

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Engrossed**

**Committee Substitute**

**for**

**Senate Bill 415**

BY SENATORS FERNS, BLAIR, MARONEY, TRUMP, WELD,

WOELFEL, STOLLINGS, AND TAKUBO

[Originating in the Committee on the Judiciary;

Reported on February 8, 2018]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §29-22D-1, §29-22D-2, §29-22D-3, §29-22D-4, §29-22D-5, §29-22D-6, §29-  
3 22D-7, §29-22D-8, §29-22D-9, §29-22D-10, §29-22D-11, §29-22D-12, §29-22D-13, §29-  
4 22D-14, §29-22D-15, §29-22D-16, §29-22D-17, §29-22D-18, §29-22D-19, §29-22D-20,  
5 §29-22D-21, §29-22D-22, §29-22D-23, and §29-22D-24, all relating to permitting  
6 wagering on the results of certain professional or collegiate sports or athletic events and  
7 other events authorized as West Virginia Lottery sports wagering activities, after a federal  
8 law against such wagering is no longer in effect; providing legislative findings; defining  
9 terms; detailing duties and powers of the West Virginia Lottery Commission; providing  
10 rule-making authority and emergency rule-making authority; limiting sports wagering to  
11 existing racetrack casinos and the casino in a historic resort hotel; providing for four types  
12 of licenses to be issued related to sports betting; establishing license requirements and  
13 prohibitions; authorizing licensing fees; requiring adoption and posting of house rules;  
14 defining duties of an operator conducting sports wagering; requiring the posting of betting  
15 limits; authorizing sports wagering agreements with other governments; prohibiting  
16 unauthorized sports wagering in this state; creating the West Virginia Lottery Sports  
17 Wagering Fund; authorizing the collection of license fees; authorizing the West Virginia  
18 Lottery to collect an administrative allowance from gross sports wagering receipts;  
19 authorizing the West Virginia Lottery to levy and collect a tax in the amount of 10 percent  
20 of adjusted gross sports wagering receipts; clarifying that privilege tax is in lieu of certain  
21 other taxes; providing that credits are not allowed against the privilege tax; providing that  
22 certain expenditures related to sports wagering are facility modernization improvements  
23 eligible for recoupment; defining how moneys deposited in the West Virginia Lottery Sports  
24 Wagering Fund shall be distributed; authorizing certain agreements between the West  
25 Virginia Lottery and law enforcement; imposing civil penalties for certain violations;  
26 establishing crimes related to unauthorized sports wagering and imposing criminal

27 penalties; establishing crimes related to authorized sports wagering and imposing criminal  
28 penalties; providing for the forfeiture of property for certain violations; preempting this  
29 article from state and local law; and establishing certain exemptions from federal law.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 22D. WEST VIRGINIA LOTTERY SPORTS WAGERING ACT.**

**§29-22D-1. Short title.**

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

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

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

4 (b) Legislative findings. —

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

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

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

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

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

30           (6) The Legislature finds that the most effective and efficient manner in which the state  
31 can operate and regulate the forms of lottery authorized by the provisions of this article is to limit  
32 the number of authorized operators to those who are licensed, pursuant to the provisions of §29-  
33 22A-1 et seq. of this code, and to facilities licensed to operate video lottery terminals, pursuant to  
34 the provisions of §29-25-1 et seq. of this code.

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

40           (8) The Legislature finds that the operation of West Virginia Lottery sports wagering at  
41 racetracks, licensed pursuant to the provisions of §29-22A-1 et seq. of this code, and at a historic

42 resort hotel, licensed pursuant the provisions of §29-25-1 et seq. of this code, serves to protect,  
43 preserve, promote, and enhance the tourism industry of the state, as well as the general fiscal  
44 wellbeing of the state and its subdivisions.

**§29-22D-3. Definitions.**

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

3 “Adjusted gross receipts” means an operator’s gross receipts from West Virginia Lottery  
4 sports wagering, less winnings paid to wagerers in such games.

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

8 “Commission” or “State Lottery Commission” means the West Virginia Lottery  
9 Commission, created by §29-22-1 et seq. of this code.

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

12 “Gaming equipment” or “sports wagering equipment” means any mechanical, electronic,  
13 or other device, mechanism, or equipment, and related supplies used or consumed in the  
14 operation of West Virginia Lottery sports wagering at a licensed gaming facility including, but not  
15 limited to, a kiosk installed to accept sports wagers.

16 “Gaming facility” means a designated area on the premises of an existing historic resort  
17 hotel, licensed pursuant to §29-25-1 et seq. of this code, to operate video lottery and table games  
18 or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-  
19 22A-1 et seq. of this code.

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

22 “Gross sports wagering receipts” means the total gross receipts received by a licensed  
23 gaming facility from sports wagering.

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

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

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

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

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

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

42 “Lottery” means the public gaming systems or games regulated, controlled, owned, and  
43 operated by the State Lottery Commission in the manner provided by general law, as provided in  
44 this article, §29-22-1 et seq., §29-22A-1 et seq., §29-22B-1 et seq., §29-22C-1 et seq., and §29-  
45 25-1 et seq. of this code.

46 “National criminal history background check system” means the criminal history record  
47 system maintained by the Federal Bureau of Investigation, based on fingerprint identification, or  
48 any other method of positive identification.

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

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

54 “Sports event” or “sporting event” means any professional sport or athletic event, any  
55 collegiate sport or athletic event, any motor race event, or any other special event authorized  
56 by the commission under this article.

57 “Sports pool” means the business of accepting wagers on any sports event by any  
58 system or method of wagering.

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

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

67 “Sports wagering fund” means the special fund in the State Treasury, created in §29-22D-  
68 17 of this code.

69 “Supplier” means a person who requires a supplier license to provide a sports wagering  
70 licensee with goods or services to be used in connection with operation of West Virginia Lottery  
71 sports wagering.

72 “Wager” means a sum of money or thing of value risked on an uncertain occurrence.

73 “West Virginia Lottery sports wagering” or “sports wagering” means the business of  
74 accepting wagers on sporting events and other events, the individual performance statistics of



75 athletes in a sporting event or other events, or a combination of any of the same by any system  
76 or method of wagering approved by the commission including, but not limited to, mobile  
77 applications and other digital platforms that utilize communications technology to accept wagers  
78 originating within this state. The term includes, but is not limited to, exchange wagering, parlays,  
79 over-under, moneyline, pools, and straight bets. The term does not include:

80 (1) Parimutuel betting on the outcome of horse or dog races, authorized by §19-23-12a  
81 and §19-23-12d of this code;

82 (2) Lottery games of the West Virginia State Lottery, authorized by §29-22-1 et seq. of  
83 this code;

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

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

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

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

88 (7) Daily Fantasy Sports.

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

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

1 (a) In addition to the duties set forth elsewhere in this article, §29-22-1 et seq., §29-22A-  
2 1 et seq., §29-22B-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, the commission  
3 shall have the authority to regulate sports pools and the conduct of sports wagering under this  
4 article.

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

8           (c) The commission has the authority, pursuant to §29A-1-1, et seq. and §29A-3-1, et seq.  
9 of this code, to promulgate or otherwise enact any legislative, interpretive, and procedural rules  
10 the commission considers necessary for the successful implementation, administration, and  
11 enforcement of this article. Rules proposed by the commission before December 1, 2018, may be  
12 promulgated as emergency rules, pursuant to §29A-3-15 of this code.

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

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

27           (d) The commission shall determine the eligibility of a person to hold or continue to hold a  
28 license, shall issue all licenses, and shall maintain a record of all licenses issued under this article.  
29 The commission may accept applications, evaluate qualifications of applicants, and undertake

30 initial review of licenses prior to promulgation of emergency rules upon the effective date of this  
31 article.

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

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

37 (g) The commission shall hold hearings, administer oaths, and issue subpoenas or  
38 subpoenas duces tecum: *Provided*, That all hearings shall be conducted pursuant to the  
39 provisions of the State Administrative Procedures Act, §29A-2-1, *et seq.* of this code, and the  
40 Lottery Administrative Appeal Procedures, §179 C.S.R. 2 *et seq.*

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

**§29-22D-5. Licenses required.**

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

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

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

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

18           (2) Each person associated with a non-corporate applicant who directly or indirectly holds  
19 a beneficial or proprietary interest, or who the commission otherwise determines has the ability to  
20 control the applicant; and

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

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

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

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

39 (g) Each person licensed under this article shall give the commission written notice, within  
40 30 days, of any change to any information provided in the licensee's application for a license or  
41 renewal.

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

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

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

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

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

15 (d) Grant of license. — Upon application by a gaming facility and payment of a \$100,000  
16 application fee, the commission shall immediately grant a West Virginia Lottery sports wagering  
17 license to an operator that provides for the right to conduct West Virginia Lottery sports wagering:  
18 Provided, That the applicant must hold a valid racetrack video lottery license issued by the  
19 commission, pursuant to §29-22-1 et seq. of this code, or a valid license to operate a gaming

20 facility, issued by the commission pursuant to §29-25-1 et seq. of this code, and otherwise meet  
21 the requirements for licensure under the provisions of this article and the rules of the commission.  
22 This license shall be issued for a five-year period, and may be renewed for five-year periods upon  
23 payment of a \$100,000 renewal fee, as long as an operator continues to meet all qualification  
24 requirements.

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

28 (f) Management service contracts. —

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

34 (2) Material change. — The West Virginia Lottery sports wagering licensee shall submit  
35 any material change in a management services contract, previously approved by the commission,  
36 to the commission for its approval or rejection before the material change may take effect.

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

42 (g) Expiration date and renewal. —

43 (1) A licensed operator shall submit to the commission such documentation or information  
44 as the commission may require, to demonstrate to the satisfaction of the director that the licensee  
45 continues to meet the requirements of the law and regulations. Required documentation or

46 information shall be submitted no later than five years after issuance of an operator license and  
47 every five years thereafter, or within lesser periods, based on circumstances specified by the  
48 commission.

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

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

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

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

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

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

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

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

6 (b) License qualifications and fee. — Each applicant for a management services provider  
7 license shall meet all requirements for licensure and pay a nonrefundable application fee of  
8 \$1,000. The commission may adopt rules establishing additional requirements for an authorized  
9 management services provider. The commission may accept licensing by another jurisdiction,  
10 that it specifically determines to have similar licensing requirements, as evidence the applicant  
11 meets authorized management services provider licensing requirements.

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

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

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

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



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

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

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

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

**§29-22D-9. Occupational licenses.**

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

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

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

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

**§29-22D-10. License prohibitions.**

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

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

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

7           (3) Has been convicted of a crime of moral turpitude, a gambling-related offense, a theft  
8 or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory  
9 evidence, a lack of respect for law and order; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (4) Prevent variation from the requirements of the sports wagering agreement for any  
33 signatory government with a lack of opposition by this state and all signatory governments;

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

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

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

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

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

8 (c) An operator may accept wagers from an individual physically located in a state or  
9 jurisdiction with which the commission has entered into a sports wagering agreement and using  
10 a mobile or other digital platform or a sports wagering device, through the patron's sports wagering

11 account, so long as the device or platform is approved by the commission and all other  
12 requirements of the agreement are satisfied.

13 (d) The commission and operator may ban any person from entering a gaming area of a  
14 gaming facility conducting sports wagering, or the grounds of a gaming facility licensed under this  
15 article, from participating in the play or operation of any West Virginia Lottery sports wagering. A  
16 log of all excluded players shall be kept by the West Virginia Lottery and each licensee, and no  
17 player on the commission's exclusion list or the licensed operator's exclusion list, shall wager on  
18 any West Virginia Lottery sports wagering under this article.

19 (e) The commission shall promulgate regulations implementing the provisions of §29-22D-  
20 15(a) of this code by interpretive rule and minimum internal control standards.

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

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

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

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

1 (a) *Imposition and rate of assessment.* — For the privilege of holding a license to operate  
2 sports wagering under this article, the state shall impose and collect 10 percent of the licensee's  
3 adjusted gross sports wagering receipts from the operation of West Virginia Lottery sports



4 wagering (hereinafter “privilege tax” or “tax”). The accrual method of accounting shall be used for  
5 purposes of calculating the amount of the tax owed by the licensee.

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

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

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

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

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

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

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

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

30 case, the commission shall multiply the amount of negative adjusted gross receipts by 10 percent  
31 and pay the amount to the licensee in the manner approved by the commission.

32 (c) *Privilege tax obligation imposed by this section is in lieu of other taxes.* — With the  
33 exception of the ad valorem property tax collected under chapter 11A of this code, the privilege  
34 tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all other state  
35 and local taxes and fees imposed on the operation of, or the proceeds from operation of West  
36 Virginia Lottery sports wagering, except as otherwise provided in this section. The consumers  
37 sales and service tax imposed pursuant to §11-15-1 *et seq.* of this code, shall not apply to the  
38 licensee’s gross receipts from any West Virginia Lottery sports wagering or to the licensee’s  
39 purchase of sports wagering equipment, supplies, or services directly used in operation of the  
40 sports wagering authorized by this article. These purchases are also exempt from the use tax  
41 imposed by §11-15A-1 *et seq.* of this code and any similar local tax imposed at the municipal or  
42 county level.

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

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

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

1 (a) The special fund in the State Treasury known as the West Virginia Lottery Sports  
2 Wagering Fund is hereby created and all moneys collected under this article by the West Virginia  
3 Lottery shall be deposited with the State Treasurer to the West Virginia Lottery Sports Wagering

4 Fund. The fund shall be an interest-bearing account with all interest or other return earned on the  
5 money of the fund credited to and deposited in the fund. All expenses of the commission incurred  
6 in the administration and enforcement of this article shall be paid from the sports wagering fund,  
7 pursuant to §29-22D-17(b) of this code.

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

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

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

**§29-22D-18. Law enforcement; inspection and seizure.**

1 Notwithstanding any provision of this code to the contrary, the commission shall, by  
2 contract or cooperative agreement with the West Virginia State Police, arrange for those law-  
3 enforcement services uniquely related to gaming as such occurs at facilities of the type authorized  
4 by this article, that are necessary to enforce the provisions of this article and are not subject to

5 federal jurisdiction: *Provided*, That the State Police shall only have exclusive jurisdiction over  
6 offenses committed on the grounds of a licensed gaming facility that are offenses relating to  
7 gaming.

**§29-22D-19. Civil penalties.**

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

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

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

1 (a) Any person, other than a licensee under this article, who engages in accepting,  
2 facilitating, or operating a sports wagering operation shall be guilty of a misdemeanor and, upon  
3 conviction thereof, shall be fined not more than \$10,000 or confined in jail for not more than 90  
4 days, or both fined and confined.

5 (b) Notwithstanding the penalty provisions of §29-22D-20(a) of this code, any person  
6 convicted of a second violation of §29-22D-20(a) of this code is guilty of a misdemeanor and,  
7 upon conviction thereof, shall be fined not more than \$50,000 or confined in jail for not more than  
8 6 months, or both fined and confined.

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

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

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

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

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

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

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

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

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

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

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

24           (1) A person offers, promises, or gives anything of value to anyone for the purpose of  
25 influencing the outcome of a race, sporting event, contest, or game upon which a wager may be  
26 made, or a person places, increases, or decreases a wager after acquiring knowledge, not  
27 available to the general public, that anyone has been offered, promised, or given anything of value

28 for the purpose of influencing the outcome of the race, sporting event, contest, or game upon  
29 which the wager is placed, increased or decreased, or attempts to do any of the same;

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

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

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

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

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

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

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

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

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

**§29-22D-22. Forfeiture of property.**

1 (a) Anything of value and its traceable proceeds are subject to forfeiture to the State of  
2 West Virginia if used for any of the following:

3 (1) As a bribe intended to affect the outcome of a West Virginia Lottery sports wagering  
4 game or event in a licensed gaming facility; or

5 (2) In exchange for, or to facilitate, a violation of this article.

6 (b) The seizure and sale of items under the provisions of this section is not a forfeiture as  
7 that term is used in section five, article XII of the Constitution of West Virginia, and the proceeds  
8 from a seizure and sale under this article are not part of net proceeds, as it is contemplated by  
9 section five, article XII of the Constitution of West Virginia.

10 (c) If the forfeited property includes the gaming facility real property and all of its  
11 improvements and related personal property, the commission may take control of and operate  
12 the gaming facility and all related functions until the forfeited property is sold or returned to the  
13 licensee as a result of due process proceedings.

**§29-22D-23. Preemption.**

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

**§29-22D-24. Exemption from federal law.**

1           Pursuant to Section 2 of Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1172, approved January  
2 2, 1951, the State of West Virginia, acting by and through duly elected and qualified members of  
3 the Legislature, does declare and proclaim that the state is exempt from chapter 1194, 64 Stat.  
4 1134, 15 U.S.C. §1171 to §1178.