WEST VIRGINIA CODE CHAPTER 29 ARTICLE 22E

WV Legislature

§29-22E-1. Short title.

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

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

(a) Operation of West Virginia Lottery interactive wagering. — Notwithstanding any provision of law to the contrary, the operation of interactive 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 interactive wagering and that it is the intent of the Legislature to authorize interactive wagering within the state and through compacts with other approved jurisdictions.

(4) The Legislature finds that illegal interactive 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 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 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.

(6) 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 interactive 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.

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(7) The Legislature finds that the operation of West Virginia Lottery interactive 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 to 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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§29-22E-3. Definitions.

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

(1) "Adjusted gross interactive wagering receipts" means an operator’s gross interactive wagering receipts from West Virginia Lottery interactive wagering, less winnings paid to wagerers in such games.

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

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

(4) "Gaming" or "interactive gaming" means wagering on any authorized interactive game. Authorized interactive games are computerized or virtual versions of any game of chance or digital simulation thereof, including, but not limited to, casino themed slot simulations, table games, and other games approved by the commission.

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

(6) "Gross interactive wagering receipts" means the total gross receipts received by a licensed gaming facility from interactive wagering.

(7) "Interactive gaming operator" or "operator" means a licensed gaming facility which has elected to operate authorized West Virginia Lottery interactive wagering activities or an interactive gaming system on behalf of or in cooperation with an interactive gaming licensee.

(8) "Interactive gaming provider" or "management services provider" means an interactive gaming licensee or an interactive gaming operator with a valid permit acting on behalf of or in partnership with an interactive gaming licensee.

(9) "Interactive 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 interactive 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.

(10) "Interactive 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 interactive wagering conducted by one or more operators licensed by the signatory governments.

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(11) "Interactive wagering fund" means the special fund in the State Treasury, created in §29-22E-17 of this code.

(12) "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 interactive wagering at a licensed gaming facility (operator license or West Virginia Lottery interactive wagering license);

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

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

(13) "Licensed gaming facility" or "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 interactive wagering.

(14) "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, and in §29-22-1 et seq., §29-22A-1 et seq., §29-22B-1 et seq., §29-22C-1 et seq., §29-22D-1 et seq., and §29-25-1 et seq. of this code.

(15) "National criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation, based on fingerprint identification or any other method of positive identification.

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

(17) "West Virginia Lottery interactive wagering" or "interactive wagering" or "interactive gaming" means the placing of wagers remotely and in real time on any authorized interactive game with any interactive gaming provider, using any communications technology, by means of any electronic or mobile device or other interface capable of providing a means of input and output. 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;

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(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;

(G) Sports wagering, authorized by §29-22D-1 et seq.; and

(H) Daily Fantasy Sports (DFS).

(18) "West Virginia Lottery interactive 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 interactive wagering on the grounds where video lottery is conducted by the licensee or through any other authorized interactive platform developed by the gaming facility. This term is synonymous with "operator's license."

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

(a) In addition to the duties set forth elsewhere in this article, and in §29-22-1 et seq., §29-22A-1 et seq., §29-22B-1 et seq., §29-22C-1 et seq., §29-22D-1 et seq., and §29-25-1 et seq. of this code, the commission shall have the authority to regulate interactive wagering and the conduct of interactive gaming.

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

(c) The commission has the authority, pursuant to §29A-1-1 et seq. and §29A-3-1 et seq. of this code, to promulgate or otherwise enact any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article. Rules proposed by the commission before July 1, 2020, may be promulgated as emergency rules pursuant to §29A-3-15 of this code.

(1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on interactive games; maximum wagers which may be accepted by an operator from any one patron on any one interactive game; 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 interactive 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 interactive wagering operations, interactive wagering equipment and systems, or other items used to conduct interactive wagering, as well as maintenance of financial records and other required records.

(d) 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. The commission may accept applications, evaluate qualifications of applicants, and undertake initial review of licenses prior to promulgation of emergency rules upon the effective date of this article.

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

(f) 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.

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(g) 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.

(h) 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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§29-22E-5. Licenses required.

(a) No person may engage in any activity in connection with West Virginia Lottery interactive wagering in this state unless all necessary licenses have been obtained in accordance with this article and rules of the commission.

(b) 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 noncorporate 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.

(c) 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.

(d) Each interactive 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.

(e) 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.

(f) 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.

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(g) 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 interactive wagering license.

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§29-22E-6. Operator license; West Virginia interactive 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 interactive 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., §29-22D-1 et seq., and §29-25-1 et seq. of this code, the provisions of this article, and applicable rules.

(b) All interactive 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 interactive wagering within the terms and conditions of the license and any rules promulgated under this article.

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

(d) Grant of license. — Upon application by a gaming facility and payment of a $250,000 application fee, the commission shall immediately grant a West Virginia Lottery interactive wagering license to an operator that provides for the right to conduct West Virginia Lottery interactive 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 interactive wagering license authorizes the operation of West Virginia Lottery interactive wagering at approved locations and through any mobile application or other digital platforms approved by the commission.

(f) Management service contracts. —

(1) Approval. — A West Virginia Lottery interactive 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 interactive 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 interactive wagering licensee shall submit any material change in a management services contract, previously approved by the

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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 rules. 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 interactive 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 interactive 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 interactive wagering licensee shall provide suitable office space at the interactive 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 interactive wagering licensee shall demonstrate that its gaming facility with West Virginia Lottery interactive 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

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Alcohol Beverage Control Commissioner to the contrary, vacation of the premises after service of beverages ceases is not required for any licensed gaming facility.

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

(a) License. — The holder of a license to operate West Virginia Lottery interactive wagering may contract with an entity to conduct that operation in accordance with the rules 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 rules 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 $100,000. 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 $100,000.

(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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§29-22E-8. Suppliers; license requirements.

(a) Supplier license. —

(1) The commission may issue a supplier license to a person to sell or lease interactive wagering equipment, systems, or other gaming items necessary to conduct interactive wagering, and offer services related to such equipment or other gaming items to a West Virginia Lottery interactive 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 interactive 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 interactive 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 interactive 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 $10,000. 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 $10,000 renewal fee.

(d) Inventory. — A licensed interactive wagering supplier shall submit to the commission a list of all interactive wagering equipment and services sold, delivered to, or offered to a West Virginia Lottery interactive 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. An interactive wagering licensee may continue to use supplies acquired from a licensed interactive 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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§29-22E-9. Occupational licenses.

(a) All persons employed to be engaged directly in interactive wagering-related activities, or otherwise conducting or operating interactive 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 interactive 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 interactive 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 interactive 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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§29-22E-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; 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) In the case of an applicant for an interactive 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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§29-22E-11. Interactive wagering house rules; posting of rules.

(a) Each operator shall adopt comprehensive house rules for game play governing interactive 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 interactive 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 interactive wagering platforms and any locations the commission considers appropriate.

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

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

(1) Employ an interactive gaming system and interactive gaming platform which manages, conducts, and records interactive games and the wagers associated with interactive games, as well as any interactive gaming platforms authorized 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 interactive 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 interactive 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 interactive wagering pursuant to this article;

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

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

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

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

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

(3) Ensure that West Virginia Lottery interactive 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;

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(4) Ensure that West Virginia Lottery interactive 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 an interactive wagering device. West Virginia Lottery interactive 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 interactive wagering at all times; and

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

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

An interactive wagering licensee shall conspicuously post a sign at each West Virginia Lottery interactive wagering location and on all interactive gaming platforms indicating the minimum and maximum wagers permitted at that location and shall comply with the same.

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§29-22E-14. Interactive wagering agreements with other governments.

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

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

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

(b) The rules 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 interactive 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 interactive 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 interactive wagering, management or other service providers, or suppliers, manufacturers or distributors of interactive wagering systems from engaging in any activity permitted by the interactive wagering agreement unless they are licensed in this state or in a signatory jurisdiction with similar requirements approved by the commission;

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(4) No variation from the requirements of the interactive 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 interactive wagering that are consistent with the requirements of this state in all material respects if the interactive wagering agreement allows persons physically located in this state to participate in interactive wagering conducted by another government or an operator licensed by another government.

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§29-22E-15. Authorization of interactive wagering in this state; requirements.

(a) An operator shall accept wagers on interactive games authorized under this article from persons physically present in a licensed gaming facility where authorized interactive wagering occurs. 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 an interactive wagering device, approved by the commission, through the patron's interactive wagering account. A person placing a wager shall be at least 21 years of age.

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

(d) The commission or operator may ban any person from entering a gaming area of a gaming facility conducting interactive 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 interactive 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 interactive wagering under this article.

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

(f) The commission shall conduct all interactive wagering pursuant to the provisions of this article, and such gaming activities shall be deemed to occur at the licensed gaming facilities authorized to conduct interactive wagering.

(g) No licensed gaming facility employee may place a wager on any interactive wagering at the employer's facility or through any other mobile application or digital platform of their employer.

(h) No commission employee may knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery interactive wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a West Virginia interactive wagering licensee.

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

(a) Imposition and rate of assessment. — For the privilege of holding a license to operate interactive wagering under this article, the state shall impose and collect 15 percent of the licensee's adjusted gross interactive wagering receipts from the operation of West Virginia Lottery interactive 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 §29-22E-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 interactive 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 interactive wagering receipts and adjusted gross interactive wagering receipts from operation of West Virginia Lottery interactive wagering during that week;

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

(C) Any additional information necessary in the computation and collection of the tax on adjusted gross interactive 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 interactive wagering fund in accordance with the provisions of this article.

(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 11A of this code, the privilege tax on adjusted gross interactive 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 interactive 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 interactive wagering or to the licensee's purchase of interactive wagering equipment, supplies, or services directly used in operation of the interactive

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wagering authorized by this article.

(d) Acquisition of any system or wagering equipment and other items related to the operation of West Virginia interactive 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 interactive wagering.

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§29-22E-17. West Virginia Lottery Interactive Wagering Fund; distribution of funds.

(a) The special fund in the State Treasury known as the West Virginia Lottery Interactive 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 Interactive 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 interactive wagering fund pursuant to §29-22E-17(b) of this code.

(b) The commission shall deduct an amount sufficient to reimburse its actual costs and expenses incurred in administering interactive wagering at licensed gaming facilities from the gross deposits into the interactive 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 to pension plan for racing association employees. — In each fiscal year, the Lottery Commission shall deposit one-quarter of a percent of the net profit into each of the four special funds established by the Racing Commission, pursuant to §29-22A-10 and §29-22C-27 of this code, to be used for payment into the pension plan for the employees of the licensed racing associations in this state.

(3) Distribution of net profit. — In each fiscal year, remaining net profit shall be deposited into the State Lottery Fund created by §29-22-18 of this code unless otherwise required by this code.

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§29-22E-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 interactive wagering, 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 interactive wagering.

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§29-22E-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.

(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.

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§29-22E-20. Crimes and penalties related to unauthorized interactive wagering operations.

(a) Any person, other than a licensee under this article, who engages in accepting, facilitating, or operating an interactive 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 90 days, or both fined and confined.

(b) Notwithstanding the penalty provisions of §29-22E-20(a) of this code, any person convicted of a second violation of §29-22E-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 §29-22E-20(a) or §29-22E-20(b) of this code, any person convicted of a third or subsequent violation of §29-22E-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.

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§29-22E-21. Crimes and penalties related to authorized interactive wagering operation.

(a) An interactive wagering licensee is guilty of unlawful operation and is guilty of a misdemeanor when:

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

(2) The licensee operates West Virginia Lottery interactive 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 interactive 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 interactive wagering;

(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 interactive wagering; 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 an interactive wagering account at a gaming facility or through a digital or electronic platform authorized under this article.

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

(1) 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;

(2) 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 interactive wagering laws of any other state;

(3) The person claims, collects, or takes anything of value from a gaming facility offering West Virginia Lottery interactive wagering with intent to defraud or attempts such action

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without having made a wager in which such amount or value is legitimately won or owed;

(4) The person knowingly places a wager using counterfeit currency or other counterfeit form of credit for wagering at a gaming facility or through a digital or electronic platform offering West Virginia Lottery interactive wagering; or

(5) 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 §29-22E-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 §29-22E-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 §29-22E-21(b) of this code, each West Virginia interactive wagering licensee shall post notice of the prohibitions and penalties of this section in a manner determined by the rules of the commission.

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§29-22E-22. Preemption.

No local law or rule providing any penalty, disability, restriction, regulation, or prohibition for operating a gaming facility with West Virginia Lottery interactive 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.

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§29-22E-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.

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

All shipments of gambling devices including any interactive 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.

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