities.

Any funds distributed to licensed racetracks under §29-22D-17a and §29-22D-17b of this code may be expended by such licensed racetracks to support operations in this state authorized under §19-23-1 *et seq.*, §29-22A-1 *et seq.*, §29-22C-1 *et seq.*, §29-22D-1 *et seq.*, or §29-22E-1 *et seq.*, of this code, or for capital improvements at facilities located in this state that are on or contiguous to the premises of the licensed racetrack.

WV Legislature

§29-22D-18. Law enforcement.

Notwithstanding any provision of this code to the contrary, the commission shall, by contract or cooperative agreement with the West Virginia State Police, arrange for those law-enforcement services uniquely related to gaming, as such occurs at facilities of the type authorized by this article, that are necessary to enforce the provisions of this article that are not subject to federal jurisdiction: Provided, That the State Police shall only have exclusive jurisdiction over offenses committed on the grounds of a licensed gaming facility that are offenses relating to gaming.

WV Legislature

§29-22D-19. Civil penalties.

(a) The commission may impose, on any person who violates the provisions of this article, a civil penalty not to exceed $50,000 for each violation. Such penalty shall be imposed on all individuals and is not limited to individuals licensed under this article. This provision shall not be construed as applicable to office pools.

(b) The provisions of §29A-5-1 et seq. of this code apply to any civil penalty imposed pursuant to the provisions of this section.

WV Legislature

§29-22D-20. Crimes and penalties related to unauthorized sports wagering operations.

(a) Any person, other than a licensee under this article, who engages in accepting, facilitating, or operating a sports wagering operation is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000 or confined in jail for not more than ninety days, or both fined and confined.

(b) Notwithstanding the penalty provisions §29-22D-20(a) of this code, any person convicted of a second violation of §29-22D-20(a) of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $50,000, or confined in jail for not more than six months, or both fined and confined.

(c) Notwithstanding the penalty provisions of §29-22D-20(a) or §29-22D-20(b) of this code, any person convicted of a third or subsequent violation of said §29-22D-20(a) of this code is guilty of a felony, and upon conviction thereof, shall be fined not less than $25,000 nor more than $100,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

WV Legislature

§29-22D-21. Crimes and penalties related to authorized sports wagering operation.

(a) A sports wagering licensee is guilty of unlawful operation and is guilty of a misdemeanor when:

(1) The licensee operates West Virginia Lottery sports wagering without authority of the commission to do so;

(2) The licensee operates West Virginia Lottery sports wagering in any location or by any manner that is not approved by the commission;

(3) The licensee knowingly conducts, carries on, operates, or allows any sports wagering to occur on premises or through any other device if equipment or material has been tampered with, or exposed to conditions in which it will be operated in a manner designed to deceive the public;

(4) The licensee employs an individual who does not hold a valid occupational license in a position for which a license is required or otherwise allows an individual to perform duties for which such license is required or continues to employ an individual after the employee's occupational license is no longer valid;

(5) The licensee acts or employs another person to act as if he or she is not an agent or employee of the licensee in order to encourage participation in West Virginia Lottery sports wagering at the licensed gaming facility;

(6) The licensee knowingly permits an individual under the age of 21 to enter or remain in a designated gaming area or to engage in sports wagering at a licensed gaming facility; or

(7) The licensee exchanges tokens, chips, electronic media, or other forms of credit used for wagering for anything of value except money or credits applied to a sports wagering account at a gaming facility authorized under this article.

(b) A person is guilty of a felony when:

(1) A person offers, promises, or gives anything of value to anyone for the purpose of influencing the outcome of a race, sporting event, contest, or game upon which a wager may be made, or a person places, increases, or decreases a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given anything of value for the purpose of influencing the outcome of the race, sporting event, contest, or game upon which the wager is placed, increased or decreased, or attempts to do any of the same;

(2) A person changes or alters the normal outcome of any game played on a mobile or other digital platform, including any interactive gaming system used to monitor the same or the way in which the outcome is reported to any participant in the game;

WV Legislature

(3) The person manufactures, sells, or distributes any device that is intended by that person to be used to violate any provision of this article or the sports wagering laws of any other state;

(4) The person places a bet or aids any other individual in placing a bet on a sporting event or other sports wagering game or offering authorized under this article after unlawfully acquiring knowledge of the outcome on which winnings from that bet are contingent;

(5) The person claims, collects, or takes anything of value from a gaming facility with West Virginia Lottery sports wagering with intent to defraud or attempts such action without having made a wager in which such amount or value is legitimately won or owed;

(6) The person knowingly places a wager using counterfeit currency or other counterfeit form of credit for wagering at a gaming facility with West Virginia Lottery sports wagering; or

(7) The person, not a licensed gaming facility under this article or an employee or agent of a gaming facility licensed under this article acting in furtherance of the licensee's interest, has in his or her possession on grounds owned by the gaming facility licensed under this article or on grounds contiguous to the licensed gaming facility, any device intended to be used to violate a provision of this article or any rule of the commission.

(c) Any person who violates any provision of §29-22D-21(a) of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail for not more than six months, or both fined and confined, except any violation that is not committed by a natural person may result in a fine of not more than $25,000.

(d) Any person who violates any provision of §29-22D-21(b) of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $10,000, or confined in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

(e) With regard to §29-22D-21(b) of this code, each West Virginia sports wagering licensee shall post notice of the prohibitions and penalties of this section in a manner determined by the rules of the commission.

WV Legislature

§29-22D-22. Preemption.

No local law or rule providing any penalty, disability, restriction, regulation, or prohibition for operating a gaming facility with West Virginia Lottery sports wagering or supplying a licensed gaming facility may be enacted, and the provisions of this article preempt all regulations, rules, ordinances, and laws of any county or municipality in conflict with this article.

WV Legislature

§29-22D-23. Exemption from federal law.

Pursuant to Section 2 of Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1172, approved January 2, 1951, the State of West Virginia, acting by and through duly elected and qualified members of the Legislature, does declare and proclaim that the state is exempt from chapter 1194, 64 Stat. 1134, 15 U.S.C. §1171 to §1178.

WV Legislature

§29-22D-24. Shipment of gambling devices.

All shipments of gambling devices including any sports wagering devices or related materials to licensed gaming facilities in this state are legal shipments of gambling devices into the State of West Virginia, as long as the registering, recording, and labeling of which have been completed by the supplier thereof in accordance with Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1171 to §1178.

WV Legislature

§29-22D-25. Wagering by racing officials not allowed.

An operator shall not knowingly accept a wager from a person who is an owner or trainer of a racehorse or dog, or a jockey, including their employees, or a racing official, who is participating in the horse racing or dog racing sports event, as applicable, on which the person is attempting to place the wager. For the purposes of this section, a racing official shall mean: stewards, placing judges, clerk of scales, starter, timer, paddock judge, Racing Commission veterinarian(s), association's racing secretary and assistants, horse identifier, clocker, and jockey room custodian.

WV Legislature