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133rd General Assembly

Bill Analysis

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SUMMARY

Overview – legalization of sports gaming

- Legalizes, regulates, and taxes sports gaming (betting) in Ohio as a “sports gaming lottery” under the administrative authority of the State Lottery Commission.
- Allows casino operators and video lottery sales agents (operators of video lottery terminals (VLTs) at horse racetracks, commonly known as racinos) to apply to offer sports gaming.
- Permits certain veteran’s and fraternal organizations also to offer sports gaming through a casino operator or video lottery sales agent.
- Defines “sports gaming” as participating in the sports gaming lottery operated by the Commission through the business of accepting wagers on sporting events by any system or method approved by the Commission.
- Allows sports gaming in relation to professional or collegiate sports and athletic events, motor races, and any other special event the Commission authorizes for sports gaming, the individual performance statistics of athletes or participants in such an event, or a combination of those.
- Prohibits sports gaming in relation to primary or secondary school sports and athletic events or the individual performance statistics of athletes or participants in such a sport or athletic event.

* This analysis was prepared before the report of the House Finance Committee appeared in the House Journal. Note that the legislative history may be incomplete

- Permits the Commission, by rule, to prohibit or restrict wagering on a particular type of sporting event or to prohibit or restrict a particular type of wager.
- Creates a formal process for a sports governing body to request the Commission to prohibit or restrict wagering on a particular type of sporting event or to prohibit or restrict a particular type of wager, including a right to a hearing if the Commission initially denies the request.
- Requires the Commission to adopt rules prescribing a process for the Commission to prohibit or restrict wagering on a particular type of sporting event or to prohibit or restrict a particular type of wager on a temporary emergency basis instead of by rule.

Sports gaming licenses

- Requires the Commission to issue three types of sports gaming licenses: sports gaming agent licenses, management services provider licenses, and sports gaming occupational licenses.
- Requires the Commission to administer the sports gaming licensing system, and allows the Commission to penalize, limit, condition, restrict, suspend, revoke, deny, or refuse to renew any sports gaming license.
- Provides general eligibility requirements for sports gaming licenses and requires applicants to undergo a criminal records check through the Bureau of Criminal Identification and Investigation (BCII).
- Requires sports gaming licensees to display their licenses while operating sports gaming.
- Requires a sports gaming licensee to 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.
- Allows only a casino operator or a video lottery sales agent to apply for a sports gaming agent license and specifies the process and requirements to receive or renew a sports gaming agent license.
- Allows a sports gaming agent to contract with a management services provider to conduct its sports gaming, and requires the management services provider to be licensed as provided under the bill.
- Requires an individual who is employed to be engaged directly in sports gaming-related activities, or otherwise to conduct or operate sports gaming, to hold an appropriate and valid sports gaming occupational license, and specifies the application and renewal requirements for the license.

Conducting sports gaming

- Allows a sports gaming agent to accept wagers on sporting events only from individuals who are at least 21 and who are physically present in Ohio, and only using sports gaming equipment approved under the bill.

- Requires an individual to register with a sports gaming agent and provide the individual's full legal name before placing any wagers on sporting events with the sports gaming agent, except for wagers placed in person at a sports gaming facility (a casino or a horse racetrack with VLTs) under a certain dollar amount.
- Permits a sports gaming agent to accept wagers on sporting events that are made in person only from persons who are physically present in a sports gaming facility or in a veteran's or fraternal organization's facility.
- Allows a veteran's or fraternal organization to contract with a sports gaming agent to offer sports gaming through the agent using a single piece of sports gaming equipment located in the organization's facility, and specifies the requirements for such a contract.
- Specifies that if a veteran's or fraternal organization is unable to find a sports gaming agent who is willing to contract with the organization, the organization may ask the Commission to require a sports gaming agent selected by the Commission to enter into the contract under commercially reasonable terms approved by the Commission.
- Allows the Commission to adopt rules allowing a sports gaming agent to accept wagers on sporting events online over the internet from persons who are physically present in Ohio.
- Provides several duties for sports gaming agents, including requirements that sports gaming agents comply with minimum internal control standards and conduct sports gaming in compliance with the Commission's rules.
- Requires the Commission to approve all sports gaming equipment, which includes any equipment, including a personal device, and any related software, materials, or supplies that are used or consumed in the operation of sports gaming.
- Exempts shipments of sports gaming equipment into Ohio from a federal law that generally prohibits that practice but allows states to exempt themselves.

State Lottery Commission

- Increases the membership of the Commission from nine to eleven members.
- Requires three members of the Commission to have gaming experience.
- Requires the Commission to adopt all rules related to sports gaming in accordance with the Administrative Procedure Act, and specifies several types of sports gaming rules that the Commission must adopt.
- Creates the Sports Gaming Advisory Board to advise the Commission and to study and develop recommendations for the Commission's sports gaming rules.
- Requires the Director of the Commission to employ a monitoring system to identify irregularities in volume or odds swings that could signal suspicious activities that require further investigation.

- Requires the Commission to make anonymized sports gaming data available in real time to sports governing bodies through the monitoring system to ensure the integrity of sports gaming.
- Requires the Director promptly to report any facts or circumstances relating to the operations of a sports gaming licensee that constitute a violation of state or federal law and immediately to report any suspicious wagering.
- Adds problem sports gaming services to the gambling addiction services that the Director of the State Lottery Commission must, under continuing law, contract with the Department of Mental Health and Addiction Services for the Department to provide on behalf of the Commission.
- Requires the Director of the State Lottery Commission to publicize those gambling addiction services and the state's existing toll-free problem gambling helpline.

Taxation of sports gaming

- Imposes a 10% tax on a sports gaming agent's net revenue from sports gaming.
- Requires that the sports gaming tax be administered in much the same way as the state's existing tax on casino revenue.
- Requires sports gaming agents to withhold state and any applicable municipal income taxes from patrons' winnings whenever federal income tax withholding is required.
- Specifies that operators must pay Commercial Activity Tax only on their net receipts from sports gaming, not on gross receipts.

Distribution of state sports gaming revenue

- Creates the Sports Gaming Revenue Fund in the state treasury and requires all state revenues generated from sports gaming to be deposited in the fund, including revenue from the tax imposed on sports gaming receipts and including all fees, fines, and other revenue collected by the State Lottery Commission in administering sports gaming.
- Creates several additional funds into which the Director of Budget and Management must transfer moneys from the Sports Gaming Revenue Fund in order to cover the expenses incurred by the State Lottery Commission, the Ohio Casino Control Commission, and the Department of Taxation in regulating and taxing sports gaming.
- Requires 98% of the remaining funds in the Sports Gaming Revenue Fund to be transferred to the Lottery Profits Education Fund and 2% to the Problem Sports Gaming and Addiction Fund created by the bill to pay the costs of program services to alleviate problem sports gaming in Ohio, as mentioned above.

Prohibitions and enforcement

- Prohibits any person from offering sports gaming in Ohio without first obtaining a sports gaming agent license, and prohibits a sports gaming agent from allowing another person

to offer sports gaming on the agent’s behalf, except as specifically permitted under the bill.

- Prohibits a sports gaming agent from accepting a wager from an individual who is under 21 or is not physically present in Ohio.
- Prohibits any employee of a sports gaming agent from engaging in sports gaming offered by that sports gaming agent.
- Prohibits any employee of the State Lottery Commission from participating in sports gaming with an Ohio sports gaming agent or with an out-of-state person or entity associated with an Ohio sports gaming agent.
- Allows the State Lottery Commission to exclude any individual from participating in sports gaming, and allows a sports gaming agent to exclude any individual from participating in sports gaming with that agent.
- Establishes several criminal prohibitions concerning sports wagering, including prohibitions concerning wagering by individuals under 21, unlicensed sports gaming operations, and corrupt practices intended to change the outcome of a sporting event.
- Requires the State Lottery Commission to levy civil penalties for noncriminal violations of the law governing sports gaming.
- Requires the Ohio Casino Control Commission to enforce the law governing sports gaming pursuant to an agreement with the Director of the State Lottery Commission.

Other lottery games

- Requires the State Lottery Commission to adopt rules making self-service, terminal-generated lottery games, other than sports gaming, available to lottery sales agents with Class C or D liquor permits.
- Specifies several requirements for those games.
- Requires the Commission to acquire, install, and begin operating at least 1,250 of those terminals within 90 days after the bill takes effect, and at least another 1,250 terminals within 180 days after the bill takes effect.

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DETAILED ANALYSIS

Overview – legalization of sports gaming

The bill legalizes, regulates, and taxes sports gaming (betting) in Ohio as a “sports gaming lottery” under the administrative authority of the State Lottery Commission. Under the bill, casino operators and video lottery sales agents (operators of video lottery terminals (VLTs) at horse racetracks, commonly known as racinos) may apply to offer sports gaming, and certain veteran’s and fraternal organizations also may offer sports gaming through a casino operator or video lottery sales agent (see **COMMENT 1**).

Currently, the Revised Code generally prohibits any person from engaging in bookmaking (the business of receiving or paying off bets), and defines a bet as the hazarding of anything of value upon the result of an event, undertaking or contingency, except for a bona fide business risk. As a result, under existing law, any person who takes and pays off bets on the outcomes of sporting events is guilty of illegal gambling. The bill retains that prohibition, but makes an exception for the form of sports gaming permitted under the bill.

The federal Professional and Amateur Sports Protection Act of 1992 (PASPA) generally prohibits the states from legalizing sports betting. However, in 2018, the U.S. Supreme Court overturned PASPA on the ground that it violates the states’ rights under the 10th Amendment to the U.S. Constitution. Consequently, that law no longer prevents Ohio from legalizing and regulating sports betting.¹

Permitted types of sports gaming

Under the bill, “sports gaming” means participating in the sports gaming lottery operated by the Commission through the business of accepting wagers on sporting events by any system or method of gaming approved by the Commission. To “wager” means to purchase a sports gaming lottery ticket through which a sum of money or thing of value is risked on an uncertain occurrence. “Sports gaming” includes purchasing lottery tickets whose prize determinations are based on exchange wagering, parlays, over-under, moneyline, in-game wagering, single-game bets, teaser bets, in-play bets, proposition bets, pools, pari-mutuel sports wagering pools, straight bets, or any other type of wagering on sporting events approved by the Commission.² But, “sports gaming” does not include casino gaming, fantasy contest entry fees, or pari-mutuel horse racing wagering, which are all regulated separately under continuing law.

A “sporting event” that may be bet on under the bill is any professional sport or athletic event, any collegiate sport or athletic event, any motor race event, or any other special event the

¹ R.C. 2915.02, not in the bill, and *Murphy v. National Collegiate Athletic Association*, 138 S. Ct. 1461 (2018).

² For explanations of several common types of sports wagers, see Vegas.com, [Sports Betting](#), and Online Gambling Sites, [How to Bet on Sports – Guide to the Different Types of Wagers](#).

Commission authorizes for sports gaming, the individual performance statistics of athletes or participants in such an event, or a combination of those. A “professional sport or athletic event” is 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 the event. And, a “collegiate sport or athletic event” is a sport or athletic event offered, sponsored by, or played in connection with a public or private post-secondary educational institution.³

Prohibited types of sports gaming

The bill excludes from the definition of a “sporting event,” and therefore prohibits betting on, a sport or athletic event for primary or secondary school students that is conducted or sponsored by a primary or secondary school or by another person, or the individual performance statistics of athletes or participants in such a sport or athletic event.

The bill also allows the State Lottery Commission to adopt rules under the Administrative Procedure Act to prohibit or restrict wagering on a particular type of sporting event or to prohibit or restrict a particular type of wager. The Commission may do so independently or at the request of any person, including a sports governing body. (The bill defines a “sports governing body” as a regional, national, or international organization with ultimate authority over the rules and codes of conduct with respect to a sporting event and the participants in the sporting event.)

A sports governing body may formally request the Commission to prohibit or restrict wagering on a particular type of sporting event or to prohibit or restrict a particular type of wager by submitting a request in the form and manner prescribed by the Commission. If the Commission determines that the sports governing body has shown good cause through its formal request to grant the requested prohibition or restriction, the Commission promptly must adopt the prohibition or restriction. On the other hand, if the Commission determines that the sports governing body has not shown good cause through its formal request to grant the requested prohibition or restriction, the Commission promptly must provide the sports governing body with notice and an opportunity for a hearing to offer further evidence in support of granting the requested prohibition or restriction.

Finally, the bill requires the Commission to adopt rules prescribing a process for the Commission to prohibit or restrict wagering on a particular type of sporting event or prohibit or restrict a particular type of wager on a temporary emergency basis instead of by rule. For example, if the Commission learned an hour before a game was set to begin that a player intended to throw the game to benefit a bettor, the Commission could prohibit sports gaming agents from accepting wagers on that game, without being required to go through the process to adopt a rule under the Administrative Procedure Act, which might take weeks or months.⁴

³ R.C. 3770.30.

⁴ R.C. 3770.30 and 3770.31(D).

Sports gaming licenses

Licensing requirements, generally

Under the bill, the State Lottery Commission must issue three types of licenses: sports gaming agent licenses, management services provider licenses, and sports gaming occupational licenses.⁵ The bill refers generally to all of these licenses as “sports gaming licenses,” and the persons who hold valid sports gaming licenses are “sports gaming licensees.” The Commission must determine a person’s eligibility to hold a sports gaming license, issue all licenses, and maintain records of licenses issued. Before the Commission has adopted rules governing sports gaming licenses, the bill requires the Commission to accept applications, evaluate applicants’ qualifications, and undertake initial review of licenses.

The bill also allows the State Lottery Commission to penalize, limit, condition, restrict, suspend, revoke, deny, or refuse to renew any sports gaming license as part of an adjudication conducted under the Administrative Procedure Act. The Commission may take into account any relevant aggravating or mitigating factors without in any manner limiting the Commission’s authority to impose the level and type of discipline the Commission considers appropriate.

No State Lottery Commission employee, and no individual under 21, may receive a sports gaming license. In general, each person applying for a sports gaming license must submit a complete set of fingerprints to the Bureau of Criminal Identification and Investigation (BCII) for the purpose of conducting a criminal records check and must pay any required fee for the check, provided that in the case of a sports gaming occupational license, the applicant’s employer must pay the fee. The Commission may require additional criminal records checks from a licensee applying to renew a sports gaming license.

However, if an applicant for a sports gaming license underwent a criminal records check during the previous three years for the purpose of obtaining or renewing a video lottery license or a license issued under the Casino Law, the applicant was issued that license or had the license renewed, and the State Lottery Commission or the Ohio Casino Control Commission has a record of the result of the criminal records check, the result of the previous check must be used, and the applicant is not required to undergo an additional check.

The bill prohibits the State Lottery Commission from granting a sports gaming license to an applicant if evidence satisfactory to the Commission exists that the applicant has done any of the following:

- Knowingly made a false statement of material fact to the State Lottery Commission;
- Been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental unit;

⁵ LSC’s Occupational Regulation Report regarding the As Introduced version of the bill is [available here](#). Note that some of the bill’s provisions governing sports gaming licenses have since been amended.

- Been convicted of a disqualifying offense, meaning a crime of moral turpitude, a gambling-related offense, or a theft or fraud offense, or otherwise has demonstrated a lack of respect for law and order as demonstrated by the criminal records check;
- Been directly employed by any offshore wagering market that illegally serviced the United States or otherwise accepted illegal wagers from individuals located in the United States.

In the case of a sports gaming agent or a management services provider (that is, a sports gaming licensee that may be a business entity instead of an individual), an applicant also may not receive a sports gaming license until the State Lottery Commission has determined that each person who has control of the applicant has met the qualifications for licensure. All of the following persons are considered to have control of an applicant:

- Each person associated with a corporate applicant, including any corporate holding company, parent company, or subsidiary company of the applicant that has the ability to control the corporate applicant's activities or elect a majority of the board of directors of that corporation, other than any bank or other licensed lending institution that holds a mortgage or lien acquired in the course of ordinary business;
- Each person associated with a noncorporate applicant that directly or indirectly holds a beneficial or proprietary interest in the applicant's business operation or that the Commission otherwise determines has the ability to control the applicant;
- The applicant's key personnel, including any executive, employee, or agency, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

A sports gaming agent or management services provider must display its license conspicuously in its place of business or have the license available for inspection by any agent of the State Lottery Commission or any law enforcement agency. A holder of a sports gaming occupational license must have an indicator of licensure prominently displayed when present in a sports gaming facility at all times, in accordance with the State Lottery Commission's rules.

Finally, a sports gaming licensee must give the State Lottery Commission written notice within 30 days of any change to any information provided in the licensee's application for a license or renewal.⁶

Sports gaming agents

Generally

The bill allows casino operators and video lottery sales agents to offer sports gaming in accordance with the bill. A casino operator or video lottery sales agent who is licensed to do so

⁶ R.C. 109.572; 3770.30(K) and (L), 3770.31(G) and (I), 3770.32(B), (C), (D), and (E), 3770.36(A) and (C), and 3770.72(A).

by the State Lottery Commission is considered a “sports gaming agent.” Sports gaming agents may offer sports gaming at sports gaming facilities, meaning designated areas in casino facilities and at horse racetracks that have VLTs, in certain veteran’s and fraternal organizations, and also, if the Commission authorizes it, over the internet (see “**Conducting sports gaming**,” below). The Commission may not, itself, operate as a sports gaming agent or license any person other than a casino operator or video lottery sales agent to be a sports gaming agent. A vendor who provides sports gaming equipment to be used through a licensed sports gaming agent is not considered a sports gaming agent solely on that basis.

Under continuing law, a casino operator is an owner or lessee of one of Ohio’s four constitutionally authorized casino facilities in Cincinnati, Cleveland, Columbus, and Toledo, and is regulated by the Ohio Casino Control Commission. Video lottery sales agents are persons who are authorized to conduct horse racing in Ohio and who also hold a license from the State Lottery Commission to sell video lottery games through VLTs at racetracks. VLTs are devices that allow customers to play lottery games and receive an immediate result on an electronic display, and are similar in appearance to slot machines. Those racetrack facilities are commonly called racinos.⁷

Licensing process

The bill requires a casino operator or video lottery sales agent who wishes to be a sports gaming agent to submit an application to the State Lottery Commission, on a form furnished by the Commission. The applicant also must do all of the following:⁸

- Submit a nonrefundable \$100,000 fee;
- Agree to a minimum capital investment as approved by the Commission;
- Commit to employing a certain number of individuals on a full-time basis as approved by the Commission;
- Do one of the following:
 - Give the state a surety bond, in an amount and in the form approved by the Commission, to guarantee that the applicant faithfully makes all required payments;
 - Increase the amount of an existing surety bond given to the state as a condition of licensure as a video lottery sales agent or casino operator by an amount approved by the Commission and condition the increased amount of the bond on the applicant faithfully making all payments required under the law governing sports gaming.

⁷ R.C. 3770.30(A), (G), (H), (J), and (N). See also R.C. 3772.01(G), not in the bill, and Ohio Administrative Code 3770:2-2-01.

⁸ R.C. 3770.33(B).

- Submit an audit of the applicant's financial transactions and the condition of the applicant's total operations for the previous fiscal year prepared by a certified public accountant in accordance with generally accepted accounting principles and state and federal laws;
- Satisfy any other conditions required under the bill or under Commission rules, provided that the Commission's rules must not require an applicant to take action to satisfy any additional requirement for the license that is substantially similar to any requirement the applicant previously has satisfied in order to obtain or renew the applicant's video lottery sales agent license or casino operator license.

Renewal

The term of a sports gaming agent license must be concurrent with the three-year term of the sports gaming agent's casino operator license or video lottery sales agent license, as applicable. Upon the expiration of the sports gaming agent license, the sports gaming agent may renew it, unless the license is suspended or revoked, the sports gaming agent's casino operator license or video lottery sales agent license is suspended or revoked, or the Commission determines that the sports gaming agent is not in compliance with the bill and with the Commission's rules.

The sports gaming agent must pay a nonrefundable renewal fee of the lesser of \$100,000 or 1% of the sports gaming agent's total gross receipts received from the operation of sports gaming in Ohio during the previous year. For each fiscal year during which a sports gaming agent offers sports gaming under the bill, the sports gaming agent also must submit to the Commission an audit of the sports gaming agent's financial transactions and the condition of the sports gaming agent's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable state and federal laws.⁹

Denial or revocation

The bill allows the State Lottery Commission to deny a sports gaming agent license to any applicant, reprimand any sports gaming agent, or suspend or revoke a sports gaming agent license if any of the following are true:¹⁰

- The applicant or sports gaming agent has not demonstrated to the Commission's satisfaction financial responsibility sufficient to adequately meet the requirements of the enterprise;

⁹ R.C. 3770.33(C) and (E). See also R.C. 3772.10(B), not in the bill, and O.A.C. 3770:2-3-07(B) and 3772-4-05(C).

¹⁰ R.C. 3770.36(B).

- The applicant or sports gaming agent 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;
- The applicant or sports gaming agent is a corporation that sells more than 5% of a sports gaming agent's voting stock, or more than 5% of the voting stock of a corporation that controls the sports gaming agent, or sells a sports gaming agent'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 sports gaming agent.

Management services providers

The bill allows a sports gaming agent to contract with a management services provider to offer sports gaming on the sports gaming agent's behalf, either in a sports gaming facility or in another manner authorized by the State Lottery Commission, in accordance with the bill and with the Commission's rules. The management services provider must fulfill the sports gaming agent's duties under the bill and is subject to all applicable provisions of the bill to the same extent as the sports gaming agent. A person who meets the requirements in the Commission's rules to be a management services provider may obtain a management services provider license from the Commission by paying a nonrefundable license and application fee of \$1,000. The Commission may accept licensing by another jurisdiction with similar licensing requirements as evidence that the applicant meets the requirements to be a management services provider.

The Commission's rules must not require an applicant for a management services provider license that currently holds a video lottery license or a license issued under the Casino Law to take action to satisfy any additional requirement for the management services provider license that is substantially similar to any requirement the applicant previously has satisfied in order to obtain or renew the applicant's other license.

A management services provider who continues to meet the Commission's requirements may renew the provider's license annually by paying a nonrefundable renewal fee of \$1,000. In order to permit a management services provider to offer sports gaming on behalf of a sports gaming agent, the bill requires the sports gaming agent and the management services provider to enter into a written contract that has been approved by the Commission. If the sports gaming agent and the management services provider wish to make a material change to the contract, the sports gaming agent first must submit the change to the Commission for its approval or rejection. The sports gaming agent or the management services provider may not assign, delegate, subcontract, or transfer the management services provider's duties and responsibilities under the contract to a third party without the Commission's prior

approval, and the third party must be licensed as a management services provider before providing those services.¹¹

Sports gaming occupational licenses

The bill requires an individual who is employed to be engaged directly in sports gaming-related activities, or otherwise to conduct or operate sports gaming, in Ohio to hold an appropriate and valid sports gaming occupational license issued by the Commission at all times. (That requirement does not apply to a person working at a veteran's or fraternal organization, as discussed below.) A sports gaming occupational license permits the licensee to be employed in the capacity the Commission designates during the duration of the license. Under the bill, the Commission may establish by rule job classifications with different requirements.

The Commission must issue a sports gaming occupational license to an individual who meets the requirements of the bill and of the Commission's rules. An applicant must apply on a form prescribed by the Commission and must pay a nonrefundable application fee of \$100, provided that the applicant's employer may pay the fee on the applicant's behalf.

The Commission may adopt rules allowing an individual who holds a sports gaming occupational license from another jurisdiction to be licensed in Ohio by reciprocity, so long as that jurisdiction's requirements to receive that license and the activities authorized by the license are substantially similar to those of Ohio with respect to the license the individual seeks.

The Commission's rules must not require an applicant for a sports gaming occupational license who currently holds a video lottery license or a license issued under the Casino Law to take action to satisfy any additional requirement for the sports gaming occupational license that is substantially similar to any requirement the applicant previously has satisfied in order to obtain or renew the applicant's other license.

A sports gaming occupational license is valid for a term of three years, provided that if the individual also holds a video lottery license or a license issued under the Casino Law, the term of the individual's sports gaming occupational license must be concurrent with that other license. In order to renew a sports gaming occupational license, the licensee must apply to the Commission on a form prescribed by the Commission and must pay a nonrefundable renewal fee of \$100. A licensee's employer may pay the fee on the licensee's behalf.¹²

Conducting sports gaming

General requirements

The bill allows a sports gaming agent to accept wagers on sporting events only from individuals who are at least 21 and who are physically present in Ohio, and only using sports gaming equipment approved in accordance with the bill. Before accepting any wager on a sporting event from an individual, the sports gaming agent generally must require the

¹¹ R.C. 3770.34.

¹² R.C. 3770.35.

individual to register with the sports gaming agent, provide the individual's full legal name and any other information required by the State Lottery Commission or requested by the sports gaming agent, and place all wagers on sporting events placed with the sports gaming agent through that registration. But, a sports gaming agent may accept an anonymous wager from an individual who is physically present in a sports gaming facility, so long as the amount of the wager does not exceed a dollar limit determined by the Commission by rule. (The bill defines a "sports gaming facility" as the area designated for sports gaming in a casino or at a horse racetrack that has VLTs.)

See "**Prohibitions and enforcement**," below, for information about who may not place sports wagers and about gaming practices that are prohibited under the bill.¹³

Physical locations

Generally

The bill allows a sports gaming agent to accept wagers on sporting events that are made in person only from individuals who are physically present in a sports gaming facility (at a casino or a horse racetrack that has VLTs) or, as explained below, in a veteran's or fraternal organization's facility.) The Commission may not use its rulemaking authority to allow sports gaming in other physical locations.¹⁴

Veteran's and fraternal organizations

Under the bill, the State Lottery Commission must adopt rules to permit a veteran's or fraternal organization to contract with a sports gaming agent to offer sports gaming through the sports gaming agent using a single piece of sports gaming equipment located in the organization's facility. The bill defines those organizations in the same way as under the law governing charitable bingo. The provisions of the bill authorizing veteran's and fraternal organizations to do so and requiring the Commission to adopt those rules takes effect one year after the bill's general effective date.

The Commission's rules must do all of the following:

- Require the organization to permit only its members to participate in sports gaming offered by the organization;
- Require the organization to pay the Commission a nonrefundable application fee of \$1,000;
- Require the organization to hold a D-class liquor permit for the facility;
- Establish the compensation due to the organization from the sports gaming agent, which must be substantially similar to the compensation percentages paid to lottery

¹³ R.C. 3770.39(A).

¹⁴ R.C. 3770.39(A)(1).

sales agents (currently, lottery sales agents receive a 5.5% commission on every sale, plus an additional percentage up to 1.5% for cashing in winning tickets);¹⁵

- Require the sports gaming agent to comply with all applicable requirements of the bill and of the Commission's rules concerning the conduct of sports gaming at the organization's facility;
- Provide for any other procedure or thing the Commission determines necessary to complete its duties concerning sports gaming at veteran's and fraternal organizations.

The Commission also may provide by rule for the Commission to supply some or all of the sports gaming equipment to be used by veteran's or fraternal organizations through a vendor selected by the Commission.

If a veteran's or fraternal organization that wishes to contract with a sports gaming agent is unable to do so because no sports gaming agent is willing to contract with the organization, the bill allows the organization to report that fact to the Commission. The Commission then must require a sports gaming agent selected by the Commission to enter into a contract with the organization under commercially reasonable terms approved by the Commission.

A contract between a veteran's or fraternal organization and a sports gaming agent must be for a term of one year. If the Commission determines that the organization and the sports gaming agent are in compliance with the bill and the Commission's rules, the organization and the sports gaming agent may renew the contract. Upon renewing the contract, the organization must pay the Commission a nonrefundable renewal fee of \$1,000.¹⁶

Online sports gaming

The bill allows the Commission to adopt rules allowing a sports gaming agent to accept wagers on sporting events online over the internet from persons who are physically present in Ohio, in addition to at a sports gaming facility or veteran's or fraternal organization's facility. The software and personal devices used to engage in online sports gaming would be considered sports gaming equipment that the Commission must regulate under the bill. (See **COMMENT 2** and "**Sports gaming equipment**," below.)¹⁷

Sports gaming agent duties

The bill requires a sports gaming agent to adopt comprehensive house rules for game play governing sports gaming transactions with its patrons, including rules that specify the amounts to be paid on winning wagers and the effect of schedule changes, and must submit them to the State Lottery Commission for approval before implementing them. The sports

¹⁵ Ohio Lottery, *Retailer Benefits*.

¹⁶ R.C. 3770.331 and Section 3 of the bill. See also R.C. 2915.01, not in the bill.

¹⁷ R.C. 3770.30(I) and 3770.31(D) and (G).

gaming agent must publish its house rules as part of its minimum internal control standards, must display the house rules, together with any other information the Commission considers appropriate, conspicuously in each sports gaming facility and in any other place or manner prescribed by the Commission, and must make copies of its house rules readily available to patrons.

A sports gaming agent also must do all of the following:¹⁸

- Conduct all sports gaming activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Ohio;
- Assist the Commission in maximizing sports gaming revenue;
- Keep current in all payments and obligations to the Commission;
- Acquire sports gaming equipment and provide a secure location for the placement, operation, and play of the equipment;
- Prevent any person from tampering with or interfering with the operation of sports gaming;
- Ensure that sports gaming conducted at a sports gaming facility is within the sight and control of the sports gaming agent's designated employees and that sports gaming is conducted under continuous observation by security equipment in conformity with the Commission's specifications and requirements;
- Ensure that sports gaming occurs only in the locations and manner approved by the Commission;
- Ensure that all sports gaming is monitored through a centralized lottery gaming system;
- Ensure that all sports gaming equipment owned or operated by the sports gaming agent is connected to and monitored through a centralized lottery gaming system;
- Conspicuously post a notice at each sports gaming facility and in every other place required by the Commission, indicating the maximum and minimum wagers permitted, and comply with those limits;
- Maintain sufficient funds and other supplies to conduct sports gaming at all times;
- Maintain daily records showing the sports gaming agent's sports gaming receipts and timely file with the Commission any additional reports required by rule or by other provisions of the Revised Code.

Sports gaming equipment

The bill defines "sports gaming equipment" as any mechanical, electronic, or other device, mechanism, or equipment, including a personal device, and related software, materials,

¹⁸ R.C. 3770.37 and 3770.38.

or supplies, that are used or consumed in the operation of sports gaming. The State Lottery Commission must approve sports gaming equipment and must adopt rules requiring sports gaming licensees and sports gaming facilities to use only approved sports gaming equipment.

The bill states that all shipments of gambling devices, including any sports gaming equipment, to sports gaming facilities in Ohio are legal shipments of gambling devices into Ohio, as long as the supplier registers, records, and labels the equipment in accordance with the federal Gambling Devices Act of 1962. That act prohibits any person from knowingly transporting any gambling device into a state, but allows states and political subdivisions to pass laws exempting themselves from the prohibition.¹⁹

State Lottery Commission

Additional members

The bill adds two members to the State Lottery Commission, which currently has nine members, and retains the requirement that no more than a simple majority of the Commission may be members of the same political party. Members of the Commission are appointed to three-year terms by the Governor with the advice and consent of the Senate. The bill specifies that the two new members must be appointed to terms ending August 1, 2022.

Under the bill, three members of the Commission must have gaming experience. But, no existing member of the Commission must be removed in order to be replaced by a person with gaming experience. Instead, the bill requires the two additional members of the Commission to have gaming experience, and the next person appointed after the two new members also must have gaming experience.²⁰

Administrative rules

The bill requires the State Lottery Commission to adopt all rules related to sports gaming in accordance with the Administrative Procedure Act. In addition to the rules mentioned above, the Commission must adopt rules that include all of the following:

- Procedures for a sports gaming agent to accept wagers on a sporting event or series of sporting events;
- The maximum wager that a sports gaming agent may accept from any one individual on any one sporting event;
- The types of wagering tickets to be issued;
- The manner in which tickets are issued;
- The type of records to be kept by sports gaming licensees;
- The system to be used to place a wager;

¹⁹ R.C. 3770.30(I), 3770.31(F), and 3770.40. See also 15 U.S.C. 1172.

²⁰ R.C. 3770.01 and Section 5 of the bill.

- Protections for a player placing a wager;
- Measures to promote responsible sports gaming;
- Penalties and fines for violating the Commission’s rules (see “**Civil penalties imposed by State Lottery Commission,**” below);
- A prohibition against sports gaming advertising targeting individuals under 21;
- Any other procedure or thing the Commission determines necessary to ensure the integrity of sports gaming.

The bill also requires the Commission to adopt rules establishing minimum internal control standards for the administration of sports gaming operations, for sports gaming equipment, systems, or other items used to conduct sports gaming, and for the maintenance of financial records and other required records. The Commission may approve minimum internal control standards proposed by sports gaming agents.

Additionally, the Commission may adopt rules that establish standards for advertising on items that are used in the conduct of, or to promote, a sports gaming event and may develop its own advertising or enter into a contract for advertising services.²¹

Sports Gaming Advisory Board

The bill creates the Sports Gaming Advisory Board to advise the State Lottery Commission and to study and develop recommendations for the Commission’s rules under the bill. The Board must make recommendations to the Commission as it determines appropriate.

The Board consists of five members appointed by the Governor with the advice and consent of the Senate, not more than three of whom may be members of the same political party. Members of the Board must be residents of Ohio and must serve without compensation. A member of the State Lottery Commission or the Ohio Casino Control Commission may not serve on the Board.

The Board ceases to exist three years after the bill takes effect.²²

Monitoring of sports gaming

The bill requires the Director of the State Lottery Commission to employ a monitoring system utilizing software to identify irregularities in volume or odds swings that could signal suspicious activities that require further investigation. The Commission must develop the requirements and specifications for the system according to industry standards and implement the system as part of the minimum internal control standards.

²¹ R.C. 3770.30(N) and 3770.31(A), (B), (E), and (J).

²² Section 4 of the bill.

The bill requires the Commission to make anonymized sports gaming data available to sports governing bodies in real time through the monitoring system to ensure the integrity of sports gaming.

The Director must promptly report to the State Lottery Commission and the Ohio Casino Control Commission any facts or circumstances related to the operation of a sports gaming licensee that constitute a violation of state or federal law, and must immediately report any suspicious wagering to the appropriate state or federal authorities (see “**Enforcement by Ohio Casino Control Commission**,” below).²³

Problem sports gaming

The bill adds problem sports gaming services to the gambling addiction services that the Director of the State Lottery Commission must, under continuing law, contract with the Department of Mental Health and Addiction Services for the Department to provide on behalf of the Commission. The bill also requires the Director of the State Lottery Commission to publicize those gambling addiction services and the state’s existing toll-free problem gambling helpline. Under the bill, the Director of the State Lottery Commission must use the moneys in the Problem Sports Gaming and Addiction Fund established under the bill to pay the costs of program services to alleviate problem sports gaming in Ohio (see “**Remaining moneys**,” below).²⁴

Taxation of sports gaming

Tax on sports gaming revenue

The bill levies a 10% tax on a sports gaming agent’s net revenue from sports gaming. The tax is imposed on the sports gaming agent’s “sports gaming receipts,” which include the total amount received as wagers, less (a) cash paid as winnings, (b) federal excise taxes paid by the sports gaming agent, (c) voided wagers, and (d) patrons’ uncollectible debts.²⁵

The tax operates in much the same way as the state’s tax on casino gaming revenue. The Department of Taxation administers the tax, and the same filing requirements, penalties, and refund and assessment procedures that apply to the casino gaming tax also apply to the sports gaming tax. As with the casino gaming tax, a sports gaming agent must file daily tax returns showing the sports gaming agent’s sports gaming receipts and pay the tax due. Returns are to be filed electronically on each day that banks are open.

The bill specifies that, if a sports gaming agent has negative receipts for a particular day (if the winnings paid out exceed the amount wagered), the Tax Commissioner may allow the

²³ R.C. 3770.02 and 3770.31(K).

²⁴ R.C. 3770.02(K) and 5753.031. See also [Ohio for Responsible Gambling](#).

²⁵ R.C. 5753.01. An uncollectible debt includes an amount that has become worthless or uncollectible during the current tax period, has been uncollected for at least six months, and qualifies as a bad debt under federal income tax law.

operator to carry forward the deficit to future tax returns until the operator's receipts are greater than zero. However, a deficit may not be carried back to a prior tax period, and no payment previously made may be refunded, unless the sports gaming agent surrenders its license and the sports gaming agent's last return reported a deficit. In that case, the Tax Commissioner must pay 10% of the deficit to the sports gaming agent.²⁶

Income tax withholding on sports gaming winnings

Under continuing law, individuals are subject to federal, state, and municipal income tax on their sports gaming winnings. The bill provides that, whenever federal income tax withholding is required, a sports gaming agent also must withhold state and any applicable municipal income taxes on a person's winnings. Similar requirements already apply to the withholding of taxes on an individual's casino and lottery winnings.²⁷

Application of Commercial Activity Tax to sports gaming receipts

Sports gaming agents are subject to Ohio's primary business tax, the commercial activity tax (CAT). That tax is levied on a business's gross receipts, which generally includes all amounts received by the business. However, continuing law provides that casinos are taxed only on their gross casino revenue (generally, amounts wagered less winnings paid).

The bill creates a similar exception for sports gaming receipts. Under the bill, a sports gaming agent is only required to pay the CAT on its sports gaming receipts (as defined above), not on the gross amount it receives from sports gaming.²⁸

Sharing of confidential tax information

Ongoing law requires that tax information provided to the Department of Taxation remain confidential, unless an exception applies. There are currently exceptions that allow the Department to share with the State Lottery Commission and the Ohio Casino Control Commission information relating to taxpayers' compliance with the casino gaming tax and withholding taxes.

The bill adds an exception that would also allow the Department to share sports gaming tax information with the State Lottery Commission.²⁹

²⁶ R.C. 5753.01, 5753.021, 5753.03, 5753.04, 5753.05, 5753.06, 5753.061, 5753.07, 5753.08, and 5753.10.

²⁷ R.C. 718.031, 5747.02, 5747.063, 5747.064, 5747.08, and 5747.20.

²⁸ R.C. 5751.01.

²⁹ R.C. 5703.21.

Distribution of state sports gaming revenue

Sports Gaming Revenue Fund

The bill creates the Sports Gaming Revenue Fund in the state treasury and requires all state revenues generated from sports gaming to be deposited in the fund. Those revenues include all of the following:³⁰

- Revenue from the 10% tax imposed on sports gaming agents' sports gaming receipts;
- Sports gaming license application and renewal fees paid to the State Lottery Commission;
- Application and renewal fees paid to the Commission by veteran's and fraternal organizations that contract with a sports gaming agent to offer sports gaming at their facilities;
- Revenue the Commission derives from the sale of advertising on sports gaming equipment;
- Fines paid to the Commission as penalties for noncriminal violations of the law governing sports gaming;
- Any other fees or fines charged by the Commission under its rules governing sports gaming;
- Interest on the moneys in the Sports Gaming Revenue Fund.

Costs and reimbursements

Under the bill, the Director of Budget and Management must transfer moneys from the Sports Gaming Revenue Fund to several other funds in order to make reimbursements and pay the expenses involved in regulating sports gaming in Ohio. The Director must make the following transfers:

- To the continuing-law Tax Refund Fund, amounts equal to the refunds certified by the Tax Commissioner that are attributable to the tax on sports gaming agents' sports gaming receipts;
- Not later than the 15th day of each month, to the Lottery Commission Sports Gaming Fund, which the bill creates in the state treasury, the amount necessary to reimburse the State Lottery Commission's actual operating costs and expenses incurred in administering the law governing sports gaming, provided that the amount transferred must not exceed 10% of the revenue credited to the Sports Gaming Revenue Fund in the preceding month;

³⁰ R.C. 3770.31(H) and (J), 3770.99(G), and 5753.031.

- Not later than the 15th day of each month, to the Casino Control Commission Sports Gaming Fund, which the bill creates in the state treasury, the amount necessary to reimburse the Ohio Casino Control Commission's actual expenses incurred to assist in implementing and enforcing the law governing sports gaming (see "**Enforcement by Ohio Casino Control Commission**," below);
- Not later than the 15th day of each month, to the Sports Gaming Tax Administration Fund, which the bill creates in the state treasury, the amount necessary to reimburse the Department of Taxation's actual expenses incurred in administering the tax on sports gaming agents' sports gaming receipts.

All interest generated by the funds created by the bill is credited back to those funds.³¹

Remaining moneys

After the Director of Budget and Management makes the transfers described above for the purpose of making reimbursements and covering the state's expenses, the Director must dispose of the moneys remaining in the Sports Gaming Revenue Fund on or before the 15th day of the month following the end of each calendar quarter. Of those remaining moneys, 98% must go to the Lottery Profits Education Fund, and 2% must go to the Problem Sports Gaming and Addiction Fund, which the bill creates in the state treasury, to alleviate problem sports gaming. All interest generated by the Problem Sports Gaming and Addiction Fund is credited back to it. (See "**Problem sports gaming**," above.)

Under continuing law, the Lottery Profits Education Fund must be used solely for the support of elementary, secondary, vocational, and special education programs. (The Ohio Constitution requires that the entire net proceeds of any state-run lottery be used for that purpose.)³²

Prohibitions and enforcement

Prohibited practices

The bill prohibits any person from offering sports gaming in Ohio without first obtaining a sports gaming agent license and prohibits a sports gaming agent from permitting a person other than the sports gaming agent to offer sports gaming on behalf of the sports gaming agent. (Those prohibitions do not apply to an agreement with a management services provider or with a veteran's or fraternal organization to offer sports gaming on behalf of a sports gaming agent, as permitted under the bill.)

A sports gaming agent may not accept a wager from an individual who is under 21 or is not physically present in Ohio. Although the bill prohibits an individual under 21 from entering a sports gaming facility, as described below, the bill creates two exceptions to that prohibition. An employee of a sports gaming agent who is between 18 and 21 may be present in a sports

³¹ R.C. 5753.031.

³² R.C. 5753.031. See also R.C. 3770.06, not in the bill, and Ohio Constitution, Article XV, Section 6.

gaming facility, so long as the employee's duties are not related to sports gaming. And, an individual under 21 may enter a sports gaming facility in order to pass to another area where sports gaming is not being conducted, but only if the individual is personally escorted by an employee of the sports gaming agent who remains in close proximity to the individual at all times in accordance with the State Lottery Commission's rules.

No employee of a sports gaming agent may engage in any sports gaming conducted by the sports gaming agent, and no employee of the Commission may knowingly wager or be paid any prize from any wager placed with a sports gaming agent in Ohio or with any person or entity located outside Ohio that is directly or indirectly owned or operated by a sports gaming agent.

The bill allows the Commission to exclude any individual from entering a sports gaming facility or its grounds or from participating in the play or operation of sports gaming. The Commission must keep a list of all excluded individuals and must make that list available to each sports gaming agent. No individual who is on the Commission's exclusion list may enter a sports gaming facility or the grounds of a sports gaming facility or participate in the play or operation of sports gaming in Ohio.

A sports gaming agent also may exclude any individual from entering a sports gaming facility or the grounds of such a facility that is under the sports gaming agent's control, and may exclude any individual from participating in the play or operation of sports gaming conducted by that sports gaming agent. The sports gaming agent must keep a list of all excluded individuals. No individual who is on a sports gaming agent's exclusion list may enter a sports gaming facility, or the grounds of a sports gaming facility, that is under the control of the sports gaming agent or participate in the play or operation of sports gaming conducted by the sports gaming agent in Ohio. If a sports gaming agent excludes an individual because the sports gaming agent determines that the individual engaged or attempted to engage in any prohibited sports gaming related activity, the sports gaming agent must report that fact to the Commission, and the Commission must place that individual on the Commission's exclusion list.

Finally, under the bill, no person who is on the voluntary exclusion list maintained by the Ohio Casino Control Commission under continuing law may participate in the play or operation of sports gaming in Ohio.

The bill separately imposes criminal penalties for some of the activities described above.³³

Criminal prohibitions

The bill prohibits any person from knowingly doing any of the following, and makes those violations a first degree misdemeanor for a first offense and a fifth degree felony for a subsequent offense (see the table below for the continuing-law maximum prison or jail terms

³³ R.C. 3770.32(A), 3770.33(A) and (D), and 3770.39.

and fines for the various levels of criminal offenses the bill applies to its prohibitions concerning sports gaming):

- Making a false statement on an application submitted under the law governing sports gaming;
- Permitting an individual under 21 to engage in sports gaming;
- Aiding, inducing, or causing an individual under 21 who is not an employee of the sports gaming agent to enter or attempt to enter a sports gaming facility;
- Entering or attempting to enter a sports gaming facility while under 21, except as permitted under the bill for employees of the sports gaming agent or for individuals who are being escorted to another area;
- Being a sports gaming agent or an employee of a sports gaming agent and participating in sports gaming offered by the sports gaming agent, other than as part of operating sports gaming or as part of the employee's employment.

Further, the bill prohibits any person from knowingly doing any of the following, makes those violations a fifth degree felony for the first offense and a fourth degree felony for a subsequent offense, and specifies that if the violator is a sports gaming licensee, the Commission must revoke the license after the first offense:

- Offering, promising, or giving anything of value to anyone for the purpose of influencing the outcome of a sporting event or attempting to do so;
- Placing, increasing, or decreasing 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 sporting event upon which the wager is placed, increased, or decreased, or attempting to do so;
- Manufacturing, selling, or distributing any device that the person intends to be used to violate any law governing sports gaming in Ohio or another state;
- Placing a bet or aiding any other individual in placing a bet on a sporting event after unlawfully acquiring knowledge of the outcome on which winnings from that bet are contingent;
- Claiming, collecting, or taking anything of value from a sports gaming agent with intent to defraud, or attempting to do so, without having made a wager in which the amount or value is legitimately won or owed;
- Placing a wager using counterfeit currency or another counterfeit form of credit approved for wagering.
- Possessing any device intended to be used to violate the law governing sports gaming or any Commission rule governing sports gaming or any materials used to manufacture such a device. That prohibition does not apply to a sports gaming agent or to a sports

gaming agent's employee or agent who is acting in furtherance of the sports gaming agent's interest.

- Operating sports gaming in a manner other than the manner required under the bill. Premises used or occupied in violation of that provision constitute a nuisance subject to abatement under the Nuisance Law.

The bill prohibits any person from knowingly doing any of the following, makes those violations a third degree felony, and specifies that if the person is a sports gaming licensee, the Commission must revoke the person's license after the first offense:

- Offering, promising, or giving anything of value or benefit to a person who is connected with a sports gaming agent or to an agent or employee of a sports gaming agent, under an agreement to influence, or with the intent to influence, the actions of the person to whom the offer, promise, or gift is made in order to affect or attempt to affect the outcome of sports gaming conducted in Ohio or an official action of a member, agent, or employee of the Commission;
- Soliciting, accepting, or receiving a promise of anything of value or benefit while the person is connected with a sports gaming agent or an agent or employee of a sports gaming agent, under an agreement to influence, or with the intent to influence, the actions of the person to affect or attempt to affect the outcome of sports gaming conducted in Ohio or an official action of a member, agent, or employee of the Commission.

Finally, the bill prohibits any person from knowingly doing any of the following while participating in sports gaming or otherwise transacting with a sports gaming agent as permitted under the law governing sports gaming and makes those violations a fifth degree felony on the first offense and a fourth degree felony on a subsequent offense:

- Causing or attempting to cause a sports gaming agent to fail to file a report required under the federal Bank Secrecy Act of 1970, which requires financial institutions to keep records and file reports on certain financial transactions, or under the provision of Ohio law that requires financial institutions also to file those reports with the Attorney General;
- Causing or attempting to cause a sports gaming agent to fail to file a report or maintain a record required by an order issued under the Federal Deposit Insurance Act or under the federal law that applies similar reporting requirements to institutions that are not federally insured;
- Causing or attempting to cause a sports gaming agent to file a report under the Bank Secrecy Act of 1970 or the parallel provision of Ohio law, if the report contains a material omission or misstatement of fact;
- Causing or attempting to cause a sports gaming agent to file a report or maintain a record required by an order issued under the federal law that allows a bank to be relieved from liability for a loss resulting from a payment related to redeeming a savings

bond or savings note, if the report or record contains a material omission or misstatement of fact;

- Causing or attempting to cause a sports gaming agent to maintain a record required under any regulation prescribed under the Federal Deposit Insurance Act or under the federal law that applies similar reporting requirements to institutions that are not federally insured, if the record contains a material omission or misstatement of fact;
- Structuring a transaction with one or more sports gaming agents, being complicit in structuring such a transaction, attempting to structure such a transaction, or being complicit in an attempt to structure such a transaction. For purposes of this provision, “structuring a transaction” has the same meaning as in the provisions of Ohio law that mirror the Bank Secrecy Act of 1970, which is dividing a transaction that otherwise would be reportable into two or more transactions that, if considered separately, would not be reportable.

(Essentially, the prohibitions described immediately above penalize a person who attempts to circumvent state and federal anti-money laundering laws.)

The table below lists the continuing law maximum sentences for the various levels of criminal offenses the bill assigns to the offenses it creates.³⁴

Continuing law maximum sentences for criminal offenses		
Level of offense	Prison or jail term	Fine
Third degree felony	3 years	\$10,000
Fourth degree felony	18 months	\$5,000
Fifth degree felony	1 year	\$2,500
First degree misdemeanor	6 months	\$1,000

Civil penalties imposed by State Lottery Commission

The bill requires the State Lottery Commission to levy civil penalties for noncriminal violations of the law governing sports gaming.³⁵

Enforcement by Ohio Casino Control Commission

Under the bill, the Ohio Casino Control Commission must enter into an agreement with the Director of the State Lottery Commission to enforce the law governing sports gaming. The Ohio Casino Control Commission must enforce any sports gaming rules adopted by the State

³⁴ R.C. 3770.99. See also R.C. 2929.14, 2929.18, 2929.24, and 2929.28, not in the bill.

³⁵ R.C. 3770.99(G).

Lottery Commission, and the Ohio Casino Control Commission has jurisdiction over all persons conducting or participating in the conduct of sports gaming, including the authority to investigate and penalize those persons. Under continuing law, the Ohio Casino Control Commission has the power to act as a law enforcement agency for the purpose of enforcing the laws governing casino gaming and skill-based amusement machines.³⁶

Other lottery games

The bill also requires the State Lottery Commission to adopt rules making self-service, terminal-generated lottery games, other than sports gaming, available to certain lottery sales agents. The rules must require the games to do all of the following:

- Be available only to a lottery sales agent that holds a Class C or D liquor permit for the location at which the games are to be offered (generally, a retail store carryout, bar, or restaurant liquor permit);³⁷
- Offer instant-win-style lottery games and drawing-style lottery games, but not sports gaming;
- Contain the ability to be played at multiple ticket prices, betting types, and payouts as established by the Commission;
- Be available on interactive self-service terminals. Those terminals are not considered VLTs, which are permitted only in racinos. The interactive terminals must do all of the following:
 - Allow game play in a graphical, paperless, interactive format;
 - Allow a player to initiate, play, and view the game, including the reveal of a result, on the self-service terminal from which the game is purchased;
 - Give the player the option to receive any winnings either through the terminal or using a paper pay voucher to be redeemed with a lottery sales agent.
- Be available on other lottery terminals and devices, including clerk-facing lottery terminals.

Under the bill, the Commission must acquire, install, and begin operating at least 1,250 of those terminals within 90 days after the bill takes effect, and at least another 1,250 terminals within 180 days after the bill takes effect.³⁸

³⁶ R.C. 3772.03.

³⁷ A list of Ohio liquor permit types by class is [available here](#) from the Ohio Department of Commerce Division of Liquor Control.

³⁸ R.C. 3770.03 and Section 6 of the bill.

COMMENT

1. Although the bill amends the Revised Code to allow sports gaming, a reviewing court still might find that the Ohio Constitution prohibits sports gaming. The Constitution generally prohibits lotteries in Ohio, but does not define the term “lottery.” The Ohio Supreme Court previously has interpreted the term “lottery” to mean a game in which consideration is given, a prize is awarded, and the winner of the prize is determined by chance. Historically, this decision has been understood to mean that the Ohio Constitution broadly bans gambling of any kind in Ohio and that the General Assembly may not authorize gambling beyond that permitted by the Constitution.

The Constitution does allow the General Assembly to authorize state-conducted lotteries in which prizes are awarded by chance and the entire net proceeds of the lottery are paid into a fund for the support of certain education programs. (The Constitution also includes exceptions for charitable bingo and gaming at four casino facilities.) The bill classifies sports gaming as part of the Ohio Lottery. However, a reviewing court might find that sports gaming is not the type of activity contemplated by the constitutional provision that authorizes the Ohio Lottery – for example, because the winner of a sporting event is not determined entirely by chance. In that case, the court might rule that the General Assembly cannot legalize sports gaming.³⁹

2. If the State Lottery Commission adopted rules under the bill allowing sports gaming agents to operate sports gaming online, depending on how the system was operated, anyone operating or using the system might be subject to prosecution under federal law. The federal Interstate Wire Act of 1961 prohibits a person from knowingly using a wire communication facility for (1) the transmission in interstate or foreign commerce of bets or wagers on sports events or contests, (2) the transmission of wire communications that entitle the recipient to money or credit as a result of a bet, or (3) information assisting in placing bets or wagers. Whoever violates that law is subject to a fine and up to two years in prison. Although the bill allows only persons physically present in Ohio to participate in sports gaming, if the system transmitted bets or wagers across state lines, such as through a server located outside Ohio, a reviewing court might find a violation of the Interstate Wire Act.⁴⁰

³⁹ Ohio Const., art. XV, sec. 6; *Westerhaus Co. v. Cincinnati*, 165 Ohio St. 327, 338-339 (1956); and *City of Columbus v. Barr*, 160 Ohio St. 209 (1953).

⁴⁰ 18 U.S.C. 1084.

HISTORY

Action	Date
Introduced	04-09-19
Reported, H. Finance	---
