

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3481**

**FISCAL  
NOTE**

By Delegate J. Cannon

[Introduced March 18, 2025; referred to the  
Committee on the Judiciary then Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-22F-1, §29-22F-2, §29-22F-3, §29-22F-4, §29-22F-5, §29-22F-6, §29-22F-7, §29-22F-8, §29-22F-9, and §29-22F-10, relating to permitting the operation of daily fantasy sports contests in which participants own, manage, or coach imaginary teams in competition against the operator responsible for creating, administering or operating such contest; defining terms; detailing duties and powers of the West Virginia Lottery Commission; providing rule-making authority and emergency rule-making authority; establishing license requirements and prohibitions; defining duties of an operator conducting daily fantasy sports contests; authorizing Lottery Commission to collect licensing fees for daily fantasy sports contest operators; requiring independent audits of daily fantasy sports contests; requiring investigation of prohibited conduct and authorizing the reporting of same to law enforcement; authorizing the West Virginia Lottery Commission to levy and collect a tax on the privilege of operating daily fantasy sports contests of 15 percent of adjusted gross daily fantasy sports contest receipts; creating the West Virginia Daily Fantasy Sports Contests Fund; defining how moneys deposited in the West Virginia Daily Fantasy Sports Contests Fund shall be distributed; and providing for compulsive gaming assistance and requiring daily fantasy sports contest operators to provide for self-exclusion from contests.

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

**ARTICLE 22F. WEST VIRGINIA DAILY FANTASY SPORTS CONTEST ACT.**

<b><u>§29-22F-1.</u></b>	<b><u>Short</u></b>	<b><u>Title.</u></b>
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1	This article shall be known and may be cited as the West Virginia Daily Fantasy Sports	
2	Contest Act.	

<b><u>§29-22F-2.</u></b>	<b><u>State authorization of Daily Fantasy Sports Contests.</u></b>
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1	<u>(a) Operation of Daily Fantasy Sports Contests. -- Notwithstanding any provision of law to</u>
2	<u>the contrary, the operation of daily fantasy sports contests is only lawful when conducted in</u>

3 accordance with the provisions of this article.

4 (b) A paid daily fantasy sports contest conducted under this article does not constitute  
5 gambling for any purpose, including but not limited to under the provisions of §61-10-5 of this  
6 code.

7 (c) A person participating in a daily fantasy sports contest under this article shall be at least  
8 19 years of age.

9 (d) A licensee under this article may only accept an entry from a person physically located  
10 in the state.

11 (e) A licensee under this article may not offer daily fantasy sports contests on a high school  
12 or below sporting event.

13 (f) The provisions of this article shall be construed liberally to promote the general welfare  
14 of the public and integrity of the fantasy sports industry: *Provided*, That the commission may not  
15 adopt rules limiting or regulating the rules or administration of an individual daily fantasy sports  
16 contest, the statistical makeup of a daily fantasy sports contest, or the digital platform of a daily  
17 fantasy sports contest operator. Furthermore, the commission may not in any way limit or restrict  
18 the types of daily fantasy sports contests allowed pursuant to this article, by labeling any such  
19 contests as sports wagering as that term is defined in this code.

20 (g) No licensed daily fantasy sports contest operator shall be forced to surrender or  
21 terminate its license prior to the date of expiration of said license solely by virtue of a change in any  
22 rules promulgated pursuant to this article.

**§29-22F-3.**

**Definitions.**

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

3 (1) "Adjusted gross daily fantasy sports contest receipts" means the amount equal to the  
4 total of all entry fees that a daily fantasy sports operator collects from all participants less only the  
5 total of all prizes paid out as prizes to all participants multiplied by the location percentage for this

6 state.

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

9 (3) "Entry fee" means a nonrefundable cash or cash equivalent that is paid by a participant  
10 and set in advance by a daily fantasy sports contest operator granting the participant the right to  
11 participate in a daily fantasy sports contest.

12 (4) "Daily fantasy sports contest" means any online fantasy or simulated game or contest  
13 of skill with an Entry Fee in which:

14 (A) The values of all prizes offered to a winning participant are established and made  
15 known to the participant in advance of the contest;

16 (B) All winning outcomes reflect the relative knowledge and skill of the participant;

17 (C) The participant assembles, owns, or manages a fictional entry or roster of actual  
18 professional or amateur athletes, in real-world sports or E-sports events; and

19 (D) Competes for prizes awarded by the daily fantasy sports contest operator based on  
20 terms and conditions published by the daily fantasy sports operator and made known to the  
21 participant in advance of the contest;

22 (E) Winning outcomes are determined solely by clearly-established scoring criteria based  
23 on one or more statistical results of the performance of an individual athlete in a real-world event or  
24 an E-sports event, including, but not limited to, a fantasy score; and

25 (F) No winning outcome is entirely based on the score, point spread, or any performance of  
26 any single actual team or combination of teams or solely on any single performance of an  
27 individual athlete or player in any single actual event. Daily fantasy contest does not include any  
28 daily fantasy sports contest without an entry fee.

29 (5) "Director" means the Director of the West Virginia Lottery Commission.

30 (6) "Large Operator" means either:

31 (A) An operator, that, at the time of receiving its initial or renewed daily fantasy sports

contest operator license has adjusted gross daily fantasy sports contests receipts greater than or equal to \$1 million for the preceding 12 months; or

(B) An operator that, at any point, achieves 10,000 or more daily fantasy sports contest participants with an active account, and who participated in at least one daily fantasy sports contest with an entry fee.

(7) "Location percentage" means, for each authorized daily fantasy sports activity, the percentage rounded to the nearest tenth of one percent (0.1%) of the total entry fees collected from players located in this state, divided by the total entry fees collected from all players in the daily fantasy sports activity.

(8) "Daily Fantasy Sports Contest Operator" or "Operator" shall mean a person or entity that offers Daily Fantasy Sports Contests to members of the public. This shall not include an Internet service provider or a provider of mobile data services merely as a result of that entity's transporting general traffic that may include a Daily Fantasy Sports Contest.

(9) "Participant" means a natural person or individual who participates in a daily fantasy sports contest offered by a daily fantasy sports operator.

(10) "Qualified applicant" means an applicant for a license under this article whose application meets the mandatory minimum qualification criteria as required by the commission.

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

(a) In addition to the duties set forth elsewhere in this article of this code, the commission shall have the authority to regulate the conduct of daily fantasy sports contest operators, as defined under this article: *Provided*, That such authority shall not extend to daily fantasy sports contests in which participants own, manage, or coach imaginary teams in competitions against other participants, and not against the individual or entity responsible for creating, administering, or operating such contest, for a prize and/or award.

(b) The commission shall examine the regulations implemented in other states where daily fantasy sports contests are conducted and shall, as far as practicable, adopt a similar regulatory

9 framework through promulgation of rules and regulations: *Provided*, That said rules and  
10 regulations adequately ensure that daily fantasy sports contest operators are suitable to offer daily  
11 fantasy sports contests under this article.

12 (c) The commission shall levy and collect all fees, surcharges, civil penalties, and monthly  
13 taxes on adjusted gross daily fantasy sports contest receipts imposed by this article.

14 (d) The commission has the authority, pursuant to §29A-1-1, *et seq.* and §29A-3-1, *et*  
15 *seq.* of this code, to promulgate or otherwise enact any legislative, interpretive, and  
16 procedural rules the commission considers necessary for the successful implementation,  
17 administration, and enforcement of this article. Rules proposed by the commission before  
18 December 1, 2024, may be promulgated as emergency rules pursuant to §29A-3-15 of this code.

19 (e) The commission may exercise any other powers necessary to enforce the provisions of  
20 this article that it regulates and the rules of the commission.

21 (f) The commission and daily fantasy sports contest operator licensees may cooperate  
22 with investigations conducted by law-enforcement agencies, including, but not limited to, providing  
23 and facilitating the provision of account-level entry and participation information.

24 (g) A daily fantasy sports contest operator licensee shall make all reasonable efforts to  
25 promptly notify the commission of any information relating to:

26 (1) A confirmed breach of a relevant sports governing body's internal rules and codes of  
27 conduct pertaining to participation in real-money daily fantasy sports;

28 (2) Any conduct that corrupts any outcome related to a sports event or sports events for  
29 purposes of financial gain, including match fixing; and

30 (3) Confirmed illegal activities, including use of funds derived from illegal activity, entries to  
31 conceal or launder funds derived from illegal activity, multiaccounting, and using false  
32 identification.

**§29-22F-5. License required.**

1 (a) Except as otherwise provided in this section, a person may not offer fantasy sports

contests in this state unless the person is first licensed by the commission as a fantasy sports contest operator.

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

(c) An applicant for a license issued under this article shall submit an application to the commission in the form the commission requires. The applicant shall submit fingerprints for a national criminal records check by a law-enforcement agency. The fingerprints shall be furnished by the applicant's owners, officers, and directors (if a corporation), managers and members (if a limited liability company), and partners (if a partnership). The fingerprints shall be accompanied by a signed authorization for the release of information by the law enforcement agency. The commission may require additional background checks on licensees when they apply for license renewal, and an applicant convicted of a disqualifying offense shall not be licensed.

(d) The information required by the commission shall include documentation of all of the following:

(1) The name of the applicant.

(2) The location of the applicant's principal place of business.

(3) The applicant's contact information.

(4) The applicant's social security number or, if applicable, the applicant's federal tax identification number.

(5) The name and address of each individual that holds a 10% or more ownership interest in the applicant or in shares of the applicant.

(6) The applicant's criminal record, if any, or if the applicant is a business entity, on request, any criminal record of an individual who is a director, officer or key employee of, or any individual who has a 10% or more ownership interest in, the applicant.

(7) Any ownership interest that a director, officer, key employee or individual owner of 10%

or more of the applicant holds in a person that is or was a daily fantasy sports contest operator or similar entity in any jurisdiction.

(8) An identification of any business, including, if applicable, the state of incorporation or registration, in which an applicant, director, officer, key employee, or individual owner of 10% or more of the applicant, has an equity interest of five percent or more.

(9) Whether an applicant, director, officer, key employee or individual owner of 10% or more of the applicant has ever applied for or been granted any license, registration or certificate issued by a licensing authority in this state or any other jurisdiction for a gaming activity.

(10) Whether an applicant, director, officer, key employee, or individual owner of 10% or more of the applicant has filed or been served with a complaint or other notice filed by a public body regarding the delinquency in payment of or dispute over filings concerning the payment of any tax required under federal, state or local law, including the amount of tax, the type of tax, the taxing agency and the time periods involved.

(11) Information sufficient to show, as determined by the commission, that the applicant can meet the requirements of procedures submitted by the applicant under this article and under any rules adopted under this article.

(12) The commission may adopt rules to establish additional qualifications and requirements to preserve the integrity and security of daily fantasy sports in this state and to promote and maintain a competitive daily fantasy sports market.

(e) On receipt of a completed application and the required fee, the commission shall conduct the necessary background investigation to determine if the applicant meets the qualifications for licensure. On completion of the necessary background investigation, the commission shall either issue a license or deny the application. If the application for licensure is denied, a statement setting forth the grounds for denial shall be forwarded to the applicant together with all other documents relied on by the commission, to the extent allowed by law.

**§29-22F-6. Issuance of License; denial of same.**



1 (a) The initial license fee for an entity that, prior to the effective date of the provisions of this  
2 article, operated in the state daily fantasy sports contests in which participants competed against  
3 other participants and not the operator shall be 15% of its adjusted gross daily fantasy sports  
4 contest receipts from the preceding calendar year or \$1 million, whichever is less.

5 (b) The initial license fee for a fantasy contest operator that did not operate in the state for  
6 at least 12 months prior to the effective date of this article shall be \$10,000: *Provided*, That, once  
7 an operator has 10,000 or more fantasy contest participants in the state with an active account,  
8 and who participated in at least one fantasy contest with an entry fee, then such an operator shall  
9 notify the commission and remit an application fee in the amount of \$990,000 within 10 days of  
10 notifying the commission.

11 (c) Licenses issued by the commission shall remain in effect for four years. The  
12 commission shall establish a process for renewal provided that the renewal fee shall be one  
13 percent of adjusted gross fantasy contests receipts for the preceding four years.

14 (d) Any operator applying for licensure or renewal of a license may operate during the  
15 application period unless the commission has reasonable cause to believe that such operator is or  
16 may be in violation of the provisions of this article and the commission requires such operator to  
17 suspend the operation of any fantasy contest until the license or renewal of a license is issued.

**§29-22F-7. Independent audits required.**

1 (a) As part of its submission for licensure or renewal, an applicant shall:

2 (1) Contract with a certified public accountant to conduct an independent audit, consistent  
3 with generally accepted accounting principles;

4 (2) Annually contract with a testing laboratory recognized by the commission to verify  
5 compliance with the provisions of this article; and

6 (3) Submit to the commission a copy of: (A) the audit report; and (B) the report of the testing  
7 laboratory.

8 (b) An initial applicant with adjusted gross daily fantasy sports contest receipts less than or

equal to \$999,999 for the 12 months preceding the month of application shall not be required to submit an audit report and report of the testing laboratory until the 24 months following the issuance of a license to such a licensee.

**§29-22F-8. Reporting prohibited conduct; investigation of prohibited conduct.**

(a) The commission shall investigate all reasonable allegations of prohibited conduct and refer any allegations it deems credible to the appropriate law-enforcement entity.

(b) The identity of any reporting person shall remain confidential unless that person authorizes disclosure of his or her identity or until such time as the allegation of prohibited conduct is referred to law enforcement.

(c) If the commission receives a complaint of prohibited conduct by an athlete, the commission shall notify the appropriate sports governing body of the athlete to review the complaint as provided by rule.

(d) The commission shall adopt rules governing investigations of prohibited conduct and referrals to law-enforcement entities.

**§29-22F-9. Daily fantasy sports contest revenues; accounting for the state's share of revenue imposed for the privilege of offering West Virginia Daily Fantasy Sports Contests.**

(a) For the privilege of holding a license to operate daily fantasy sports contests under this article, the state shall impose and collect 15% of a daily fantasy sports contest operator's adjusted gross daily fantasy sports contest receipts. The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee. The taxes levied and collected pursuant to this subsection (a) are due and payable to the commission no later than the last day of the month following the calendar month in which the adjusted gross daily fantasy sports contest receipts were received and the tax obligation was accrued.

(b) Privilege tax obligation imposed by this section is in lieu of other taxes. -- With the exception of the ad valorem property tax collected under chapter 11A of this code, the privilege tax

on adjusted gross daily fantasy sports contest receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of West Virginia Daily Fantasy Sports Contests, except as otherwise provided in this section. The consumers sales and services tax imposed pursuant to §11-15-1 et seq. of this code, and any similar local tax imposed at the municipal or county level, shall not apply to the licensee's gross receipts from any West Virginia Daily Fantasy Sports Contests or to the licensee's purchase of daily fantasy sports contest equipment, supplies, or services directly used in operation of the daily fantasy sports contests authorized by this article.

(c) The special fund in the State Treasury known as the West Virginia Daily Fantasy Sports Contests Fund is hereby created and all moneys collected under this article by the commission shall be deposited with the State Treasurer to the West Virginia Daily Fantasy Sports Contests Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the West Virginia Daily Fantasy Sports Contests Fund pursuant to §29-22F-8(d) of this code.

(d) The commission shall deduct an amount sufficient to reimburse its actual costs and expenses incurred in administering licensed daily fantasy sports contests from the gross deposits into the West Virginia Daily Fantasy Sports Contests Fund. The amount remaining after the deduction for administrative expenses is the net profit.

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

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

**§29-22F-10. Compulsive Gaming and Voluntary Self-Exclusion.**

(a) Each licensee shall include a statement regarding obtaining assistance with real-money gaming problems, on the licensee's portal, Internet website, or computer or mobile application, and on all marketing materials and advertisements of the licensee.

(b) Any resident, or non-resident if allowed to participate in daily fantasy sports, may voluntarily prohibit himself or herself from establishing a daily fantasy sports account with a licensee under this article. The commission shall incorporate the voluntary self-exclusion program for daily fantasy sports into any existing self-exclusion program that it operates on the effective date of this article.

(c) If a self-excluded person participates in a daily fantasy sports contest, the daily fantasy sports contest operator shall report to the commission, at a minimum, the name of the self-excluded person, the date of participation, the amount or value of any monies, prizes, or awards forfeited, if any, and any other action taken.

(d) A daily fantasy sports contest operator may not pay any prize or award to a person who is on the commission's self-exclusion list. Any prize or award won by a person on the self-exclusion list shall be forfeited and shall be donated by the daily fantasy sports contest operator to the problem gaming charities or programs as identified and directed by the commission on a quarterly basis by the 25th day of the following month.

(e) A daily fantasy sports contest operator shall develop and maintain a program to mitigate compulsive play and curtail compulsive play, which may be in conjunction with the

20 commission.

NOTE: The purpose of this bill is to authorize, regulate, and tax the operation of daily fantasy sports contests in which participants utilize skill to compete against the entity operating the fantasy sports contest.

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