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]

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

This article shall be known and may be cited as the West Virginia Lottery Sports Wagering Act. The amendments to this article made in the regular session of the Legislature, 2021, shall 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.

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

(b) *Legislative findings*. —

(1) The Legislature finds that the operation of West Virginia’s four racetracks and the historic resort hotel, as well as its small businesses, ~~in this state~~ play a critical role in the economy of this state, and ~~such~~ that constitutional lotteries are rightfully authorized as state enterprises consistent with the rights and powers granted to the states under the Tenth Amendment of the United States Constitution. The federal government is a government of limited and enumerated powers, and powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved for the states and its respective citizens.

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

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

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

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

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

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

(8) The Legislature finds that the operation of West Virginia Lottery sports wagering at racetracks, licensed pursuant to the provisions of §29-22A-1 *et seq.* of this code, ~~and~~ at a historic resort hotel, licensed pursuant the provisions of §29-25-1 *et seq.* of this code, and by small business management services providers, pursuant to the provisions of §29-22D-15a of this code, serves to protect, preserve, promote, and enhance the tourism industry of the state as well as the general fiscal well-being of the state and its subdivisions.

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

§29-22D-3. Definitions.

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

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

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

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

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

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

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

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

(8) “Gross sports wagering receipts” means the total gross receipts received by a licensed gaming facility from sports wagering.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) Daily Fantasy Sports (DFS).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) This section supersedes §179-9-12 of the West Virginia Code of State Rules. The commission shall promulgate revised rules that either remove that section of the West Virginia 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.**

This article shall be known and may be cited as the West Virginia Lottery Interactive Wagering Act. The amendments to this article made in the regular session of the Legislature, 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.

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

(b) *Legislative findings*. —

(1) The Legislature finds that the operation of West Virginia’s four racetracks and the historic resort hotel, as well as its small businesses, ~~in this state~~ play a critical role in the economy of this state, and ~~such~~ that constitutional lotteries are rightfully authorized as state enterprises consistent with the rights and powers granted to the states under the Tenth Amendment of the United States Constitution. The federal government is a government of limited and enumerated powers, and powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved for the states and its respective citizens.

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

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

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

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

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

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

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

§29-22E-3. Definitions.

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

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

(2) “Commission” or “State Lottery Commission” means the West Virginia Lottery Commission, created by [§29-22-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

(3) “Director” means the Director of the West Virginia State Lottery Commission, appointed pursuant to [§29-22-6 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22-6&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

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

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

(6) “Gross interactive wagering receipts” means the total gross receipts received by a licensed gaming facility from interactive wagering.

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

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

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

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

(11) “Interactive wagering fund” means the special fund in the State Treasury, created in [§29-22E-17 of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22E-17&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

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

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

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

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

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

(13) “Licensed gaming facility” or “gaming facility” means a designated area on the premises of an existing historic resort hotel, pursuant to [§29-25-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-25-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)), or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 *et seq.* of this code, licensed under this article, to conduct West Virginia Lottery interactive wagering.

(14) “Lottery” means the public gaming systems or games regulated, controlled, owned, and operated by the State Lottery Commission in the manner provided by general law, as provided in this article, and in [§29-22-1](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) *et seq*., [§29-22A-1](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22A-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) *et seq*., §29-22B-1 *et seq*., [§29-22C-1](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22C-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) *et seq*., [§29-22D-1](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22D-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) *et seq*., and [§29-25-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-25-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)).

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

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

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

~~(17)~~ (18) “West Virginia Lottery interactive wagering” or “interactive wagering” or “interactive gaming” means the placing of wagers remotely and in real time on any authorized interactive game with any interactive gaming provider, using any communications technology, by means of any electronic or mobile device or other interface capable of providing a means of input and output. The term does not include:

(A) Pari-mutuel betting on the outcome of horse or dog races, authorized by [§19-23-12a](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS19-23-12A&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) and [§19-23-12d of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS19-23-12D&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default));

(B) Lottery games of the West Virginia State Lottery, authorized by [§29-22-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default));

(C) Racetrack video lottery, authorized by [§29-22A-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22A-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default));

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

(E) Racetrack table games, authorized by [§29-22C-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22C-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default));

(F) Video lottery and table games, authorized by [§29-25-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-25-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default));

(G) Sports wagering, authorized by [§29-22D-1 *et seq*.](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22D-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)); and

(H) Daily Fantasy Sports (DFS).

~~(18)~~ (19) “West Virginia Lottery interactive wagering license” means authorization granted under this article by the commission to a gaming facility that is already licensed under [§29-22A-1](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-22A-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)) *et seq.* or [§29-25-1 *et seq.* of this code](http://www.westlaw.com/Link/Document/FullText?findType=L&pubNum=1000041&cite=WVSTS29-25-1&originatingDoc=NC4406470823611E9B1C9BC35CA018EF0&refType=LQ&originationContext=document&vr=3.0&rs=cblt1.0&transitionType=DocumentItem&contextData=(sc.Default)), which permits the gaming facility as an agent of the commission to operate West Virginia Lottery interactive wagering on the grounds where video lottery is conducted by the licensee or through any other authorized interactive platform developed by the gaming facility. This term is synonymous with “operator’s license”.

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

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

(b) *License qualifications and fee*. — Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee of $100,000. The commission may adopt rules establishing additional requirements for an authorized management services provider. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets authorized management services provider licensing requirements.

(c) *Renewal*. — Management services provider licenses shall be renewed annually to any licensee who continues to be in compliance with all requirements and who pays the annual renewal fee of $100,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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