

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2751

BY DELEGATES FLUHARTY, HORNBUCKLE, MCGEEHAN,

STORCH, BARRETT, SPONAUGLE, WHITE, BATES,

CANESTRARO, WILSON AND PUSHKIN

[Introduced March 1, 2017; Referred

to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §29-25A-1, §29-25A-2 and §29-25A-3, all relating to legalizing sport pool
 3 betting; authorizing the State Lottery Commission to promulgate legislative rules
 4 establishing sports betting; finding that federal law prohibiting sports betting in West
 5 Virginia is unconstitutional; authorizing assessment of fees and other necessary
 6 requirements; authorizing a tax on bets; establishing a special revenue account; and
 7 allowing incorporation of current laws and the promulgation of further requirements for
 8 sports betting by legislative rule.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §29-25A-1, §29-25A-2 and §29-25A-3, all to read as follows:

ARTICLE 25. SPORTS BETTING AUTHORIZED.

§29-25A-1. Sports betting authorization; legislative findings.

1 The West Virginia Legislature finds:

2 (1) That in 1992, Congress unlawfully enacted the Federal Professional and Amateur
 3 Sports Protection Act (28 U.S.C. Section 3701 et seq.), establishing a general prohibition on
 4 sports betting in the United States and prohibiting state and local governments from authorizing
 5 sports betting; and even amid strong federal laws banning sports betting in the United States,
 6 reports highlight that illegal sports betting is widespread and is considered the number one form
 7 of gambling among American residents; and according to a report conducted for the National
 8 Basketball Association's Board of Governors, some estimates have the total volume of sports
 9 betting in the United States at \$325 to \$400 billion, with less than one percent of betting taking
 10 place in legal form; and the proliferation of fantasy sports betting, primarily daily fantasy sports
 11 contests played through Internet websites, has become a household occurrence, with the Fantasy
 12 Sports Trade Association estimating that fifty-six million, eight hundred thousand people play
 13 fantasy sports and bet an average of \$465 a year on fantasy games in the United States; and in

14 order to protect the public and ensure the integrity of not only professional and amateur sports
 15 but West Virginia's current licensed gaming industry, the federal government act to prohibit this
 16 state from allowing sports pool betting is in clear violation of the 10th Amendment of the U.S.
 17 Constitution and the authority to regulate all gambling lies with the states; and

18 (2) West Virginia would benefit financially from sports betting, as increased state revenues
 19 would be generated and numerous jobs would be preserved and created for state residents as a
 20 result of sports betting activities at licensed casino gaming facilities. Therefore, by enactment of
 21 this law, the Legislature intends to create a mechanism to enable the West Virginia Lottery
 22 Commission to authorize and regulate sports betting at our state casino gaming facilities upon
 23 removal of federal restrictions prohibiting sports betting in West Virginia.

24 (3) The Legislature further finds and declares that sports pool betting permitted by this
 25 article constitute the operation of lotteries within the purview of section thirty-six, article VI of the
 26 Constitution of West Virginia, and that the right to lawfully place sports pool bets in the state is
 27 owned by the state and therefore the right to conduct sports pool betting may be licensed by the
 28 Lottery Commission created pursuant to article twenty-two of this chapter.

§29-25A-2. Authorization of sports betting notwithstanding federal prohibition.

1 Whereas our State Attorney General is challenging the usurpation of the federal
 2 government of state authority to regulate sports pool betting and has articulated in the briefs of
 3 the State of West Virginia in Cristie v. NCAA, 16-476, U.S. Supreme Court, that the U.S.
 4 Congress has no power to prevent state governments from authorizing sports betting as a form
 5 of gaming and therefore, the Legislature finds that it is reasonable and appropriate, for the State
 6 of West Virginia to proceed with legalizing sports pool betting pursuant to this article.

§29-25A-3. Requirements for lawful sports pool betting; commission guidelines; legislative declarations; exceptions for amateur events.

1 (a) Notwithstanding any provision of law to the contrary, the operation of West Virginia
 2 Lottery sports betting games permitted by this article and the related operation of a gaming facility

3 and ancillary activities are not unlawful when conducted under the terms specified in this article,
4 article twenty-five of this chapter, and legislative rules promulgated by the Lottery Commission.

5 (b) For the purposes of this article “sports pool betting” means the business of accepting
6 wagers on sporting events or other events by any system or method of wagering other than horse
7 or dog races. The term includes, but is not limited to, a licensee that accepts bets for any sporting
8 event, including betting on sports parlay card wagers which combine multiple sports event
9 outcomes combined into a single wage, or other similar betting activities as defined by rules as
10 provided pursuant to this section.

11 (c) The commission shall propose rules for legislative approval in accordance with article
12 three, chapter twenty-nine-a of this code in order to implement the purpose of this article. The
13 rules shall provide regulatory guidelines, without limitation, that include at a minimum, financial
14 and betting reserve accounting practices and other necessary and appropriate requirements to
15 properly assure financial viability and proper operation. The commission shall incorporate by
16 reference in these rules appropriate statutes and other rules contained in and relating to article
17 twenty-five of this chapter necessary to properly and effectively regulate sport pool betting
18 activities; and provide for reasonable annual licensing fees, licensed gaming facilities sufficient
19 for the commission to regulate this activity.

20 (d) For each bet received, the gaming facility shall pay two percent tax of the total wager
21 into the special revenue account known as the “Sports Betting Special Revenue Fund.”
22 Expenditures for the fund are not authorized from collections but are to be made only in
23 accordance with the appropriation by the Legislature in accordance with article three, chapter
24 twelve of this code and upon fulfillment of article two, chapter eleven-b of this code: *Provided,*
25 That for the first fiscal year ending June 30, following authorization of sports pool betting,
26 expenditures are authorized from collections rather than pursuant to appropriation by the
27 Legislature.

28 (e) No wagers may be accepted or paid by any book on any amateur sport or athletic

- 29 event other than collegiate sporting or athletic events and Olympic sporting or athletic events
30 sanctioned by the International Olympic Committee, subject to limitations and rules of the
31 commission. No wagers may be accepted or paid off premises of the licensed facility.

NOTE: The purpose of this bill is to allow sports betting at West Virginia casinos; the state Lottery Commission is authorized to promulgate legislative rule establishing sports betting and provides a legislative finding that federal government has no authority to prohibit sports betting in West Virginia; providing for a tax on bets and a special revenue account; and allowing incorporation of current laws and the promulgation of further requirements and fees for sports betting by legislative rule.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.