

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 603

BY SENATOR MARONEY

[Originating in the Committee on Finance; reported on

March 25, 2021]

1 A BILL to amend and reenact §29-22D-1, §29-22D-2, §29-22D-3, and §29-22D-7 of the Code of
2 West Virginia, 1931, as amended; to amend said code by adding thereto a new section,
3 designated §29-22D-15a; to amend and reenact §29-22E-1, §29-22E-2, §29-22E-3, and
4 §29-22E-7 of said code; and to amend said code by adding thereto a new section,
5 designated §29-22E-15a, all relating to permitting wagering on the results of certain
6 professional or collegiate sports or athletic events and other events authorized as West
7 Virginia Lottery sports wagering activities; permitting wagering on interactive games
8 authorized as West Virginia Lottery interactive wagering activities; providing legislative
9 findings; defining terms; establishing license requirements and prohibitions; and
10 encouraging operators to contract with small business management service providers.

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. The amendments to this article made in the regular session of the Legislature, 2021, shall
3 be known as the Small Business Gaming Opportunity 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 West Virginia's four racetracks and the
6 historic resort hotel, as well as its small businesses, ~~in this state~~ play a critical role in the economy
7 of this state, and ~~such~~ that constitutional lotteries are rightfully authorized as state enterprises
8 consistent with the rights and powers granted to the states under the Tenth Amendment of the

9 United States Constitution. The federal government is a government of limited and enumerated
10 powers, and powers not delegated to the United States by the Constitution nor prohibited by it to
11 the states are reserved for the states and its respective citizens.

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 black
23 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 sports
26 or other events and to capture revenues and create jobs generated from sports wagering, it is in
27 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, and by small
43 business management services providers, pursuant to the provisions of §29-22D-15a of this code,
44 serves to protect, preserve, promote, and enhance the tourism industry of the state as well as the
45 general fiscal well-being of the state and its subdivisions.

46 (9) The Legislature finds that the opportunity to participate in sports wagering should not
47 be predominantly limited to out-of-state companies, and that locally owned businesses, especially
48 new small businesses, should also have the opportunity to participate in sports wagering.

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

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

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

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

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

17 (6) "Gaming facility" means a designated area on the premises of an existing historic resort
18 hotel, licensed under §29-25-1 *et seq.* of this code, to operate video lottery and table games or
19 the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-
20 22A-1 *et seq.* of this code.

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

23 (8) "Gross sports wagering receipts" means the total gross receipts received by a licensed
24 gaming facility from sports wagering.

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

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

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

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

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

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

43 (11) "Lottery" means the public gaming systems or games regulated, controlled, owned,
44 and operated by the State Lottery Commission in the manner provided by general law, as provided
45 in this article, §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, §29-22C-1 *et seq.*, and
46 §29-25-1 *et seq.* of this code.

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

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

52 (14) "Professional sport or athletic event" means an event at which two or more persons
53 participate in sports or athletic events and receive compensation, or are eligible for monetary
54 prizes, in excess of actual expenses for their participation in such event.

55 (15) "Small business management services provider" means a management services
56 provider that qualifies as a small business management services provider under §29-22D-7(e)(1)
57 of this code.

58 ~~(15)~~ (16) "Sports event" or "sporting event" means any professional sport or athletic event,
59 any collegiate sport or athletic event, motor race event, e-sports event, or any other special event
60 authorized by the commission under this article.

61 ~~(16)~~ (17) "Sports pool" means the business of accepting wagers on any sports event by
62 any system or method of wagering.

63 ~~(17)~~ (18) “Sports wagering account” means a financial record established by a licensed
64 gaming facility for an individual patron in which the patron may deposit and withdraw funds for
65 sports wagering and other authorized purchases, and to which the licensed gaming facility may
66 credit winnings or other amounts due to that patron or authorized by that patron.

67 ~~(18)~~ (19) “Sports wagering agreement” means a written agreement between the
68 commission and one or more other governments whereby persons who are physically located in
69 a signatory jurisdiction may participate in sports wagering conducted by one or more operators
70 licensed by the signatory governments.

71 ~~(19)~~ (20) “Sports wagering fund” means the special fund in the State Treasury, created in
72 §29-22D-17 of this code.

73 ~~(20)~~ (21) “Supplier” means a person that requires a supplier license to provide a sports
74 wagering licensee with goods or services to be used in connection with operation of West Virginia
75 Lottery sports wagering.

76 ~~(21)~~ (22) “Wager” means a sum of money or thing of value risked on an uncertain
77 occurrence.

78 ~~(22)~~ (23) “West Virginia Lottery sports wagering” or “sports wagering” means the business
79 of accepting wagers on sporting events, e-sports events, and other events, the individual
80 performance statistics of athletes in a sporting event, e-sports event, or other events, or a
81 combination of any of the same by any system or method of wagering approved by the
82 commission including, but not limited to, mobile applications and other digital platforms that utilize
83 communications technology to accept wagers originating within this state. The term includes, but
84 is not limited to, exchange wagering, parlays, over-under, moneyline, pools, and straight bets.
85 The term does not include:

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

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

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

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

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

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

94 (G) Daily Fantasy Sports (DFS).

95 ~~(23)~~ (24) “West Virginia Lottery sports wagering license” means authorization granted
96 under this article by the commission to a gaming facility that is already licensed under §29-22A-1
97 *et seq.* or §29-25-1 *et seq.* of this code, which permits the gaming facility as an agent of the
98 commission to operate West Virginia Lottery sports wagering in one or more designated areas or
99 in one or more buildings owned by the licensed gaming facility on the grounds where video lottery
100 is conducted by the licensee or through any other authorized platform developed by the gaming
101 facility. This term is synonymous with “operator’s license”.

§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 license and application
8 fee of \$1,000. The commission may adopt rules establishing additional requirements for an
9 authorized management services provider. The commission may accept licensing by another
10 jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the
11 applicant 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.

17 (e) *Small business management services providers.* —

18 (1) A management services provider licensed pursuant to this section is a small business
19 management services provider for purposes of this article if it meets all of the following criteria:

20 (A) Neither: (i) The management services provider; nor (ii) any person or entity that
21 controls the management services provider within the meaning of §29-22D-5(b) of this code; nor
22 (iii) any entity that is under common control with the management services provider within the
23 meaning of §29-22D-5(b) of this code, has averaged more than \$10 million in annual gross
24 revenue over the three years prior to the management service provider’s initial licensure;

25 (B) Neither: (i) The management services provider; nor (ii) any person or entity that
26 controls the management services provider within the meaning of §29-22D-5(b) of this code; nor
27 (iii) any entity that is under common control with the management services provider within the
28 meaning of §29-22D-5(b) of this code, has applied for or obtained any license or approval to
29 participate in online wagering in any jurisdiction; and

30 (C) The management services provider’s application to be licensed by the commission as
31 a management services provider must be pending for at least six months before it is approved.

32 (2) Except as provided in §29-22D-15a of this code, a small business management
33 services provider is subject to the same requirements and may engage in the same activities as
34 any licensed management services provider.

§29-22D-15a. Individually branded online sports pool websites and accompanying mobile applications.

1 (a) Each operator may provide no more than three individually branded online sports pool
2 websites and accompanying mobile applications, except as provided in subsections (b) and (c) of
3 this section.

4 (b) *Small business management services providers.* — Each operator may provide one
5 individually branded online sports pool website and accompanying mobile application that is
6 offered and managed by a small business management services provider, in addition to the three
7 individually branded online sports pool websites and accompanying mobile applications
8 authorized in subsection (a) of this section.

9 (c) Any operator that provides an individually branded online sports pool website and
10 accompanying mobile application that is offered and managed by a small business management
11 services provider, pursuant to subsection (b) of this section, may provide one additional
12 individually branded online sports pool website and accompanying mobile application, in excess
13 of the individually branded online sports pool websites and accompanying mobile applications
14 authorized in subsections (a) and (b) of this section.

15 (d) Prior to an operator providing an individually branded interactive gaming website and
16 accompanying mobile application that is offered and managed by a small business management
17 services provider, the management service contract between the operator and the small business
18 management services provider must be approved by the commission pursuant to §29-22D-6(f) of
19 this code.

20 (e) Any individually branded online sports pool website or mobile application provided by
21 a management services provider must, on its webpage, conspicuously bear the name of the
22 operator with which it is affiliated.

23 (f) The commission shall apply the provisions of this section and of §29-22D-7(e) of this
24 code upon their effective date, with no delay for the promulgation of a rule. Any applicant for a
25 management services provider license that: (i) Qualifies for licensure as a management services
26 provider; (ii) qualifies as a small business management services provider; and (iii) has an
27 agreement with an operator to provide an individually branded online sports pool website and
28 accompanying mobile application shall be issued a management services provider license
29 immediately.

30 (g) This section supersedes §179-9-12 of the West Virginia Code of State Rules. The
31 commission shall promulgate revised rules that either remove that section of the West Virginia
32 Code of State Rules or revise it to conform to this section.

ARTICLE 22E. WEST VIRGINIA LOTTERY INTERACTIVE WAGERING ACT.

§29-22E-1. Short title.

1 This article shall be known and may be cited as the West Virginia Lottery Interactive
2 Wagering Act. The amendments to this article made in the regular session of the Legislature,
3 2021, shall be known as the Small Business Gaming Opportunity Act.

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

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

5 (b) *Legislative findings.* —

6 (1) The Legislature finds that the operation of West Virginia's four racetracks and the
7 historic resort hotel, as well as its small businesses, in this state play a critical role in the economy
8 of this state, and ~~such~~ that constitutional lotteries are rightfully authorized as state enterprises
9 consistent with the rights and powers granted to the states under the Tenth Amendment of the

10 United States Constitution. The federal government is a government of limited and enumerated
11 powers, and powers not delegated to the United States by the Constitution nor prohibited by it to
12 the states are reserved for the states and its respective citizens.

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

17 (3) The Legislature finds that it is in the best interests of the State of West Virginia for the
18 state to operate a lottery in the form of interactive wagering and that it is the intent of the
19 Legislature to authorize interactive wagering within the state and through compacts with other
20 approved jurisdictions.

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

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

31 (6) The Legislature finds that the granting of licenses pursuant to the provisions of this
32 article, while maintaining all ownership rights and exercising control through strict regulation of all
33 West Virginia Lottery interactive wagering authorized by the provisions of this article, constitutes
34 an appropriate exercise by the Legislature of the power granted it by the provisions of Section 36,
35 Article VI of the Constitution of the State of West Virginia.

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

41 (8) The Legislature finds that the opportunity to participate in interactive wagering should
42 not be predominantly limited to out-of-state companies, and that locally owned businesses,
43 especially new small businesses, should also have the opportunity to participate in interactive
44 wagering.

§29-22E-3. Definitions.

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

3 (1) “Adjusted gross interactive wagering receipts” means an operator’s gross interactive
4 wagering receipts from West Virginia Lottery interactive wagering, less winnings paid to wagers
5 in such games.

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

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

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

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

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

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

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

24 (9) "Interactive wagering account" means a financial record established by a licensed
25 gaming facility for an individual patron in which the patron may deposit and withdraw funds for
26 interactive wagering and other authorized purchases, and to which the licensed gaming facility
27 may credit winnings or other amounts due to that patron or authorized by that patron.

28 (10) "Interactive wagering agreement" means a written agreement between the
29 commission and one or more other governments whereby persons who are physically located in
30 a signatory jurisdiction may participate in interactive wagering conducted by one or more
31 operators licensed by the signatory governments.

32 (11) "Interactive wagering fund" means the special fund in the State Treasury, created in
33 §29-22E-17 of this code.

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

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

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

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

46 (D) A license to provide management services under a contract to a gaming facility,
47 licensed under this article, to operate West Virginia Lottery interactive wagering (management
48 services provider license).

49 (13) “Licensed gaming facility” or “gaming facility” means a designated area on the
50 premises of an existing historic resort hotel, pursuant to §29-25-1 *et seq.* of this code, or the
51 facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-
52 1 *et seq.* of this code, licensed under this article, to conduct West Virginia Lottery interactive
53 wagering.

54 (14) “Lottery” means the public gaming systems or games regulated, controlled, owned,
55 and operated by the State Lottery Commission in the manner provided by general law, as provided
56 in this article, and in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, §29-22C-1 *et seq.*,
57 §29-22D-1 *et seq.*, and §29-25-1 *et seq.* of this code.

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

61 (16) “Small business management services provider” means a management services
62 provider that qualifies as a small business management services provider under §29-22E-7(e)(1)
63 of this code.

64 ~~(16)~~ (17) “Wager” means a sum of money or thing of value risked on an uncertain
65 occurrence.

66 ~~(17)~~ (18) “West Virginia Lottery interactive wagering” or “interactive wagering” or
67 “interactive gaming” means the placing of wagers remotely and in real time on any authorized

68 interactive game with any interactive gaming provider, using any communications technology, by
69 means of any electronic or mobile device or other interface capable of providing a means of input
70 and output. The term does not include:

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

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

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

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

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

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

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

80 (H) Daily Fantasy Sports (DFS).

81 ~~(18)~~ (19) “West Virginia Lottery interactive wagering license” means authorization granted
82 under this article by the commission to a gaming facility that is already licensed under §29-22A-1
83 *et seq.* or §29-25-1 *et seq.* of this code, which permits the gaming facility as an agent of the
84 commission to operate West Virginia Lottery interactive wagering on the grounds where video
85 lottery is conducted by the licensee or through any other authorized interactive platform developed
86 by the gaming facility. This term is synonymous with “operator’s license”.

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

1 (a) *License.* — The holder of a license to operate West Virginia Lottery interactive
2 wagering may contract with an entity to conduct that operation in accordance with the rules 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 rules 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 license and application
8 fee of \$100,000. The commission may adopt rules establishing additional requirements for an
9 authorized management services provider. The commission may accept licensing by another
10 jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the
11 applicant 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 \$100,000.

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.

17 (e) *Small business management services providers.* —

18 (1) A management services provider licensed pursuant to this section is a small business
19 management services provider for purposes of this article if it meets all of the following criteria:

20 (A) Neither: (i) The management services provider; nor (ii) any person or entity that
21 controls the management services provider within the meaning of §29-22E-5(b) of this code; nor
22 (iii) any entity that is under common control with the management services provider within the
23 meaning of §29-22E-5(b) of this code, has averaged more than \$10 million in annual gross
24 revenue over the three years prior to the management service provider’s initial licensure;

25 (B) Neither: (i) The management services provider; nor (ii) any person or entity that
26 controls the management services provider within the meaning of §29-22E-5(b) of this code; nor
27 (iii) any entity that is under common control with the management services provider within the
28 meaning of §29-22E-5(b) of this code, has applied for or obtained any license or approval to
29 participate in online wagering in any jurisdiction; and

30 (C) The management services provider’s application to be licensed by the commission as
31 a management services provider must be pending for at least six months before it is approved.

32 (2) Notwithstanding any other provision of this section, the initial license and application
33 fee, as well as the annual license renewal fee, for a small business management services provider
34 shall be \$10,000.

35 (3) Except as provided in this section and §29-22E-15a of this code, a small business
36 management services provider is subject to the same requirements and may engage in the same
37 activities as any licensed management services provider.

§29-22E-15a. Individually branded online sports pool websites and accompanying mobile applications.

1 (a) Each operator may provide no more than three individually branded interactive gaming
2 websites and accompanying mobile applications, except as provided in subsections (b) and (c) of
3 this section.

4 (b) *Small business management services providers.* — Each operator may provide one
5 individually branded interactive gaming website and accompanying mobile application that is
6 offered and managed by a small business management services provider, in addition to the three
7 individually branded interactive gaming websites and accompanying mobile applications
8 authorized in subsection (a) of this section.

9 (c) Any operator that provides an individually branded interactive gaming website and
10 accompanying mobile application that is offered and managed by a small business management
11 services provider, pursuant to subsection (b) of this section, may provide one additional
12 individually branded interactive gaming website and accompanying mobile application, in excess
13 of the individually branded interactive gaming websites and accompanying mobile applications
14 authorized in subsections (a) and (b) of this section.

15 (d) Prior to an operator providing an individually branded interactive gaming website and
16 accompanying mobile application that is offered and managed by a small business management
17 services provider, the management service contract between the operator and the small business

18 management services provider must be approved by the commission pursuant to §29-22E-6(f) of
19 this code.

20 (e) Any individually branded interactive gaming website or mobile application provided by
21 a management services provider must, on its webpage, conspicuously bear the name of the
22 operator with which it is affiliated.

23 (f) The commission shall apply the provisions of this section §29-22E-7(e) of this code
24 upon their effective date, with no delay for the promulgation of a rule. Any applicant for a
25 management services provider license that: (i) Qualifies for licensure as a management services
26 provider; (ii) qualifies as a small business management services provider; and (iii) has an
27 agreement with an operator to provide an individually branded interactive gaming website and
28 associated mobile application shall be issued a management services provider license
29 immediately.

30 (g) This section supersedes §179-10-20 of the West Virginia Code of State Rules. The
31 commission shall promulgate revised rules that either remove that section of the West Virginia
32 Code of State Rules or revise it to conform to this section.