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Bill Analysis

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SUMMARY

- Makes numerous changes to the Gambling Law, including legalizing, regulating, and taxing sports gaming; allowing charitable organizations to conduct electronic instant bingo, among other changes to the Bingo Law; modifying the way casino revenues are taxed; and creating a committee to study iLottery.

Sports gaming

Overview

Legalization of sports gaming

- Legalizes and regulates sports gaming in Ohio through two channels: (1) a sports gaming lottery operated by the State Lottery Commission, and (2) sports gaming agents licensed and regulated by the Ohio Casino Control Commission to offer sports gaming online and at sports gaming facilities.
- Specifies that the operation of sports gaming under the bill must begin not earlier than January 1, 2022.

Permitted sporting events for betting

- Allows betting on any professional sport or athletic event, any collegiate sport or athletic event, any Olympic or international sports competition event, any motor race event, or any other special event the appropriate commission authorizes for sports gaming.
- Prohibits betting on any sport or athletic event for primary or secondary school students that is conducted or sponsored by a primary or secondary school or by any other person.

Sports gaming through the Ohio Lottery

- Requires the State Lottery Commission to operate a sports gaming lottery through which the Commission accepts wagers on sporting events from individuals who are at least 21 and who are physically located in Ohio.
- Requires the sports gaming lottery to be in the form of a sports pool in which a participant pays a fixed price of \$20 for each betting ticket, with a fixed fee retained by the Commission.
- Prohibits the Commission from operating any version of the sports gaming lottery in which the Commission or its agent engages in odds-making or risks a financial loss based on the outcome of a sporting event.
- Requires the State Lottery Commission, acting with the advice and consent of the Ohio Casino Control Commission, to adopt rules as necessary to implement the sports gaming lottery in a manner that is consistent with the provisions of the bill that govern sports gaming generally.
- Treats the sports gaming lottery as part of the larger Ohio Lottery.

Sports gaming regulated by the Ohio Casino Control Commission

Sports gaming agent licenses

- Requires the Ohio Casino Control Commission to license sports gaming agents to offer sports gaming in Ohio under type A licenses through online sports pools and under type B licenses at sports gaming facilities.
- Excludes the State Lottery Commission and the operators of the sports gaming lottery from being considered sports gaming agents under the bill.
- Specifies that a type A sports gaming agent license authorizes a sports gaming agent to offer sports gaming through an online sports pool under one brand name.
- Requires the Commission to license not more than 20 type A sports gaming agents at any one time on a first-come, first-served basis.
- Requires the Commission to adopt by rule a procedure allowing the Commission to revoke a type A license if the licensee does not offer sports gaming to patrons under the license for a continuous period of one year or more.
- Prohibits any person, including a parent company, from holding more than five type A sports gaming agent licenses at any one time.
- Specifies that a Type B sports gaming agent license authorizes a sports gaming agent to offer sports gaming at one sports gaming facility.
- Requires the Commission to license not more than 20 type B sports gaming agents at any one time on a first-come, first-served basis.

- Prohibits a sports gaming facility from being located on the premises of a casino facility or a horse racing facility.
- Specifies the process to apply for an initial or renewed type A or type B sports gaming agent license.
- Lists the reasons for which an applicant for a sports gaming agent license must be denied and the conditions under which the Commission may suspend or revoke a license.

Sports gaming occupational licenses

- Requires an individual with sports gaming related duties with a sports gaming agent to receive a sports gaming occupational license.
- Specifies the process to apply for an initial or renewed sports gaming occupational license.
- Lists the reasons for which an applicant for a sports gaming occupational license must be denied and the conditions under which the Commission may suspend or revoke a license.

Sports gaming supplier licenses

- Requires a person or entity that provides sports gaming equipment or related services to a sports gaming agent to have a sports gaming supplier license.
- Specifies that a sports gaming supplier that provides sports gaming equipment or services to be used through a sports gaming agent is not considered a sports gaming agent solely on that basis.
- Specifies the process to apply for an initial or renewed sports gaming supplier license.
- Lists the reasons for which an applicant for a sports gaming supplier license must be denied and the conditions under which the Commission may suspend or revoke a license.

Online sports gaming through type A sports gaming agents

- Allows a type A sports gaming agent to operate an online sports pool website and accompanying mobile application, under one brand name per license, through which the sports gaming agent accepts wagers from individuals who are at least 21 and who are physically located in Ohio.
- Requires the sports gaming agent to use location based technology to prohibit individuals who are not physically present in Ohio from participating in sports gaming through the online sports pool.
- Requires the server responsible for accepting wagers through the online sports pool to be located in a secure facility in Ohio.

- Allows a type A sports gaming agent to accept a wager through an online sports pool only using a sports gaming account tied to the individual's legal name.

In person sports gaming through type B sports gaming agents

- Allows a type B sports gaming agent to operate one sports gaming facility per license, at which the sports gaming agent accepts wagers on sporting events from individuals who are at least 21 and who are physically present in the sports gaming facility, either in person or using self-service sports gaming equipment.
- Requires a type B sports gaming agent to accept a wager only using a registration tied to the individual's legal name, unless the wager does not exceed a dollar limit determined by the Commission by rule.
- Allows an employee of a sports gaming agent who is between 18 and 21 to be present in a sports gaming facility, so long as the employee's duties are not related to sports gaming.
- Permits an individual who is under 21 to enter a sports gaming facility in order to pass to another area where sports gaming is not being conducted, but only if the individual is personally escorted by an employee of the sports gaming agent who remains in close proximity to the individual at all times in accordance with the Commission's rules.

Persons who may not bet with a sports gaming agent

- Specifies several categories of individuals who are not permitted to participate in sports gaming with a sports gaming agent, including individuals who are on an exclusion list, who are associated with a sports gaming agent or with the Commission, or who are involved in a sporting event.

Permitted and prohibited wagers with a sports gaming agent

- Provides that "sports gaming" with a sports gaming agent includes exchange wagering, parlays, over-under, moneyline, in-game wagering, single-game bets, teaser bets, in-play bets, proposition bets, pools, pari-mutuel sports wagering pools, straight bets, or any other type of wagering on sporting events approved by the Commission.
- Allows the Commission, independently or at the request of any person, including a sports governing body, to prohibit or restrict sports gaming agents from accepting wagers on a particular sporting event or to prohibit or restrict sports gaming agents from accepting a particular type of wager.
- Provides a process for a sports governing body to formally request the Commission to prohibit or restrict sports gaming agents from accepting wagers on a particular sporting event or to prohibit or restrict sports gaming agents from accepting a particular type of wager.

Sports gaming agent operating requirements

- Lists several requirements concerning sports gaming agents' operations, including financial controls, integrity monitoring, recordkeeping, and requirements regarding promotional gaming credits and unclaimed winnings.
- Allows a sports gaming agent to manage risk associated with wagers by rejecting or pooling one or more wagers or by laying off one or more wagers with another sports gaming agent.
- Permits a sports gaming agent to employ a system that offsets loss or manages risk in the operation of sports gaming under the bill through the use of a liquidity pool in another jurisdiction, so long as certain requirements are met.

Ohio Casino Control Commission oversight

- Gives the Ohio Casino Control Commission jurisdiction over all persons conducting or participating in the conduct of sports gaming authorized under the bill, with the exception of the sports gaming lottery.
- Requires the Commission to adopt all rules regarding sports gaming in accordance with the Administrative Procedure Act.
- Allows the Commission to adopt new regulatory restrictions under the bill by December 31, 2021, without simultaneously removing two or more other existing regulatory restrictions.
- Specifies several types of rules that the Commission must adopt governing sports gaming agents' operations, including financial requirements, consumer protections, advertising guidelines, and the necessary capital investments in sports gaming facilities.
- Requires the Commission to approve all sports gaming equipment and each form, variation, or composite of sports gaming to be used by sports gaming agents.
- Requires the Commission to monitor all sports gaming conducted in Ohio by sports gaming agents, or contract with an independent integrity monitoring provider for that purpose, in order to identify any unusual betting activities or patterns that may indicate a need for further investigation.
- Permits a sports governing body that believes the integrity of one of its sporting events is in question to formally request the Commission to make anonymized sports gaming data concerning the sporting event available to the sports governing body through the monitoring system, as soon after each bet is placed as is commercially reasonable.
- Requires the Commission to keep confidential certain categories of information provided to the Commission by an applicant for a sports gaming license.
- Specifies that certain information regarding sports gaming agents is subject to disclosure under the Public Records Law.

- Requires the Commission to levy and collect fines for noncriminal violations of the bill and of the Commission's rules adopted under the bill.
- Requires the Commission, law enforcement agencies, prosecutors, and sports governing bodies to cooperate in investigating potential violations of the bill or the Commission's rules.
- Gives the Attorney General a civil cause of action to restrain any violation of the bill or of rules adopted under the bill.

State and local revenue from sports gaming

Sports gaming lottery revenue

- Treats the State Lottery Commission's revenues from the operation of the sports gaming lottery in the same manner as all other lottery revenues, meaning that the profits must be used for education.

Tax provisions applicable to sports gaming agents

- Imposes a 10% tax on a sports gaming agent's net revenue from sports gaming.
- Requires that the sports gaming tax be administered in much the same way as the state's existing tax on casino revenue.
- Creates the Sports Gaming Revenue Fund in the state treasury and requires that revenue from the tax imposed on sports gaming receipts, initial sports gaming agent licensing fees, and certain fines collected by the Ohio Casino Control Commission be deposited in the fund.
- Requires that 98% of the money in the Sports Gaming Revenue Fund, after deductions for tax refunds and administrative costs, be transferred to the Sports Gaming Profits Education Fund to be used for K-12 education, and 2% be transferred to the Problem Sports Gaming and Addiction Fund to pay the costs of program services to alleviate problem sports gaming in Ohio.
- Specifies that sports gaming agents must pay commercial activity tax only on their net receipts from sports gaming, not on gross receipts.
- Allows the Department of Taxation to share sports gaming tax information with the Ohio Casino Control Commission.

Income tax withholding on sports gaming winnings

- Requires sports gaming agents to withhold state and certain municipal income taxes from patrons' winnings whenever federal income tax withholding is required.
- Expands the current withholding requirements for lottery winnings regarding income tax and any past due child or spousal support to include winnings from the sports gaming lottery.

Criminal prohibitions applicable to all sports gaming

- Sets out a number of criminal prohibitions related to the operation of sports gaming, many of which apply to all sports gaming, regardless of whether it is conducted through the sports gaming lottery or regulated by the Ohio Casino Control Commission.

Shipments of gambling devices

- States that all shipments of gambling devices, including any sports gaming equipment, to sports gaming facilities or lottery sales agents in Ohio are legal shipments of gambling devices into Ohio, as long as the supplier registers, records, and labels the equipment in accordance with the federal Gambling Devices Act of 1962.

Charitable bingo

Electronic instant bingo

- Establishes electronic instant bingo as a separate type of bingo, along with traditional bingo, raffles, and instant bingo, but largely regulates the operation of electronic instant bingo in the same manner as instant bingo.
- Specifies that the operation of electronic instant bingo under the bill must begin not earlier than January 1, 2022.

Definitions

- Defines “electronic instant bingo” as a form of bingo that consists of an electronic or digital representation of instant bingo and that meets a series of requirements.
- Defines an “electronic instant bingo system” as a mechanical, electronic, digital, or video device that is used to play electronic instant bingo and any associated equipment or software used to conduct, manage, monitor, or document any aspect of electronic instant bingo.

Charitable organizations conducting electronic instant bingo

- Allows a veteran’s or fraternal organization to offer electronic instant bingo in the same way as instant bingo, so long as it has an appropriate status under the Internal Revenue Code, and so long as it has not conducted a raffle in violation of the Revised Code using an electronic raffle machine at any time after February 23, 2018.
- Requires electronic instant bingo proceeds to be distributed in the same manner as instant bingo proceeds are distributed under continuing law.
- Applies the same recordkeeping and operating requirements to electronic instant bingo as currently apply to instant bingo.

Attorney General rules

- Requires the Attorney General to adopt rules under the Administrative Procedure Act to ensure the integrity of electronic instant bingo, and lists several topics that must be covered under those rules.

Distributor and manufacturer licensing

- Requires a licensed distributor or manufacturer of bingo supplies to obtain an electronic instant bingo endorsement to the distributor's or manufacturer's license in order to distribute or manufacture electronic instant bingo systems.
- Specifies requirements for a distributor or manufacturer to receive an endorsement, including passing a criminal records check, providing a surety bond, and paying the appropriate fee.
- Allows the Attorney General to suspend or revoke an endorsement for violations of Ohio's gambling laws or rules.

Regulation of electronic instant bingo systems

- Requires a manufacturer of an electronic instant bingo system first to submit the system to an independent testing laboratory and to the Attorney General and the Ohio Casino Control Commission for approval.
- Requires every electronic instant bingo system in use in Ohio to meet certain monitoring and recordkeeping requirements.
- Allows the Attorney General to establish by rule an annual fee to be paid by electronic instant bingo system distributors to cover the cost of monitoring and inspecting systems under the bill.

Prohibitions regarding electronic instant bingo

- Prohibits several types of conduct related to the operation of electronic instant bingo and the sale of electronic instant bingo systems and imposes a criminal penalty for a violation of the bill or the Attorney General's rules.

Bingo licenses, generally

Denial or suspension

- Allows the Attorney General to deny a bingo license to an organization, or suspend an organization's bingo license for up to five years, if the Attorney General has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to the organization.
- Allows the Attorney General to deny, suspend, or limit a bingo distributor or manufacturer license if the Attorney General has good cause to believe that the distributor or manufacturer, or certain partners, officers, or owners, have committed a breach of fiduciary duty, theft, or other misconduct related to a charitable organization that has a bingo license.

Youth athletic park organizations

- Eliminates a requirement that a youth athletic park organization's playing fields have been used for nonprofit youth athletic activities for at least 100 days during a given year in order for the organization to obtain a bingo license.

License type

- Requires a bingo license to indicate whether it is a Type I, Type II, or Type III license.

Technical changes

- Makes numerous stylistic and technical changes to the section of law governing bingo licenses in order to incorporate “Type I,” “Type II,” and “Type III” license terminology, to clarify that an organization does not need a license to conduct a raffle, and generally to make the section easier to read.

Punch boards and seal cards

- Clarifies that punch boards and seal cards are types of instant bingo games and may be played under an instant bingo license.

Minors playing traditional bingo

- Makes a technical correction to clarify the penalty that applies to a charitable organization if it permits a person the organization knows, or should have known, is under 18 to play traditional bingo.

Bingo Law enforcement**Charitable organizations**

- Allows the Attorney General or a law enforcement agency to examine the accounts and records of any officer, agent, trustee, member, or employee of a charitable organization with a bingo license.
- Permits the Attorney General to impose a civil fine on an organization for failure to comply with the Bingo Law or related rules.

Manufacturers and distributors

- Permits the Attorney General or a law enforcement agency to investigate a bingo distributor or manufacturer or any officer, agent, trustee, member, or employee of the bingo distributor or manufacturer in relation to violations of the Bingo Law.
- Permits the Attorney General to impose a civil fine on a distributor or manufacturer for failure to comply with the Bingo Law or related rules.

Casino revenue taxation

- Eliminates an exclusion from the gross casino revenue tax for the value of promotional gaming credits.

iLottery

- Creates the Select Committee on iLottery, which must study the potential effects of online lottery ticket sales (known as iLottery) on retail lottery ticket sales in Ohio.
- Specifies the process for appointing the members of the Select Committee and requirements for its operation.

- Requires the Select Committee to submit a report of its findings to the General Assembly not later than January 1, 2022, and to cease to exist after it submits the report.

Technical changes related to the Fresh Start Act

- Makes technical corrections to several sections of the Casino Law in order to accommodate the requirements of the Fresh Start Act, H.B. 263 of the 133rd General Assembly, which takes effect October 9, 2021.

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DETAILED ANALYSIS

The bill makes numerous changes to the Gambling Law, including legalizing, regulating, and taxing sports gaming; allowing charitable organizations to conduct electronic instant bingo, among other changes to the Bingo Law; modifying the way casino revenues are taxed; and creating a committee to study iLottery.

Sports gaming

Overview

Legalization of sports gaming

The bill legalizes and regulates sports gaming (betting) in Ohio through two channels: (1) a sports gaming lottery operated by the State Lottery Commission and (2) sports gaming agents licensed and regulated by the Ohio Casino Control Commission to offer sports gaming online and at sports gaming facilities. The bill refers to sports gaming regulations as being made by the “appropriate commission,” based on whether the sports gaming in question is regulated by the State Lottery Commission or the Ohio Casino Control Commission (see **COMMENT 1**). The bill specifies that the operation of all sports gaming under the bill must begin not earlier than January 1, 2022.¹

Currently, the Revised Code generally prohibits any person from engaging in bookmaking (the business of receiving or paying off bets), and defines a bet as the hazarding of

¹ R.C. 3775.01(A) and Section 3 of the bill.

anything of value upon the result of an event, undertaking, or contingency, except for a bona fide business risk. As a result, under existing law, any person who takes and pays off bets on the outcomes of sporting events is guilty of illegal gambling. The bill retains that prohibition, but makes an exception for the forms of sports gaming permitted under the bill.

The federal Professional and Amateur Sports Protection Act of 1992 (PASPA) generally prohibits the states from legalizing sports betting. However, in 2018, the U.S. Supreme Court overturned PASPA on the ground that it violates the states' rights under the 10th Amendment to the U.S. Constitution. Consequently, that law no longer prevents Ohio from legalizing and regulating sports betting.²

Permitted sporting events for betting

Under the bill, "sports gaming" means the business of accepting wagers on sporting events. To "wager" or "bet" means to risk a sum of money or thing of value on an uncertain occurrence. "Sports gaming" does not include casino gaming, fantasy contest entry fees, pari-mutuel horse racing wagering, or lottery games other than the sports gaming lottery, which are all regulated separately under continuing law.

A "sporting event" that may be bet on under the bill is any professional sport or athletic event, any collegiate sport or athletic event, any Olympic or international sports competition event, any motor race event, or any other special event the appropriate commission authorizes for sports gaming, the individual performance statistics of athletes or participants in such an event, or a combination of those. A "professional sport or athletic event" is an event at which two or more persons participate in sports or athletic events and receive compensation, or the potential for compensation based on their performance, in excess of actual expenses for their participation in the event. And, a "collegiate sport or athletic event" is a sport or athletic event offered, sponsored by, or played in connection with a public or private post-secondary educational institution.

The bill prohibits betting on any sport or athletic event for primary or secondary school students that is conducted or sponsored by a primary or secondary school or by any other person, or on the individual performance statistics of athletes or participants in such a sport or athletic event. For example, betting on high school sports is not allowed under the bill.

As is discussed below under "**Permitted and prohibited wagers with a sports gaming agent**," the bill allows the Ohio Casino Control Commission to prohibit or restrict certain wagers with sports gaming agents by rule. Those restrictions do not apply to the sports gaming lottery.³

² R.C. 2915.02, not in the bill, and *Murphy v. National Collegiate Athletic Association*, 138 S.Ct. 1461 (2018).

³ R.C. 3772.01 and 3775.01.

Sports gaming through the Ohio Lottery

The bill requires the State Lottery Commission to operate a sports gaming lottery through which the Commission accepts wagers on sporting events from individuals who are at least 21 and who are physically located in Ohio. Under continuing law, an individual generally must be 18 in order to play other lottery games, but must be 21 in order to play a video lottery terminal (VLT).

The sports gaming lottery must be in the form of a sports pool. A participant must pay a fixed price of \$20 for each ticket and select an outcome of a sporting event or series of sporting events. The Commission must retain a fixed fee per ticket in an amount determined by the Commission. The total proceeds of the tickets sold concerning that sporting event or series of sporting events, minus the Commission's fee, must be divided by the number of tickets for which the correct outcome was selected. All participants with winning tickets then must be awarded an equal amount of winnings per winning ticket. The bill prohibits the Commission from operating any version of the sports gaming lottery in which the Commission or its agent engages in odds-making or risks a financial loss based on the outcome of a sporting event.

For example, 1,000 patrons might each buy a \$20 betting ticket on a football game between the Cleveland Browns and the Pittsburgh Steelers, and the Commission might keep a fee of \$2 (10%) from each ticket. The Commission would earn \$2,000, regardless of who won the game, and the remaining \$18,000 would go into the betting pool. 200 patrons might bet on the Browns to win, and 800 patrons might bet on the Steelers to win. If the Browns won, the \$18,000 pool would be divided equally among the 200 winning tickets, for a prize of \$90 per winning ticket – a \$70 profit to the patron. Conversely, if the Steelers won, the \$18,000 pool would be divided equally among the 800 winning tickets, for a prize of \$22.50 per winning ticket – a \$2.50 profit to the patron.

Under the bill, the State Lottery Commission, acting with the advice and consent of the Ohio Casino Control Commission, must adopt rules under the Administrative Procedure Act as necessary to implement the sports gaming lottery in a manner that is consistent with the provisions of the bill, discussed below, that govern sports gaming generally.

In all other respects, the bill treats the sports gaming lottery as part of the larger Ohio Lottery. The State Lottery Commission may make rules governing the operation of the sports gaming lottery, contract with vendors to operate the sports gaming lottery on behalf of the Commission, and determine the conditions under which lottery sales agents may offer sports gaming to patrons. The requirements for claiming sports gaming lottery prizes and for the withholding of income tax and past due child or spousal support from winnings are the same as for other lottery prizes. (See “**State and local revenue from sports gaming**,” below, for further discussion of how sports gaming lottery proceeds are to be handled.)⁴

⁴ R.C. 3770.23 and conforming changes in R.C. 3770.03, 3770.06, 3770.07, and 3770.10. See also R.C. 3770.071 through 3770.073 and 3770.08, not in the bill, and Ohio Administrative Code (O.A.C.) 3770:2-7-01.

Sports gaming regulated by the Ohio Casino Control Commission

Sports gaming agent licenses

The bill also requires the Ohio Casino Control Commission to license sports gaming agents to offer sports gaming in Ohio under type A licenses through online sports pools and under type B licenses at sports gaming facilities. As used in the bill, “sports gaming agent” means only a person licensed by the Ohio Casino Control Commission under a type A or type B license, and does not include the State Lottery Commission or any agent of the State Lottery Commission that offers sports gaming through the sports gaming lottery.⁵

Type A sports gaming agents

A type A sports gaming agent license authorizes a sports gaming agent to offer sports gaming through an online sports pool under one brand name. “Online sports pool” means sports gaming in which a wager on a sporting event is made through a computer or mobile device and accepted through an online gaming website that is operated by a sports gaming agent. The bill requires the Commission to license not more than 20 type A sports gaming agents at any one time on a first-come, first-served basis. The Commission must adopt by rule a procedure allowing the Commission to revoke a type A license if the licensee does not offer sports gaming to patrons under the license for a continuous period of one year or more.

The bill prohibits any person from holding more than five type A sports gaming agent licenses at any one time. An applicant for a license is considered to hold five licenses if a person having control of the applicant has control of persons who hold five licenses among them. For purposes of the bill, any of the following persons are considered to have control of an applicant:

- If the applicant is a corporation, a person associated with the applicant, including any corporate holding company, parent company, or subsidiary company of the applicant, that has the ability to control the activities of the applicant or elect a majority of its board of directors, other than any bank or other licensed lending institution that holds a mortgage or other lien acquired in the course of ordinary business;
- If the applicant is not a corporation, a person associated with the applicant that directly or indirectly holds a beneficial or proprietary interest in the applicant’s business operation or that the Commission otherwise determines has the ability to control the applicant;
- Key personnel of the applicant, including any executive, employee, or agency, having the power to exercise significant influence over decisions concerning any part of the applicant’s business operation.

⁵ R.C. 3775.01(G).

For instance, if five subsidiaries of a parent company each have a type A license, the parent company has reached the limit and cannot apply for an additional type A license under its own name or through any subsidiary.⁶

Type B sports gaming agents

A type B sports gaming agent license authorizes a sports gaming agent to offer sports gaming at one sports gaming facility. The bill requires the Ohio Casino Control Commission to license not more than 20 type B sports gaming agents at any one time on a first-come, first-served basis.

“Sports gaming facility” means a designated area of a building or structure in which patrons may place wagers on sporting events with a type B sports gaming agent either in person or using self-service sports gaming equipment. The bill prohibits a sports gaming facility from being located on the premises of a casino facility or a horse racing facility. However, the bill does not prohibit a casino or horse racing facility operator from being licensed as a type A or type B sports gaming agent, as long as any sports gaming facility is located off the premises. And, the bill does not prohibit a casino or horse racing facility operator from offering sports gaming at the facility through the sports gaming lottery as a lottery sales agent.⁷

Licensing process

An applicant for an initial or renewed type A or type B sports gaming agent license must do all of the following:

- Submit a written application on a form furnished by the Ohio Casino Control Commission;
- Pay a nonrefundable application fee in an amount prescribed by the Commission by rule;
- Submit two complete sets of fingerprints to the Commission for the purpose of conducting a criminal records check through the Ohio Bureau of Criminal Identification and Investigation (BCII) and pay the BCII fee for the check;
- Give the state a surety bond, in an amount and in the form approved by the Commission, to guarantee that the applicant faithfully makes all required payments under the bill and under the Commission’s rules;
- Submit an audit of the applicant’s financial transactions and the condition of the applicant’s total operations for the previous fiscal year prepared by a certified public accountant in accordance with generally accepted accounting principles and state and federal laws;

⁶ R.C. 3775.01(C) and (P) and 3775.04(A).

⁷ R.C. 3775.01 (I) and (Q) and 3775.04(B).

- Satisfy any other requirements for licensure under the bill and under the Commission's rules, as discussed below.

The Commission must not grant a sports gaming agent license unless it determines that each person who has control of the applicant, as described above under "***Type A sports gaming agents***," has met the qualifications for the license. The Commission must conduct a complete investigation of the applicant each time the applicant applies for an initial or renewed license. The Commission also may initiate an additional licensing investigation or adjudication or reopen an existing licensing investigation or adjudication at any time.

Upon receiving an initial type A or type B sports gaming license, the applicant must pay a nonrefundable license fee of \$1 million, which is deposited in the Sports Gaming Revenue Fund discussed below.

A type A or type B sports gaming agent license is valid for three years. The sports gaming agent may apply to renew the license in the same manner as for an initial license, unless the license is suspended or revoked or the Commission determines that the sports gaming agent is not in compliance with the bill and with the Commission's rules. Upon receiving a renewed sports gaming agent license, the sports gaming agent must pay a nonrefundable license fee in an amount prescribed by the Commission by rule.

A sports gaming agent must display its license conspicuously in its place of business or have the license available for inspection by any agent of the Commission or any law enforcement agency.

Each fiscal year, a sports gaming agent must submit to the Commission an audit of the sports gaming agent's financial transactions and the condition of the sports gaming agent's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable state and federal laws.

The bill requires a sports gaming agent to give the Commission written notice within ten days of any change to any information provided in the sports gaming agent's application for a license or renewal.⁸

Denial, suspension, or revocation

Under the bill, the Commission must not grant a sports gaming agent license to an applicant if evidence satisfactory to the Commission exists that the applicant has done any of the following:

- Knowingly made a false statement to the Commission;
- Been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental unit of a national, state, or local body exercising governmental functions;

⁸ R.C. 109.572, 3772.02, 3772.07, 3775.03, and 3775.04.

- Been convicted of a disqualifying offense, as determined by the Commission;
- Been directly involved in or employed by any offshore wagering market that illegally serviced the U.S. or otherwise accepted illegal wagers from individuals located in the U.S. on or after April 16, 2015.

The Commission may deny a sports gaming agent license to an applicant, reprimand a sports gaming agent, or suspend or revoke a sports gaming agent license if any of the following are true:

- The applicant or sports gaming agent has not demonstrated to the Commission's satisfaction financial responsibility sufficient to adequately meet the requirements of the enterprise;
- The applicant or sports gaming agent is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business;
- The applicant or sports gaming agent is a corporation that sells more than 5% of a sports gaming agent's voting stock, or more than 5% of the voting stock of a corporation that controls the sports gaming agent, or sells a sports gaming agent's assets, other than those bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined by the Commission to have met the qualifications of a sports gaming agent.

The Commission must not grant a sports gaming agent license to a nonprofit corporation or organization, to an individual who is under 21, or to an employee of the Commission. No member of the Commission may have any affiliation with a sports gaming agent.

The bill allows the Commission, in an adjudication conducted under the Administrative Procedure Act, to penalize, limit, condition, restrict, suspend, revoke, deny, or refuse to renew any sports gaming agent license. The Commission may take into account any relevant aggravating or mitigating factors without in any manner limiting the Commission's authority to impose the level and type of discipline the Commission considers appropriate.⁹

Sports gaming occupational licenses

Who must be licensed

The bill requires an individual whose duties with a sports gaming agent include any of the following to hold an appropriate and valid sports gaming occupational license issued by the Ohio Casino Control Commission at all times:

- Accepting wagers on sporting events on behalf of a sports gaming agent;

⁹ R.C. 3772.02 and 3775.07. See also R.C. 9.79, not in the bill.

- Handling money as part of operating sports gaming on behalf of a sports gaming agent, including a cashier, change person, count team, or coin wrapper;
- Providing security for the operation of sports gaming by a sports gaming agent, including a guard or observer;
- Performing other duties such that the individual has the ability to alter material aspects of sports gaming conducted by a sports gaming agent.

An individual is not required to have a sports gaming occupational license if the individual's duties are related solely to nongaming activities such as entertainment, maintenance, or preparing or serving food or beverages. Further, Ohio Lottery employees and lottery sales agents are not required to have sports gaming occupational licenses under the bill in order to operate the sports gaming lottery because the term "sports gaming agent" excludes the operators of the sports gaming lottery.

A sports gaming occupational license permits the licensee to be employed in the capacity the Commission designates for the three-year duration of the license. The Commission may establish by rule job classifications with different requirements.¹⁰

Licensing process

An applicant for an initial or renewed sports gaming occupational license must do all of the following:

- Submit a written application on a form furnished by the Ohio Casino Control Commission;
- Pay a nonrefundable application fee of \$100. The Commission may annually increase the amount of the application fee in an amount that does not exceed the percentage increase in the Consumer Price Index for the previous year, as necessary to cover the cost of processing the application.
- Submit two complete sets of fingerprints to the Commission for the purpose of conducting a criminal records check through BCII and pay the BCII fee for the check.

Upon receiving the license, the applicant must pay a nonrefundable license fee of \$50. The applicant's employer may pay any or all of the fees on behalf of the applicant.

The Commission must conduct a complete investigation of the applicant each time the applicant applies for an initial or renewed license. The Commission also may initiate an additional licensing investigation or adjudication or reopen an existing licensing investigation or adjudication at any time.

¹⁰ R.C. 3775.05.

The bill requires the holder of a sports gaming occupational license to have an indicator of licensure prominently displayed when present in a sports gaming facility at all times, in accordance with the Commission's rules.¹¹

Reciprocity

If an applicant for a sports gaming occupational license currently holds a casino or video lottery license, the Commission's rules must not require the applicant to satisfy any additional requirement for the sports gaming occupational license that is substantially similar to any requirement the applicant previously has satisfied in order to obtain or renew the casino or video lottery license.

Further, the Commission may adopt rules allowing an individual who holds a sports gaming occupational license from another jurisdiction to be licensed in Ohio by reciprocity, so long as that jurisdiction's requirements to receive the license and the activities authorized by the license are substantially similar to the requirements for the Ohio license the individual seeks.¹²

Denial, suspension, or revocation

Under the bill, the Commission must not grant a sports gaming occupational license to an applicant if evidence satisfactory to the Commission exists that the applicant has done any of the following:

- Knowingly made a false statement to the Commission;
- Been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental unit of a national, state, or local body exercising governmental functions;
- Been convicted of a disqualifying offense, as determined by the Commission;
- Been directly involved in or employed by any offshore wagering market that illegally serviced the U.S. or otherwise accepted illegal wagers from individuals located in the U.S. on or after April 16, 2015.

The Commission must not grant a sports gaming occupational license to an individual who is under 21, or to an employee of the Commission.

The Commission may, in an adjudication conducted under the Administrative Procedure Act, penalize, limit, condition, restrict, suspend, revoke, deny, or refuse to renew any sports gaming occupational license. The Commission may take into account any relevant aggravating

¹¹ R.C. 3775.02, 3775.03, and 3775.05.

¹² R.C. 3775.05.

or mitigating factors without in any manner limiting the Commission's authority to impose the level and type of discipline the Commission considers appropriate.¹³

Sports gaming supplier licenses

Who must be licensed

The bill requires a person or entity that provides sports gaming equipment or related services to a sports gaming agent to hold an appropriate and valid sports gaming supplier license issued by the Ohio Casino Control Commission. A sports gaming supplier that provides sports gaming equipment or services to be used through a sports gaming agent is not considered a sports gaming agent solely on that basis. "Sports gaming equipment" means any mechanical, electronic, or other device, mechanism, or equipment and related software, materials, or supplies, including any software to be installed or used on a patron's personal device, that are used or consumed in the operation of sports gaming.¹⁴

Licensing process

An applicant for an initial or renewed sports gaming supplier license must do all of the following:

- Submit a written application on a form prescribed by the Ohio Casino Control Commission;
- Pay a nonrefundable application fee of \$10,000. The Commission may annually increase the amount of the application fee in an amount that does not exceed the percentage increase in the Consumer Price Index for the previous year, as necessary to cover the cost of processing the application.
- Submit two complete sets of fingerprints to the Commission for the purpose of conducting a criminal records check through BCII and pay the BCII fee for the check.

Upon receiving the initial or renewed license, the applicant must pay a nonrefundable license fee of \$15,000. The license is valid for three years.

The Commission must conduct a complete investigation of the applicant each time the applicant applies for an initial or renewed license. The Commission also may initiate an additional licensing investigation or adjudication or reopen an existing licensing investigation or adjudication at any time.¹⁵

Reciprocity

If an applicant for a sports gaming supplier license currently holds a casino or video lottery license, the Commission's rules must not require the applicant to satisfy any additional

¹³ R.C. 3775.07. See also R.C. 9.79, not in the bill.

¹⁴ R.C. 3775.01(H) and (N) and 3775.06.

¹⁵ R.C. 3775.02(F) and 3775.06.

requirement for the sports gaming supplier license that is substantially similar to any requirement the applicant previously has satisfied in order to obtain or renew the casino or video lottery license.

Further, the Commission may accept another jurisdiction's license, if the Commission determines it has similar licensing requirements, as evidence that the applicant meets the requirements for an Ohio sports gaming supplier license.¹⁶

Denial, suspension, or revocation

Under the bill, the Commission must not grant a sports gaming supplier license to an applicant if evidence satisfactory to the Commission exists that the applicant has done any of the following:

- Knowingly made a false statement to the Commission;
- Been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental unit of a national, state, or local body exercising governmental functions;
- Been convicted of a disqualifying offense, as determined by the Commission;
- Been directly involved in or employed by any offshore wagering market that illegally serviced the U.S. or otherwise accepted illegal wagers from individuals located in the U.S. on or after April 16, 2015.

The Commission must not grant a sports gaming supplier license to a nonprofit corporation or organization, to an individual who is under 21, or to an employee of the Commission.

The Commission may, in an adjudication conducted under the Administrative Procedure Act, penalize, limit, condition, restrict, suspend, revoke, deny, or refuse to renew any sports gaming supplier license. The Commission may take into account any relevant aggravating or mitigating factors without in any manner limiting the Commission's authority to impose the level and type of discipline the Commission considers appropriate.¹⁷

Online sports gaming through type A sports gaming agents

The bill allows a type A sports gaming agent to operate an online sports pool website and accompanying mobile application, under one brand name per license, through which the sports gaming agent accepts wagers from individuals who are at least 21 and who are physically located in Ohio. The sports gaming agent must use location based technology (sometimes called geofencing) to prohibit individuals who are not physically present in Ohio from participating in sports gaming through the online sports pool. The server responsible for accepting wagers through the online sports pool must be located in a secure facility in Ohio.

¹⁶ R.C. 3775.06.

¹⁷ R.C. 3775.07. See also R.C. 9.79, not in the bill.

A type A sports gaming agent may accept a wager from an individual through an online sports pool only using the individual's sports gaming account. A sports gaming account is an electronic account that an individual establishes for the purpose of sports gaming, including making deposits and withdrawals, wagering amounts, and receiving payouts on winning wagers. The sports gaming account must be in the individual's full legal name, and must not be in the name of any beneficiary, custodian, joint trust, corporation, partnership, or other organization or entity. An individual may establish and fund a sports gaming account in person through employees or sales agents of a sports gaming agent or, pursuant to the Commission's rules, over the internet through a sports gaming agent's website or mobile application in a manner that complies with the sports gaming agent's internal controls.¹⁸

In person sports gaming through type B sports gaming agents

The bill allows a type B sports gaming agent to operate one sports gaming facility per license, at which the sports gaming agent accepts wagers on sporting events from individuals who are at least 21 and who are physically present in the sports gaming facility, either in person or using self-service sports gaming equipment. The sports gaming agent must not accept a wager on a sporting event from an individual who is placing the wager on behalf of another individual who is not physically present in the sports gaming facility.

In general, before accepting any wager on a sporting event, the bill specifies that a type B sports gaming agent must require the individual to register with the sports gaming agent, provide the individual's full legal name and any other information required by the Commission or requested by the sports gaming agent, and place all wagers on sporting events placed with the sports gaming agent through that registration. But, a type B sports gaming agent may accept an anonymous wager from an individual, so long as the amount of the wager does not exceed a dollar limit determined by the Commission by rule.

An employee of a sports gaming agent who is between 18 and 21 may be present in a sports gaming facility, so long as the employee's duties are not related to sports gaming. (An employee must be 21 in order to receive a sports gaming occupational license.)

An individual who is under 21 may enter a sports gaming facility in order to pass to another area where sports gaming is not being conducted, but only if the individual is personally escorted by an employee of the sports gaming agent who remains in close proximity to the individual at all times in accordance with the Commission's rules.¹⁹

Persons who may not bet with a sports gaming agent

The bill specifies several categories of individuals who are not permitted to participate in sports gaming with a sports gaming agent. The bill does not prohibit any of those persons from participating in the sports gaming lottery, except that an individual who is under 21 is prohibited from participating in sports gaming of any kind.

¹⁸ R.C. 3775.04(A) and 3775.09.

¹⁹ R.C. 3775.01(I), 3775.04(B), and 3775.10.

First, the bill allows the Ohio Casino Control Commission to exclude any individual from entering a sports gaming facility or its grounds or from participating in the play or operation of sports gaming conducted by a sports gaming agent. The Commission must keep a list of all excluded individuals and make the list available to each sports gaming agent and to the State Lottery Commission.

A sports gaming agent also may exclude any individual from entering a sports gaming facility, or the grounds of a sports gaming facility, that is under the control of the sports gaming agent and may exclude any individual from participating in the play or operation of sports gaming conducted by the sports gaming agent. The sports gaming agent must keep a list of all excluded individuals. If a sports gaming agent excludes an individual because the sports gaming agent determines that the individual engaged or attempted to engage in any sports gaming related activity that is prohibited under the bill or under the Ohio Casino Control Commission's rules, the sports gaming agent must report that fact to the Commission.

No person who is on the Ohio Casino Control Commission's voluntary exclusion list for casino gaming may participate in the play or operation of sports gaming conducted by a sports gaming agent. A sports gaming agent must employ commercially reasonable methods to prevent the person from engaging in sports gaming conducted by the sports gaming agent.

No sports gaming agent, no director, officer, agent, or employee of a sports gaming agent, no other person who has a financial interest in a sports gaming agent, and no person living in the same household as any of those persons, may engage in any sports gaming conducted by the sports gaming agent, other than as part of operating sports gaming or as part of the employee's employment. A sports gaming agent must employ commercially reasonable methods to prevent those persons, and any other person who has access to confidential information held by the sports gaming agent, from engaging in sports gaming conducted by the sports gaming agent.

No member or employee of the Ohio Casino Control Commission may knowingly participate in sports gaming conducted by a sports gaming agent in Ohio or participate in sports gaming with any person or entity located outside Ohio that is directly or indirectly owned or operated by a sports gaming agent.

Finally, a sports gaming agent must employ commercially reasonable methods to prevent any person involved in a sporting event with respect to which sports gaming is permitted from engaging in any sports gaming with the sports gaming agent, based on publicly available information and any information provided by a sports governing body. A sports governing body is a regional, national, or international organization having ultimate authority over the rules and codes of conduct with respect to a sporting event and the participants in the sporting event. A person is considered to be involved in a sporting event if the person is an athlete, participant, coach, referee, team owner, or sports governing body with respect to the sporting event; any agent or employee of such an athlete, participant, coach, referee, team

owner, or sports governing body; and any agent or employee of an athlete, participant, or referee union with respect to the sporting event.²⁰

Permitted and prohibited wagers with a sports gaming agent

For purposes of wagering with a sports gaming agent regulated by the Ohio Casino Control Commission, “sports gaming” includes exchange wagering, parlays, over-under, moneyline, in-game wagering, single-game bets, teaser bets, in-play bets, proposition bets, pools, pari-mutuel sports wagering pools, straight bets, or any other type of wagering on sporting events approved by the Commission.²¹

The bill allows the Commission, independently or at the request of any person, including a sports governing body, to adopt rules to prohibit or restrict sports gaming agents from accepting wagers on a particular sporting event or to prohibit or restrict sports gaming agents from accepting a particular type of wager. The Commission also must adopt rules prescribing a process by which the Commission may impose such a prohibition or restriction on a temporary emergency basis instead of by rule.

A sports governing body may formally request the Commission to prohibit or restrict sports gaming agents from accepting wagers on a particular sporting event or to prohibit or restrict sports gaming agents from accepting a particular type of wager. The sports governing body must submit the formal request in the form and manner prescribed by the Commission. Upon receiving the request, the Commission promptly must send written notice of the request to every sports gaming agent and must consider any timely response submitted by a sports gaming agent.

If the Commission determines that the sports governing body has shown good cause through its formal request to grant the prohibition or restriction, the Commission promptly must grant it. If the Commission determines that the sports governing body has not shown good cause, the Commission promptly must provide the sports governing body with notice and an opportunity for a hearing to offer further evidence in support of granting the prohibition or restriction.

Any wagering prohibition or restriction adopted by the Commission would not apply to the sports gaming lottery.²²

Sports gaming agent operating requirements

Under the bill, a sports gaming agent must do all of the following:

- Conduct all sports gaming activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Ohio;

²⁰ R.C. 3772.03, 3775.01(O), and 3775.11.

²¹ R.C. 3775.01. For explanations of several common types of sports wagers, see Vegas.com, [Sports Betting](#), and Online Gambling Sites, [How to Bet on Sports – Guide to the Different Types of Wagers](#).

²² R.C. 3775.02(C).

- Adopt comprehensive house rules for game play governing sports gaming transactions with its patrons, including rules that specify the amounts to be paid on winning wagers and the effect of schedule changes, and submit them to the Ohio Casino Control Commission for approval before implementing them. The sports gaming agent must publish its house rules as part of its minimum internal control standards, must display the house rules, together with any other information the Commission considers appropriate, conspicuously in each sports gaming facility and in any other place or manner prescribed by the Commission, and must make copies of its house rules readily available to patrons.
- Keep current in all payments and obligations to the Commission;
- Provide a secure location for the placement, operation, and use of sports gaming equipment;
- Prevent any person from tampering with or interfering with the operation of sports gaming;
- Employ commercially reasonable methods to prevent the sports gaming agent and its agents and employees from disclosing any confidential information in the possession of the sports gaming agent that could affect the conduct of sports gaming;
- Maintain the confidentiality of any confidential information provided to the sports gaming agent by a sports governing body, except as otherwise required by law or by order of the Commission;
- Ensure that sports gaming conducted at a sports gaming facility is within the sight and control of designated employees of the sports gaming agent and that sports gaming is conducted under continuous observation by security equipment in conformity with the Commission's specifications and requirements;
- Ensure that sports gaming occurs only in the locations and manner approved by the Commission;
- Ensure that all sports gaming is monitored in accordance with the bill (see "***Integrity monitoring***," below);
- Maintain sufficient funds and other supplies to conduct sports gaming at all times;
- Maintain daily records showing the sports gaming agent's sports gaming receipts and timely file with the Commission any additional reports required by rule or by other provisions of the Revised Code.

The bill requires a sports gaming agent immediately to report to the Commission any information in the sports gaming agent's possession related to any of the following:

- Any wager in violation of the bill, the Commission's rules, or federal law;
- Abnormal sports gaming activity or patterns that may indicate a concern regarding the integrity of a sporting event;

- Suspicious wagering activities;
- Any conduct that corrupts a wagering outcome of a sporting event for purposes of financial gain;
- Any criminal or disciplinary proceedings commenced against the sports gaming agent by any person other than the Commission in connection with the sports gaming agent's operations.

A sports gaming agent may manage risk associated with wagers by rejecting or pooling one or more wagers or by laying off one or more wagers with another sports gaming agent. A sports gaming agent also may employ a system that offsets loss or manages risk in the operation of sports gaming under the bill through the use of a liquidity pool in another jurisdiction in which the sports gaming agent or an affiliate or other third party also is licensed, provided that at all times, adequate protections are maintained to ensure sufficient funds are available to pay patrons.

The bill allows a sports gaming agent to provide promotional gaming credits to patrons, subject to oversight by the Commission. "Promotional gaming credit" means a credit, discount, or other similar item issued to a patron to enable the placement of, or increase in, a wager on a sporting event. However, the value of any promotional gaming credit is not excluded from the sports gaming agent's taxable net revenue from sports gaming (see "**Tax provisions applicable to sports gaming agents**," below).

If a sports gaming patron does not claim a winning wager from a sports gaming agent within one year from the last day on which the sporting event is held, the sports gaming agent's obligation to pay the winnings expires, and the sports gaming agent must remit the winnings to the Commission to be deposited in the Sports Gaming Revenue Fund discussed below.

Finally, the bill specifies that a sports gaming agent is not liable under the laws of Ohio to any party, including a patron, for disclosing information as required under the bill or for refusing to disclose information that is not required by law to be disclosed.²³

Ohio Casino Control Commission oversight

With the exception of the sports gaming lottery, the bill gives the Ohio Casino Control Commission jurisdiction over all persons conducting or participating in the conduct of sports gaming authorized under the bill, including the authority to license, regulate, investigate, and penalize those persons in a manner that is consistent with the Commission's authority with respect to casino gaming.²⁴

²³ R.C. 3775.08.

²⁴ R.C. 3772.03 and 3775.02(A).

Administrative rules

In all cases in which the bill requires or allows the Ohio Casino Control Commission to make administrative rules, the Commission must do so in accordance with the Administrative Procedure Act. The bill allows the Commission to adopt new regulatory restrictions under the bill by December 31, 2021, without simultaneously removing two or more other existing regulatory restrictions, as generally required under existing law. The new regulatory restrictions must be added to the Commission's base inventory for purposes of complying with ongoing requirements that the Commission, like other agencies, reduce its overall number of regulatory restrictions.

Under the bill, the Commission must adopt rules that include all of the following:

- Procedures for a sports gaming agent to accept wagers on a sporting event or series of sporting events;
- The types of wagering tickets sports gaming agents are to use;
- The manner in which sports gaming agents are to issue tickets;
- The type of records sports gaming licensees are to keep;
- The system to be used to place a wager with a sports gaming agent;
- Protections for a player placing a wager with a sports gaming agent;
- Measures to promote responsible sports gaming;
- Penalties and fines for violating the bill or rules adopted under the bill;
- Restrictions to ensure that sports gaming agents' advertisements for sports gaming meet all of the following requirements:
 - They do not target individuals under 21, other individuals who are ineligible to participate in sports gaming, problem gamblers, or other vulnerable individuals;
 - They disclose the identity of the sports gaming agent;
 - They provide information about how to access resources related to problem gambling;
 - They are not false, misleading, or deceptive to a reasonable consumer.
- Requirements concerning the size, furnishings, and equipment of a sports gaming facility and the minimum capital investment in a sports gaming facility that is necessary to ensure that it generates strong economic development;
- Any other procedure or thing the Commission determines necessary to ensure the integrity of sports gaming regulated by the Commission.

Further, the Commission must adopt rules establishing minimum internal control standards for the administration of sports gaming agents' operations, sports gaming equipment, systems, or other items used by sports gaming agents to conduct sports gaming, and the maintenance of sports gaming agents' financial records and other required records. The

Commission may approve minimum internal control standards proposed by sports gaming agents.²⁵

Sports gaming equipment and forms of sports gaming

The Commission must approve all sports gaming equipment and each form, variation, or composite of sports gaming to be used by sports gaming agents. Before approving a piece of sports gaming equipment or a form, variation, or composite of sports gaming, the Commission must test it under the terms and conditions the Commission considers appropriate. The Commission must adopt rules requiring sports gaming licensees and sports gaming facilities to use only approved sports gaming equipment acquired from a licensed sports gaming supplier and to use only approved forms, variations, or composites of sports gaming.²⁶

Integrity monitoring

Under the bill, the Ohio Casino Control Commission must monitor all sports gaming conducted in Ohio by sports gaming agents, or contract with an independent integrity monitoring provider for that purpose, in order to identify any unusual betting activities or patterns that may indicate a need for further investigation. The Commission must require each sports gaming agent to participate in the monitoring system as part of its minimum internal control standards.

The information in the monitoring system is not a public record. The Commission may disclose the information in the system only as necessary for investigate or law enforcement purposes, to a sports governing body as permitted under the bill, or pursuant to a court order.

If a sports governing body believes that the integrity of one of its sporting events is in question, the sports governing body may formally request the Commission to make anonymized sports gaming data concerning the sporting event available to the sports governing body through the monitoring system, as soon after each bet is placed as is commercially reasonable. If the Commission determines that the sports governing body has shown good cause to believe that the integrity of the sporting event is in question, the Commission must make that data available to the sports governing body, provided that the Commission is not required to provide any information to a sports governing body that would jeopardize an ongoing criminal investigation.²⁷

Confidentiality of licensee information

The bill provides that, notwithstanding any contrary provision of the Public Records Law, the Ohio Casino Control Commission must not disclose to the public any of the following information or documents concerning a person who has applied for or been issued a sports

²⁵ R.C. 3775.02 and Section 4 of the bill. See also R.C. 121.95, not in the bill.

²⁶ R.C. 3775.02(E).

²⁷ R.C. 3775.02(I).

gaming license or the person's spouse, dependent, or employee, unless the person authorizes the Commission to disclose the information:

- A Social Security number, passport number, or federal tax identification number;
- A home address, telephone number, or electronic mail address;
- A birth certificate;
- A driver's license or state identification card number;
- The name or address of a previous spouse;
- A date or place of birth;
- Any personal financial information or records, including personal tax returns and information and records of criminal proceedings;
- Any information concerning a minor child;
- Any information concerning a person has reason to know is a victim of domestic violence, sexual assault, or stalking;
- Any trade secret, medical records, or patents or exclusive licenses;
- Security information, including risk prevention plans, detection and countermeasures, location of count rooms or other money storage areas, emergency management plans, security and surveillance plans, equipment and usage protocols, and theft and fraud prevention plans and countermeasures;
- Any other information that the Commission receives from another jurisdiction relating to an applicant who holds, held, or has applied for a sports gaming license;
- Any other information that is exempt from disclosure under the Public Records Law.

The Commission may disclose the above information to the Inspector General, a prosecutor, a law enforcement agency, or any other appropriate governmental entity or licensing agency, provided that the recipient must not disclose the information and documents to the public.

However, the bill specifies that all of the following information, other than the information listed above, is subject to disclosure as a public record under the Public Records Law:²⁸

- The information a sports gaming agent or an applicant for a sports gaming agent license has submitted to the Commission as part of applying for or renewing a sports gaming agent license;
- The name, place of employment, job title, and gaming experience of a person who has applied for or been issued a sports gaming license;

²⁸ R.C. 3775.12 and 5753.04(D).

- The Commission's reasons for denying or revoking a sports gaming license or for taking other disciplinary action under the bill;
- The information in a return a sports gaming agent files with the Tax Commissioner concerning sports gaming receipts.

Civil penalties

The bill requires the Ohio Casino Control Commission to levy and collect fines for noncriminal violations of the bill and of the Commission's rules adopted under the bill.²⁹

Enforcement

The Executive Director of the Ohio Casino Control Commission promptly must report to the Commission any facts or circumstances related to the operation of a sports gaming licensee regulated by the Commission that constitute a violation of state or federal law, and immediately must report any suspicious wagering to the appropriate state or federal authorities.

The Commission must cooperate with any investigation conducted by a law enforcement agency or sports governing body, including by providing, or facilitating the provision of, wagering information and audio or video files related to persons placing wagers, provided that the Commission is not required to provide any information to a sports governing body that would jeopardize an ongoing criminal investigation.

A sheriff, chief of police, or prosecutor must furnish to the Commission, on forms prescribed by the Commission, any information obtained concerning any apparent violation of the bill or the Commission's rules. If the information is considered a confidential law enforcement investigatory record under the Public Records Law, the Commission must not disclose the information to the public.

The bill gives the Attorney General a civil cause of action to restrain any violation of the bill or of rules adopted under the bill. Upon the request of the Commission or its Executive Director, the Attorney General must commence and prosecute such an action to completion. The court must give the action priority over all other civil actions. Such an action does not preclude an administrative or criminal proceeding on the same facts. The Attorney General may enter into an agreement with a state or local law enforcement agency to carry out those duties.³⁰

State and local revenue from sports gaming

Sports gaming lottery revenue

The bill treats the State Lottery Commission's revenues from the operation of the sports gaming lottery in the same manner as all other lottery revenues. As is discussed above, the

²⁹ R.C. 3775.02(G).

³⁰ R.C. 3775.02(J) and (K).

Commission's proceeds from the sports gaming lottery are in the form of a fixed fee the Commission collects from the sale of each ticket. Those proceeds, less the amounts due to lottery sales agents, are deposited in the State Lottery Fund.

Amounts in the State Lottery Fund in excess of the amounts needed for the operation of the State Lottery Commission are periodically transferred to the Lottery Profits Education Fund. Under the Ohio Constitution, the Lottery Profits Education Fund must be used solely for the support of elementary, secondary, vocational, and special education programs.³¹

Tax provisions applicable to sports gaming agents

Tax on sports gaming agents' receipts

The bill levies a 10% tax on a sports gaming agent's net revenue from sports gaming regulated by the Ohio Casino Control Commission. The tax is imposed on the sports gaming agent's "sports gaming receipts," which include the total amount received as wagers, less cash paid as winnings and voided wagers.³²

The tax operates in much the same way as the state's tax on casino gaming revenue. The Department of Taxation administers the tax, and the same filing requirements, penalties, and refund and assessment procedures that apply to the casino gaming tax also apply to the sports gaming tax. As with the casino gaming tax, a sports gaming agent must file daily tax returns showing the sports gaming agent's sports gaming receipts and pay the tax due. Returns are to be filed electronically on each day that banks are open.

The bill specifies that, if a sports gaming agent has negative receipts for a particular day (if the winnings paid out exceed the amount wagered), the Tax Commissioner may allow the operator to carry forward the deficit to future tax returns until the operator's receipts are greater than zero. However, a deficit may not be carried back to a prior tax period, and no payment previously made may be refunded, unless the sports gaming agent surrenders its license and the sports gaming agent's last return reported a deficit. In that case, the Tax Commissioner must pay 10% of the deficit to the sports gaming agent.³³

Distribution of revenue from sports gaming agents

The bill creates the Sports Gaming Revenue Fund in the state treasury and requires most state revenues generated from sports gaming regulated by the Ohio Casino Control Commission to be deposited in the fund. Those revenues include all of the following:

- Revenue from the 10% tax imposed on sports gaming agents' sports gaming receipts;
- The \$1 million fee for an initial sports gaming agent license paid to the Commission;

³¹ R.C. 3770.06 and 3770.23. See also Ohio Constitution, Article XV, Section 6.

³² R.C. 5753.01.

³³ R.C. 5753.01, 5753.021, 5753.03, 5753.04, 5753.05, 5753.06, 5753.061, 5753.07, 5753.08, and 5753.10.

- Fines paid to the Commission as penalties for noncriminal violations of the law governing sports gaming;
- Unclaimed winnings.

(Other license fees paid to the Ohio Casino Control Commission are deposited in the Casino Control Commission Fund to support the Commission's operations.)³⁴

After deducting from the Sports Gaming Revenue Fund any amounts needed to pay tax refunds and to cover the Department of Taxation's administrative expenses, the Director of Budget and Management must transfer the remainder in the Sports Gaming Revenue Fund on or before the 15th day of the month following the end of each calendar quarter. Of those remaining moneys, 98% must go to the Sport Gaming Profits Education Fund to support K-12 education programs as determined in appropriations by the General Assembly, and 2% must go to the Problem Sports Gaming Fund to fund programs to alleviate problem sports gaming.

All interest generated by the gaming revenue-related funds created by the bill is credited back to those funds.³⁵

Commercial Activity Tax on sports gaming agents

Sports gaming agents regulated by the Ohio Casino Control Commission are subject to Ohio's primary business tax, the commercial activity tax (CAT). That tax is levied on a business's gross receipts, which generally includes all amounts received by the business. However, continuing law provides that casinos are taxed only on their gross casino revenue (generally, amounts wagered less winnings paid).

The bill creates a similar exception for sports gaming receipts. Under the bill, a sports gaming agent is only required to pay the CAT on its sports gaming receipts (amounts wagered less winnings paid, as described above), not on the gross amount it receives from sports gaming.³⁶

Sharing of confidential tax information

Ongoing law requires that tax information provided to the Department of Taxation remain confidential, unless an exception applies. There are currently exceptions that allow the Department to share with the State Lottery Commission and the Ohio Casino Control Commission information relating to taxpayers' compliance with the casino gaming tax and withholding taxes.

³⁴ R.C. 3775.02(G), 3775.04(D), 3775.08(F), and 5753.031. Unclaimed winnings include any winning wagers that a patron does not claim within one year from the last day on which the sporting event was held. If winnings are unclaimed after that date, the sports gaming agent is no longer obligated to pay out the winnings, and instead must remit the winnings to the state.

³⁵ R.C. 3772.062 and 5753.031.

³⁶ R.C. 5751.01.

The bill adds an exception that would also allow the Department to share sports gaming tax information with the Ohio Casino Control Commission.³⁷

Income tax withholding on sports gaming winnings

Under continuing law, individuals are subject to federal, state, and municipal income tax on their sports gaming winnings. The bill provides that, whenever federal income tax withholding is required, a sports gaming agent regulated by the Ohio Casino Control Commission also must withhold state income tax and, if the bet is made at a sports gaming facility, any applicable municipal income taxes on a person's winnings.

Similar requirements already apply to the withholding of taxes on an individual's casino and lottery winnings, along with any past due child or spousal support. The bill expands the current withholding requirements for lottery winnings to include winnings from the sports gaming lottery.³⁸

Criminal prohibitions applicable to all sports gaming

The bill sets out a number of criminal prohibitions, many of which apply to all sports gaming, regardless of whether it is conducted through the sports gaming lottery or regulated by the Ohio Casino Control Commission. See the table below for the continuing-law maximum prison or jail terms and fines for the various levels of criminal offenses the bill applies to its prohibitions concerning sports gaming.

The bill prohibits any person from knowingly doing any of the following, and makes those violations a first degree misdemeanor for a first offense and a fifth degree felony for a subsequent offense:

- Making a false statement on an application submitted to the Ohio Casino Control Commission;
- Permitting an individual under 21 to engage in sports gaming;
- Aiding, inducing, or causing an individual under 21 who is not an employee of the sports gaming agent to enter or attempt to enter a sports gaming facility;
- Entering or attempting to enter a sports gaming facility while under 21, except as permitted under the bill for employees of the sports gaming agent or for individuals who are being escorted to another area;
- Being a sports gaming agent or an employee of a sports gaming agent and participating in sports gaming offered by the sports gaming agent, other than as part of operating sports gaming or as part of the employee's employment.

³⁷ R.C. 5703.21.

³⁸ R.C. 718.031, 3770.07, 3770.10, 5747.02, 5747.063, 5747.08, and 5747.20.

Further, the bill prohibits any person from knowingly doing any of the following, makes those violations a fifth degree felony for the first offense and a fourth degree felony for a subsequent offense, and specifies that if the violator is a sports gaming licensee, the Ohio Casino Control Commission must revoke the license after the first offense:

- Offering, promising, or giving anything of value to anyone for the purpose of influencing the outcome of a sporting event or attempting to do so;
- Placing, increasing, or decreasing a wager after acquiring knowledge not available to the general public that anyone has been offered, promised, or given anything of value for the purpose of influencing the outcome of the sporting event upon which the wager is placed, increased, or decreased, or attempting to do so;
- Manufacturing, selling, or distributing any device that the person intends to be used to violate any law governing sports gaming in Ohio or another state;
- Placing a bet or aiding any other individual in placing a bet on a sporting event after unlawfully acquiring knowledge of the outcome on which winnings from that bet are contingent;
- Claiming, collecting, or taking anything of value from a sports gaming agent or from the State Lottery Commission with intent to defraud, or attempting to do so, without having made a wager in which the amount or value is legitimately won or owed;
- Placing a wager using counterfeit currency or another counterfeit form of credit approved for wagering;
- Possessing any device intended to be used to violate the law governing sports gaming or any Ohio Casino Control Commission rule governing sports gaming or any materials used to manufacture such a device. That prohibition does not apply to a sports gaming agent or to a sports gaming agent's employee or agent who is acting in furtherance of the sports gaming agent's interest.
- Changing or altering the normal outcome of any sports gaming conducted through an online sports pool, including any system used to monitor the online sports pool, or the way in which the outcome is reported to any patron;
- Operating sports gaming in a manner other than the manner required under the bill. Premises or any internet website used or occupied in violation of that provision constitute a nuisance subject to abatement under the Nuisance Law.

The bill prohibits any person from knowingly doing any of the following, makes those violations a third degree felony, specifies that if the person is a sports gaming licensee, the Ohio Casino Control Commission must revoke the person's license after the first offense, and specifies that if the person is a public servant or political party official, the person is forever disqualified from holding any public office, employment, or position of trust in Ohio:

- Offering, promising, or giving anything of value or benefit to a person who is connected with a sports gaming agent or the State Lottery Commission or to an agent or employee

of a sports gaming agent or the State Lottery Commission, under an agreement to influence, or with the intent to influence, the actions of the person to whom the offer, promise, or gift is made in order to affect or attempt to affect the outcome of sports gaming conducted in Ohio or an official action of a member, agent, or employee of the Ohio Casino Control Commission or the State Lottery Commission;

- Soliciting, accepting, or receiving a promise of anything of value or benefit while the person is connected with a sports gaming agent or the State Lottery Commission or an agent or employee of a sports gaming agent or the State Lottery Commission, under an agreement to influence, or with the intent to influence, the actions of the person to affect or attempt to affect the outcome of sports gaming conducted in Ohio or an official action of a member, agent, or employee of the Ohio Casino Control Commission or the State Lottery Commission.

Finally, the bill prohibits any person from knowingly doing any of the following while participating in sports gaming or otherwise transacting with a sports gaming agent or the State Lottery Commission as permitted under the law governing sports gaming and makes those violations a fifth degree felony on the first offense and a fourth degree felony on a subsequent offense:

- Causing or attempting to cause a sports gaming agent or the State Lottery Commission to fail to file a report required under the federal Bank Secrecy Act of 1970, which requires financial institutions to keep records and file reports on certain financial transactions, or under the provision of Ohio law that requires financial institutions also to file those reports with the Attorney General;
- Causing or attempting to cause a sports gaming agent or the State Lottery Commission to fail to file a report or maintain a record required by an order issued under the Federal Deposit Insurance Act or under the federal law that applies similar reporting requirements to institutions that are not federally insured;
- Causing or attempting to cause a sports gaming agent or the State Lottery Commission to file a report under the Bank Secrecy Act of 1970 or the parallel provision of Ohio law, if the report contains a material omission or misstatement of fact;
- Causing or attempting to cause a sports gaming agent or the State Lottery Commission to file a report or maintain a record required by an order issued under the federal law that allows a bank to be relieved from liability for a loss resulting from a payment related to redeeming a savings bond or savings note, if the report or record contains a material omission or misstatement of fact;
- Causing or attempting to cause a sports gaming agent or the State Lottery Commission to maintain a record required under any regulation prescribed under the Federal Deposit Insurance Act or under the federal law that applies similar reporting requirements to institutions that are not federally insured, if the record contains a material omission or misstatement of fact;

- Structuring a transaction with one or more sports gaming agents or the State Lottery Commission, being complicit in structuring such a transaction, attempting to structure such a transaction, or being complicit in an attempt to structure such a transaction. For purposes of this provision, “structuring a transaction” has the same meaning as in the provisions of Ohio law that mirror the Bank Secrecy Act of 1970, which is dividing a transaction that otherwise would be reportable into two or more transactions that, if considered separately, would not be reportable.

(Essentially, the prohibitions described immediately above penalize a person who attempts to circumvent state and federal anti-money laundering laws.)³⁹

The table below lists the continuing law maximum sentences for the various levels of criminal offenses the bill assigns to the offenses it creates.⁴⁰

Continuing law maximum sentences for criminal offenses		
Level of offense	Prison or jail term	Fine
Third degree felony	3 years	\$10,000
Fourth degree felony	18 months	\$5,000
Fifth degree felony	1 year	\$2,500
First degree misdemeanor	6 months	\$1,000

Shipments of gambling devices

The bill states that all shipments of gambling devices, including any sports gaming equipment, to sports gaming facilities or lottery sales agents in Ohio are legal shipments of gambling devices into Ohio, as long as the supplier registers, records, and labels the equipment in accordance with the federal Gambling Devices Act of 1962. That act prohibits any person from knowingly transporting any gambling device into a state, but allows states and political subdivisions to pass laws exempting themselves from the prohibition.⁴¹

Charitable bingo

Background

The Ohio Constitution allows the General Assembly to authorize and regulate bingo conducted by charitable organizations for charitable purposes. Charitable organizations that

³⁹ R.C. 3775.99.

⁴⁰ See R.C. 2929.14, 2929.18, 2929.24, and 2929.28, not in the bill.

⁴¹ R.C. 3775.13. See also 15 U.S.C. 1172.

wish to conduct bingo games must apply for a license from the Attorney General and comply with the requirements of the Revised Code and of administrative rules adopted by the Attorney General, including requirements governing the places, times, and manner of holding bingo games.⁴²

Types of bingo

The Revised Code defines “bingo” to include four types of activities:⁴³

- **Traditional bingo**, in which participants purchase a card with spaces arranged in a grid marked with letters, numbers, or other symbols, and cover the spaces as randomly selected numbers, letters, or symbols are called, with the goal being to win a prize by creating a line or other pattern;
- **Raffles**, in which participants purchase tickets and the ticket stubs are placed in a container and randomly selected, with the goal being to win a prize by having the participant’s ticket stub selected (see **COMMENT 2**, below);
- **Instant bingo**, in which a participant purchases a paper ticket and then removes part of the ticket using a perforated pull tab to reveal whether the ticket is a winner. The prize amount and structure are predetermined for each “deal,” or set of tickets. In some instant bingo games, the winning numbers, letters, or symbols are determined by using a seal card to reveal predesignated winners or by using a bingo blower to randomly select the winners.
- **Punch boards**, in which the organization prepares a board with many holes with a randomly numbered slip of paper in each hole, and participants pay for the opportunity to draw slips of paper from the board, with the goal being to win a prize by drawing the slip with the winning number. The bill clarifies that punch boards are a type of instant bingo.

As explained below, the bill adds a new category for electronic instant bingo.

Charitable organizations

For purposes of offering bingo games, continuing law defines a “charitable organization” as an organization that has been in continuous existence in Ohio for at least two years before applying for a bingo license and that either (1) is exempt from taxation under subsection 501(c)(3) of the federal Internal Revenue Code or (2) is a volunteer rescue service organization, volunteer firefighter’s organization, veteran’s organization, fraternal organization, or sporting organization that is exempt from taxation under subsection 501(c)(4), (7), (8), (10), or (19) of the Internal Revenue Code.⁴⁴

⁴² Ohio Const., art. XV, sec. 6; R.C. Chapter 2915; and O.A.C. Chapter 109:1-4.

⁴³ R.C. 2915.01(O).

⁴⁴ R.C. 2915.01(H).

Distribution of net profit

Generally

The proceeds of charitable bingo must be used for a charitable purpose. For all types of bingo other than instant bingo, continuing law requires the net profit of the game to be used by or given to one of the following:⁴⁵

- A public charity, as determined under the Internal Revenue Code;
- A veteran's organization that meets certain qualifications, provided that the net profit must be used for specified charitable purposes, used to award certain scholarships, donated to a governmental agency, used for nonprofit youth activities, used to donate U.S. or Ohio flags to nonprofit organizations, used for the promotion of patriotism, or used for disaster relief;
- A fraternal organization that has been in continuous existence in Ohio for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if such contributions would be considered deductible charitable contributions under the Internal Revenue Code;
- A volunteer firefighter's organization that uses the net profit to provide financial support for a volunteer fire department or a volunteer fire company.

Instant bingo

Under continuing law, a charitable organization other than a veteran's, fraternal, or sporting organization must distribute 100% of the net profit from the proceeds of the sale of instant bingo to an organization listed above that may receive the net profit of other types of bingo, or to a department or agency of the federal government, the state, or any political subdivision.

Continuing law requires a veteran's, fraternal, or sporting organization that conducts instant bingo to dispose of the first \$250,000 or less in net profit from the proceeds of the sale of instant bingo in a calendar year as follows:

- The organization must distribute at least 25% to an organization listed above that may receive the net profit of other types of bingo, or to a department or agency of the federal government, the state, or any political subdivision;
- The organization may retain not more than 75% to cover the organization's expenses in conducting instant bingo.

The organization must dispose of any net profit from the proceeds of the sale of instant bingo that exceeds \$250,000 in a calendar year as follows:

⁴⁵ R.C. 2915.01(V).

- The organization must distribute at least 50% to an organization listed above that may receive the net profit of other types of bingo, or to a department or agency of the federal government, the state, or any political subdivision;
- The organization may distribute 5% for the organization's own charitable purposes or to a community action agency;
- The organization may retain 45% to cover the organization's expenses in conducting instant bingo.

The Attorney General may, by rule, increase the \$250,000 threshold for changes in prices as measured by the Consumer Price Index and other factors affecting the organization's expenses in conducting bingo.

As discussed below, the bill regulates electronic instant bingo proceeds in the same manner as instant bingo proceeds.⁴⁶

Electronic instant bingo

The bill establishes electronic instant bingo as a separate type of bingo, along with traditional bingo, raffles, and instant bingo, but largely regulates the operation of electronic instant bingo in the same manner as instant bingo. The bill limits the ability to conduct electronic instant bingo to certain veteran's and fraternal organizations, as discussed below. The operation of electronic instant bingo under the bill must begin not earlier than January 1, 2022.⁴⁷

Definitions

"Electronic instant bingo" is a form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:

- Each deal (set of electronic instant bingo tickets) has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
- Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
- Each electronic instant bingo ticket within a deal is sold for the same price.
- After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.

⁴⁶ R.C. 2915.01(RR) and 2915.101.

⁴⁷ Section 3 of the bill.

- The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
- The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.

Under the bill, an “electronic instant bingo system” is a mechanical, electronic, digital, or video device that is used to play electronic instant bingo and any associated equipment or software used to conduct, manage, monitor, or document any aspect of electronic instant bingo. The bill specifies that an electronic instant bingo system is not considered a slot machine or other prohibited scheme of chance.⁴⁸

Charitable organizations conducting electronic instant bingo

License

Continuing law allows the Attorney General to issue three categories of bingo licenses:

- **Type I** – Traditional bingo;
- **Type II** – Instant bingo conducted at a traditional bingo session;
- **Type III** – Instant bingo conducted other than at a traditional bingo session (at a retail location).

The bill allows a charitable organization that meets all of the following requirements to offer electronic instant bingo under a Type II or Type III license, in the same way as instant bingo:⁴⁹

- The organization is a veteran’s or fraternal organization.
- The organization is a veteran’s organization described in subsection 501(c)(4) of the Internal Revenue Code or is a tax-exempt organization described in subsection 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code.
- The organization has not conducted a raffle in violation of the Revised Code using an electronic raffle machine, as described in *Ohio Veterans and Fraternal Charitable Coalition v. DeWine*, at any time after February 23, 2018 (see **COMMENT 2**).⁵⁰

The bill also makes some broader changes to bingo licensing, discussed below under **“Bingo licenses, generally.”**

⁴⁸ R.C. 2915.01.

⁴⁹ R.C. 2915.08, 2915.093, 2915.095, and 2915.14.

⁵⁰ *Ohio Veterans and Fraternal Charitable Coalition v. DeWine*, Case No. 13-CV-13610 (C.P. Franklin Co. February 23, 2018).

Proceeds, records, and operations

The bill requires electronic instant bingo proceeds to be distributed in the same manner as instant bingo proceeds are distributed under continuing law. (See “**Distribution of net profit**,” above.) The bill also applies the same recordkeeping and operating requirements to electronic instant bingo as currently apply to instant bingo.⁵¹

Game operators

For purposes of electronic instant bingo, the bill defines a “bingo game operator” as any person involved in selling or redeeming electronic instant bingo tickets, credits, or vouchers or accessing an electronic instant bingo system other than as a participant. The term does not include security personnel or a person who is maintaining, updating, or repairing an electronic instant bingo system.

Continuing law requires bingo game operators to be at least 18, prohibits them from having been convicted of a disqualifying offense, and restricts an organization’s ability to compensate them for operating a bingo game.⁵²

Attorney General rules

The bill requires the Attorney General to adopt rules under the Administrative Procedure Act to ensure the integrity of electronic instant bingo, including rules governing all of the following:⁵³

- The requirements to receive a license or endorsement to conduct electronic instant bingo;
- The location and number of electronic instant bingo systems in use;
- The times when electronic instant bingo may be offered;
- Signage requirements in facilities where electronic instant bingo is offered;
- Electronic instant bingo device and system specifications, including reveal features and game themes;
- Procedures and standards for reviewing, approving, inspecting, and monitoring electronic instant bingo systems, as discussed below;
- The fees to be paid by manufacturers and distributors for that purpose;
- Procedures and standards for the review and approval of any changes to technology, systems, or games;

⁵¹ R.C. 2915.01(V), 2915.09, 2915.10, 2915.101, and 2915.13.

⁵² R.C. 2915.01(Q) and 2915.09.

⁵³ R.C. 2915.14(C).

- Procedures allowing the Attorney General to seek a summary suspension of a license to conduct electronic instant bingo or a license to manufacture or distribute electronic instant bingo systems if the Attorney General has good cause to believe that the person or organization has violated the relevant law.

Distributor and manufacturer licensing

Continuing law requires distributors and manufacturers of bingo supplies to be licensed by the Attorney General, and electronic instant bingo systems are considered bingo supplies under the bill. In addition to being licensed as a distributor or manufacturer, as applicable, the bill requires a distributor or manufacturer of electronic instant bingo systems to obtain an electronic instant bingo endorsement to the distributor's or manufacturer's license. An endorsement issued under the bill is good for the term of the underlying license.

A manufacturer of electronic instant bingo systems may only sell, offer to sell, or otherwise provide or offer to provide electronic instant bingo systems that contain proprietary software owned by, or licensed to, the manufacturer. If the software is licensed to the manufacturer, the manufacturer must provide a copy of the license with its application for an endorsement.

To obtain an endorsement, a distributor or manufacturer must apply to the Attorney General, on a form prescribed by the Attorney General, submit fingerprints for a criminal records check, and pay any applicable fee charged by BCII. (No criminal records check is required to receive a distributor or manufacturer license, generally.)

The Attorney General must not issue the endorsement if the distributor or manufacturer, any partner or officer of the distributor or manufacturer, or any person who has an ownership interest of 10% or more in the distributor or manufacturer has violated any Ohio gambling law or rule or any existing or former law or rule of Ohio, any other state, or the U.S. that is substantially equivalent to any Ohio gambling law or rule.

The distributor or manufacturer also must provide the Attorney General with a surety bond in the amount of \$50,000 and maintain the bond as long as the distributor or manufacturer is licensed. The bond may be in the form of a rider to a larger blanket liability bond. The bond must run to the state and to any person who may have a cause of action against the distributor or manufacturer for any violation of the Bingo Law or related administrative rules.

For a manufacturer endorsement, the bill requires the Attorney General to establish by rule an application and renewal fee in an amount sufficient to cover the cost of processing applications and investigating applicants' suitability. If the cost of processing a particular application and investigating the applicant's suitability exceeds the amount of the application and renewal fee, the Attorney General may charge the applicant an additional fee as necessary to cover that cost. The Attorney General must not issue the endorsement until all fees are paid in full. (Distributors instead are subject to an annual monitoring and inspection fee, discussed below.)

The bill allows the Attorney General to deny or suspend an endorsement issued under the bill in the same manner as the Attorney General may deny or suspend a manufacturer or distributor license for violations of Ohio's gambling laws or rules (see "**Denial, suspension, and penalties,**" below).⁵⁴

Regulation of electronic instant bingo systems

Approval

Under the bill, a manufacturer of an electronic instant bingo system must submit the system to an independent testing laboratory before the manufacturer may sell, offer to sell, or otherwise provide or offer to provide the system to any person for use in Ohio. The laboratory must be certified under the Casino Law to inspect casino gaming equipment, and it must determine whether the system meets the requirements of the bill and of the Attorney General's rules. The manufacturer must pay all costs of that testing and evaluation.

If the laboratory certifies that the system meets the applicable requirements, the manufacturer then may submit the system to the Attorney General for review and approval, along with a copy of the laboratory's certification and a fee established by the Attorney General by rule. The Attorney General must approve the system for use in Ohio if (1) the Attorney General agrees that the system meets the bill's requirements and the Attorney General's rules, and (2) the Ohio Casino Control Commission verifies that the system does not constitute a slot machine under the general Gambling Law or under the Casino Law.⁵⁵

Monitoring

The bill requires every electronic instant bingo system in use in Ohio to have a central server located in Ohio, to include an internal report management system, and to allow the Attorney General or the Attorney General's designee to access the internal report management system, monitor the electronic instant bingo, and remotely deactivate the electronic instant bingo system or any aspect of it.⁵⁶

Inspection

The Attorney General may inspect any electronic instant bingo system in use in Ohio at any time to ensure that the system is in compliance with the bill and with the Attorney General's rules. If the Attorney General determines that any person or any system is in violation of the bill or of those rules, the Attorney General may order that the violation immediately cease and may deactivate the system or any aspect of it.⁵⁷

⁵⁴ R.C. 109.572, 2915.01(Z), (KK), and (LL), 2915.081, and 2915.082.

⁵⁵ R.C. 2915.15(A) and conforming changes in R.C. 2915.01, 2915.08, 2915.091, 2915.10, and 2915.12.

⁵⁶ R.C. 2915.15(B).

⁵⁷ R.C. 2915.15(C).

Fees

The Attorney General may establish by rule adopted under the Administrative Procedure Act an annual fee to be paid by electronic instant bingo system distributors to cover the cost of monitoring and inspecting systems under the bill. Those fees must be deposited in the Charitable Law Fund and used for those purposes.⁵⁸

Prohibitions regarding electronic instant bingo

The bill prohibits several types of conduct related to electronic instant bingo. These prohibitions are similar to continuing-law prohibitions regarding instant bingo, but are more specific to electronic instant bingo.

Under the bill, no charitable organization that conducts electronic instant bingo may do any of the following:

- Conduct electronic instant bingo unless that organization is eligible for an electronic instant bingo license, as discussed above;
- Possess an electronic instant bingo system that was not obtained in accordance with the bill or with Attorney General rules;
- Conduct electronic instant bingo on any day, at any time, or on any premises not specified on the organization's Type II or Type III license;
- Fail to display the charitable organization's bingo license or the serial number of each deal of electronic instant bingo tickets being sold;
- Permit any person the charitable organization knows, or should have known, to be under 18 to play electronic instant bingo;
- Sell or provide to any person an electronic instant bingo ticket for a price different from the price displayed on the game flare for the deal, except as a prize;
- Fail, once an electronic instant bingo deal is begun, to continue to sell tickets in that deal until all prizes have been awarded;
- Permit any person whom the organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of electronic instant bingo;
- Permit a bingo game operator to play electronic instant bingo;
- Pay compensation to a bingo game operator for conducting electronic instant bingo, except that an employee of a veteran's organization, fraternal organization, or sporting organization may redeem electronic instant bingo tickets or vouchers for the

⁵⁸ R.C. 109.32 and 2915.15(D).

organization's members or invited guests, so long as no portion of the employee's compensation is paid from any bingo receipts.

- Pay consulting fees to any person in relation to electronic instant bingo.

The bill also prohibits any person from selling, offering to sell, or otherwise providing or offering to provide an unapproved electronic instant bingo system to any person for use in Ohio.

A person who knowingly violates any of those prohibitions is guilty of illegal electronic instant bingo conduct, which is a first degree misdemeanor for a first offense and a fifth degree felony for any subsequent offense. A person who knowingly violates a rule of the Attorney General concerning electronic instant bingo is subject to the same penalties.⁵⁹

Bingo licenses, generally

Denial or suspension

Under the bill, the Attorney General may deny, suspend, or limit an organization's bingo license, if the Attorney General has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to the organization.

Similarly, the bill allows the Attorney General to deny, suspend, or limit a bingo distributor or manufacturer license if the Attorney General has good cause to believe that the distributor or manufacturer, any partner or officer of the distributor or manufacturer, or any person who has an ownership interest of 10% or more in the distributor or manufacturer, has committed a breach of fiduciary duty, theft, or other type of misconduct related to a charitable organization that has a bingo license.

Continuing law allows the Attorney General to deny or suspend a bingo license or a distributor or manufacturer license for certain other reasons involving dishonesty or violations of the Gambling Law.⁶⁰

Youth athletic park organizations

The bill eliminates a requirement that a youth athletic park organization's playing fields have been used for nonprofit youth athletic activities for at least 100 days during a given year in order for the organization to obtain a bingo license. Under continuing law, such an organization must be a nonprofit organization that owns, operates, and maintains playing fields that are used for nonprofit youth athletic activities and that are never used to make a profit.⁶¹

⁵⁹ R.C. 2915.14.

⁶⁰ R.C. 2915.08(F)(3), 2915.081, and 2915.082.

⁶¹ R.C. 2915.01(Y) and 2915.08(C)(10).

License type

The bill requires a bingo license to indicate whether it is a Type I, Type II, or Type III license, along with the other relevant information that must be included under continuing law.⁶²

Technical changes

Finally, the bill makes numerous stylistic and technical changes to the section of law governing bingo licenses in order to incorporate “Type I,” “Type II,” and “Type III” license terminology, in line with the terms the Attorney General uses; to clarify that an organization does not need a license to conduct a raffle; and generally to make the section easier to read. However, the bill does not change the requirements for the licenses, except as specified above.⁶³

Punch boards and seal cards

The bill clarifies that punch boards and seal cards are types of instant bingo games and may be played under an instant bingo license. Currently, the Attorney General regulates punch boards and seal cards in that manner, but the Revised Code refers to them separately from instant bingo in some places.⁶⁴

Minors playing traditional bingo

The bill makes a technical correction to clarify the penalty that applies to a charitable organization if it permits a person the organization knows, or should have known, is under 18 to play traditional bingo. Under continuing law, such a violation is a first degree misdemeanor on the first offense and a fourth degree felony on any subsequent offense.⁶⁵

Bingo Law enforcement

Charitable organizations

The bill allows the Attorney General or a law enforcement agency to examine the accounts and records of any officer, agent, trustee, member, or employee of a charitable organization with a bingo license, in addition to examining the charitable organization’s accounts and records as permitted under continuing law.

The bill specifies that the Attorney General may impose a civil fine on an organization for failure to comply with the Bingo Law or related rules, according to a schedule of fines adopted under the Administrative Procedure Act.⁶⁶

⁶² R.C. 2915.08(I).

⁶³ R.C. 2915.08. See also R.C. 2915.092, not in the bill.

⁶⁴ R.C. 2915.01(O)(2), (S), (AA), and (DD).

⁶⁵ R.C. 2915.09(G).

⁶⁶ R.C. 2915.08(F)(4) and 2915.10(H)(2).

Distributors and manufacturers

The bill also permits the Attorney General or a law enforcement agency to do any of the following with respect to a bingo distributor or manufacturer or any officer, agent, trustee, member, or employee of the bingo distributor or manufacturer:

- Investigate the person;
- Examine the person's accounts and records;
- Conduct inspections of the premises where bingo supplies are manufactured or distributed.

Under the bill, if a law enforcement agency has reasonable grounds to believe that a bingo distributor or manufacturer or an officer, agent, trustee, member, or employee of the bingo distributor or manufacturer has violated any provision of the chapter of the Revised Code governing gambling, the agency may commence a court action to enforce that chapter, so long as the agency gives the Attorney General written notice of the action.

The bill prohibits any person from destroying, altering, concealing, withholding, or denying access to any accounts or records of a bingo distributor or manufacturer that have been requested for examination. And, the bill prohibits any person from obstructing, impeding, or interfering with any inspection, audit, or observation of premises where bingo supplies are manufactured or distributed. Whoever violates those prohibitions is guilty of a first degree misdemeanor.

Continuing law gives the Attorney General and law enforcement agencies those powers with respect to charitable organizations that conduct bingo, but not with respect to bingo distributors or manufacturers.

The bill also specifies that the Attorney General may impose a civil fine on a distributor or manufacturer for failure to comply with the Bingo Law or related rules, according to a schedule of fines adopted under the Administrative Procedure Act.⁶⁷

Casino revenue taxation

The bill eliminates an exclusion from the gross casino revenue tax for "promotional gaming credits." Under continuing law, casinos pay a 33% tax on their gross casino revenue (i.e., amounts wagered less winnings paid). Current law provides that a casino's gross casino revenue does not include the value of any promotional gaming credits provided to patrons, except to the extent that a patron has to pay money to match the credit in order to use it. The bill removes this exclusion.⁶⁸

⁶⁷ R.C. 2915.081(H), 2915.082(H), and 2915.10(H), (I), and (J).

⁶⁸ R.C. 5753.01(D).

Under continuing law, a promotional gaming credit includes a credit, discount, or similar item issued to enable the placement or, increase in, a wager at a slot machine or table game.⁶⁹

iLottery

The bill creates the Select Committee on iLottery, which must study the potential effects of online lottery ticket sales (known as iLottery) on retail lottery ticket sales in Ohio. The Select Committee consists of the following nine members, who must serve without compensation:

- Two members of the Senate appointed by the Senate President;
- One member of the Senate appointed by the Senate Minority Leader;
- Two members of the House of Representatives appointed by the Speaker of the House;
- One member of the House appointed by the House Minority Leader;
- One member of the public appointed by the Senate President;
- One member of the public appointed by the Speaker of the House;
- One member of the public appointed by the Governor.

The Select Committee must elect a chairperson from among its members. Vacancies on the Select Committee must be filled in the manner provided for original appointments.

Not later than January 1, 2022, the Select Committee must submit a report of its findings to the General Assembly. After it submits the report, the Select Committee ceases to exist.⁷⁰

Technical changes related to the Fresh Start Act

The bill makes technical corrections to several sections of the Casino Law in order to accommodate the requirements of the Fresh Start Act, H.B. 263 of the 133rd General Assembly, which takes effect October 9, 2021. The Fresh Start Act places uniform requirements on state licensing authorities, including the Ohio Casino Control Commission, concerning the criminal offenses that disqualify an individual for a license. The bill changes several references in the Casino Law as necessary to acknowledge the new requirements.⁷¹

COMMENT

1. Constitutionality of sports gaming

A reviewing court might find that the bill unconstitutionally expands gambling in Ohio. The Ohio Constitution states that, “Except as otherwise provided in this section, lotteries, and

⁶⁹ R.C. 3772.01(W).

⁷⁰ Section 5 of the bill.

⁷¹ R.C. 109.572, 3772.01, and 3772.07. See also R.C. 9.79, not in the bill.

the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this State.” That section of the Constitution then specifically permits three types of gambling: the state-run lottery to benefit education, charitable bingo, and casino gaming at four specified facilities.⁷² Ultimately, the question is what *lotteries*, as prohibited under the Constitution, means. The Ohio Supreme Court has not directly ruled on this question, although it has discussed the issue somewhat in other contexts.

At least two different interpretations are possible:

1. “Lotteries” means gambling in general, and the three types of gambling listed in that section – the state lottery, bingo, and casinos – operate as exceptions to the general prohibition against lotteries. Ohio has long permitted betting on horse racing, but the courts have not directly considered whether that activity is unconstitutional.
2. “Lotteries” only means a specific type of gambling, and which is prohibited except for the state-run lottery to benefit education, and except for charitable bingo, which is a type of lottery. Casinos are specifically authorized in the Constitution, but the General Assembly may also legalize other types of gambling, such as betting on horse racing.

If a reviewing court followed interpretation 1, sports gaming would be permissible in Ohio only if it fell under one of the three categories of permitted gambling. A court might find that the legislature can make sports gaming part of the state-run lottery, especially if it holds that the term “lottery” is very general. The legislature also might be able to include sports gaming as a type of casino gaming, although that term is defined in the Constitution and might not be expansive enough to include sports gaming. But, interpretation 1 would appear to bar any sports gaming outside the context of the state lottery or casinos.

However, Ohio’s Ninth District Court of Appeals has followed interpretation 2,⁷³ and statements in two Ohio Supreme Court rulings suggest that the Ohio Supreme Court might follow interpretation 2 in the future.⁷⁴ Under that reading of the Constitution, the legislature would be able to legalize sports gaming even if it were not part of the lottery, charitable bingo, or casino gaming. The Ohio Supreme Court would not necessarily be required to embrace interpretation 2 if it were called on to answer the constitutional question directly.

2. Electronic raffle machines

Since 2013, as part of a case originally titled *Ohio Veterans and Fraternal Charitable Coalition v. DeWine*, several charitable organizations have been involved in ongoing litigation

⁷² Ohio Const., art. XV, sec. 6.

⁷³ *State ex rel. Gabalac v. New Universal Congregation of Living Souls*, 55 Ohio App.2d 96 (9th Dist. Ct. App. 1977).

⁷⁴ *Westerhaus Co. v. Cincinnati*, 165 Ohio St. 327, 338-339 (1956) and *Mills-Jennings of Ohio, Inc. v. Department of Liquor Control*, 70 Ohio St.2d 95, 99-101 (1982).

against the Attorney General concerning the issue of whether those organizations legally may hold raffles using devices known as electronic raffle machines. The machines operate by randomly predesignating an outcome or prize associated with each entry, then selling an entry to a participant through the machine's electronic interface and revealing whether the entry is a winner. It appears that a system used to operate electronic raffle machines might meet the legal definition of electronic instant bingo as permitted under the bill.

The bill prohibits a veteran's or fraternal organization from offering electronic instant bingo under the bill if it has conducted a raffle in violation of the Revised Code using an electronic raffle machine at any time after February 23, 2018.⁷⁵ On that date, the Franklin County Court of Common Pleas ruled that the electronic raffle machines several organizations had been using for the past several years did not meet the legal definition of a raffle and thus were illegal. However, on March 9, 2018, the court granted a stay of its ruling until all appeals have been exhausted. That stay remains in place today; the Tenth District Court of Appeals agreed with the lower court's ruling on the electronic raffle machines, but the Ohio Supreme Court has agreed to wait until after July 30, 2021, to consider the case.⁷⁶

HISTORY

Action	Date
Introduced	05-06-21

S0176-I-134/ts

⁷⁵ R.C. 2915.14(A)(3).

⁷⁶ Summary judgment granted in *Ohio Veterans and Fraternal Charitable Coalition v. DeWine*, Case No. 13-CV-13610 (C.P. Franklin Co. February 23, 2018); stay granted March 9, 2018; judgment affirmed in *Ohio Veterans and Fraternal Charitable Coalition v. DeWine*, 2018-Ohio-4679 (10th Dist. Ct. App. 2018); appeal held in abeyance until July 30, 2021, in *Ohio Veterans and Fraternal Charitable Coalition v. Yost*, 2021-Ohio-121 (2021).