

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 571

By Senators Barrett, Woelfel, and Maroney

[Introduced February 06, 2023; referred
to the Committee on Government Organization; and
then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §29-22D-25, relating to amend the regulation of fantasy gaming competitions
 3 and implementation of sports wagering by allowing the West Virginia State Lottery
 4 Commission to accredit independent evaluators to audit and opine on the sports betting
 5 content directly or indirectly affiliated with mobile sports wagering licensees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. PROVISIONS AS TO CONSTRUCTION.

§29-22D-25. Regulation of fantasy gaming competitions and sports wagering through independent evaluations.

1 (a) Criteria and definitions. – Independent evaluators, at a minimum, must meet the
 2 following criteria:

3 (1) Audit process must be constructed, executed, and maintained by no less than one in-
 4 house, active CPA. Audit process must test for all key assertions: completeness, existence,
 5 accuracy, valuation, presentation, occurrence, and presentation;

6 (2) Inability for the results or any other data attribute of the sports betting content to be
 7 adjusted, duplicated, altered, in anyway by the experts or influencers, mobile sports wagering
 8 licensees, and/or content partners after the related sports betting content event begins;

9 (3) No conflicts shall exist for those running the independent evaluator, including the
 10 following criteria:

11 (A) No employee or founder may also be engaged in sports betting content or a sports
 12 betting content platform – through direct relationship (such as working for, creating, selling or
 13 otherwise), investment, advising; and

14 (B) May not have cost per acquisition and/or revenue sharing affiliate relationships or links
 15 to a sports book operator and/or peer-to-peer betting platforms.

16 (C) This does not limit a sports book operator and/or sports betting content platform’s
 17 marketing of their performance by the independent evaluator, provided those marketing materials

18 display accurate attributes.

19 (4) Core business must be in performance evaluation/ratings and audit practice of sports
20 betting content.

21 (5) Must have been actively executing core business and be an established business for
22 no less than one year.

23 (b) Sports betting content is classified as predictions of sporting events outcomes in total or
24 in part, including but not limited to, moneylines, against the spread, totals, futures, propositions
25 (game and player), parlays, or otherwise. This could include free predictions, subscription/sold
26 predictions, and/or affiliate or other partnership.

27 (c) Experts or Influencers, also referred to as sharps, touts, handicappers, or otherwise,
28 are defined as those who create sports betting content for mobile sports wagering licensees, for
29 their own benefit, and/or content partners.

30 (d) Content partners are defined as platforms or individuals who create sports betting
31 content for sports wagering licensees through a contracted work, affiliate or otherwise.

32 (e) *Enactment.* - The West Virginia State Lottery Commission shall accredit certain
33 Independent Evaluators to evaluate sports betting content, specifically from experts or influencers
34 for mobile sports wagering licensees and their content partners. The West Virginia State Lottery
35 Commission shall have a three-month timeline to identify and accredit independent evaluators.
36 Once complete, mobile wagering licensees, experts or influencers, and content partners will have
37 three-months to select an independent evaluator. Reporting from the independent evaluator to the
38 West Virginia State Lottery Commission shall occur quarterly. The West Virginia State Lottery
39 Commission may determine material misrepresentations from the independent evaluators reports
40 warrant explanation or further action. Those are to be settled between the mobile wager licensee,
41 experts or influencers, content providers and the West Virginia State Lottery Commission and the
42 Attorney General's Office. Those licensees who do meet the criteria for independent evaluator
43 services – based on sports betting content, experts or influencers, and/or content partners

- 44 definition – will have their independent evaluator fees supplemented by the state of West Virginia
- 45 until such time they become financial capable to do so, as decided by the state of West Virginia.

NOTE: The purpose of this bill is to direct the West Virginia State Lottery Commission to accredit Independent Evaluators to audit and opine on the Sports Betting Content directly or indirectly affiliated with mobile sports wagering licensees and report findings to the West Virginia State Lottery Commission. The purpose is consumer protection through setting standards and guidelines to combat predatory promotions/advertisement, remove industry bad actors, and create generally accepted evaluation practices. Creating the guardrails now, stabilizes the industry's growth and prevents collapses seen in other more mature markets and other industries (i.e. cryptocurrency). The goal is not to restrict business in any way, it is to elevate the industry and protect the consumer.

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