

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

**FISCAL
NOTE**

Introduced

House Bill 4398

By Delegate Burkhammer

[Introduced January 16, 2026; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §29-22D-16 of the Code of West Virginia, 1931, as amended,
2 relating to modifying the percentage amount for the privilege of holding a license to operate
3 sports wagering.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22D. WEST VIRGINIA LOTTERY SPORTS WAGERING ACT.

**§29-22D-16. Sports wagering revenues; accounting for the state's share of revenue
imposed for the privilege of offering West Virginia Lottery sports wagering;
limitation of other taxes; recoupment for improvements.**

1 (a) Imposition and rate of assessment. — For the privilege of holding a license to operate
2 sports wagering under this article, the state shall impose and collect ~~ten~~ 25 percent of the
3 licensee's adjusted gross sports wagering receipts from the operation of West Virginia Lottery
4 sports wagering (hereinafter "privilege tax" or "tax"). The accrual method of accounting shall be
5 used for purposes of calculating the amount of the tax owed by the licensee.

6 (b) Operator revenue reports and payment of privilege tax. —

7 (1) The tax levied and collected pursuant to §29-22D-16(a) of this code is due and payable
8 to the commission in weekly installments on or before the Wednesday following the calendar week
9 in which the adjusted gross sports wagering receipts were received and the tax obligation was
10 accrued.

11 (2) The licensed operator shall complete and submit the return for the preceding week by
12 electronic communication to the commission, on or before Wednesday of each week, in the form
13 prescribed by the commission that provides:

14 (A) The total gross sports wagering receipts and adjusted gross sports wagering receipts
15 from operation of West Virginia Lottery sports wagering during that week;

16 (B) The tax amount for which the sports wagering licensee is liable; and

17 (C) Any additional information necessary in the computation and collection of the tax on
18 adjusted gross sports wagering receipts required by the commission.

19 (3) The tax amount shown to be due shall be remitted by electronic funds transfer
20 simultaneously with the filing of the return. All moneys received by the commission pursuant to this
21 section shall be deposited in the sports wagering fund in accordance with the provisions of this
22 article.

23 (4) When adjusted gross receipts for a week is a negative number because the winnings
24 paid to patrons wagering on the licensee's West Virginia Lottery sports wagering exceeds the
25 licensee's total gross receipts from sports wagering by patrons, the commission shall allow the
26 licensee to carry over the negative amount to returns filed for subsequent weeks. The negative
27 amount of adjusted gross receipts may not be carried back to an earlier week and moneys
28 previously received by the commission will not be refunded, except if the licensee surrenders its
29 operator's license and the licensee's last return reported negative adjusted gross receipts. In that
30 case, the commission shall multiply the amount of negative adjusted gross receipts by 10 percent
31 and pay the amount to the licensee in the manner approved by the commission.

32 (c) Privilege tax obligation imposed by this section is in lieu of other taxes. — With the
33 exception of the ad valorem property tax collected under chapter eleven-a of this code, the
34 privilege tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all
35 other state and local taxes and fees imposed on the operation of, or the proceeds from operation of
36 West Virginia Lottery sports wagering, except as otherwise provided in this section. The
37 consumers sales and services tax imposed pursuant to §11-15-1 *et seq.* of this code, the use tax
38 imposed by §11-15A-1 *et seq.* of this code and any similar local tax imposed at the municipal or
39 county level, shall not apply to the licensee's gross receipts from any West Virginia Lottery sports
40 wagering or to the licensee's purchase of sports wagering equipment, supplies, or services
41 directly used in operation of the sports wagering authorized by this article.

42 (d) Acquisition of any system or wagering equipment and other items related to the
43 operation of West Virginia sports wagering shall be considered "facility modernization

44 improvements" eligible for recoupment as defined in §29-22A-10(b)(2) and §29-25-22(c) of this
45 code.

46 (e) Prohibition on credits. — Notwithstanding any other provision of this code to the
47 contrary, no credit may be allowed against the privilege tax obligation imposed by this section or
48 against any other tax imposed by any other provision of this code for any investment in gaming
49 equipment or for any investment in or improvement to real property that is used in the operation of
50 West Virginia Lottery sports wagering.

NOTE: The purpose of this bill is to increase the percentage amount for the privilege of holding a license to operate sports wagering.

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