



House Bill

Sports Waging

SPONSOR TESTIMONY

STATE REPRESENTATIVES DAVE GREENSPAN & BRIGID KELLY



How Did We Get Here?

**States are free to authorize sports betting,
Supreme Court rules**



Ricky Carioti/The Washington Post)

By [Robert Barnes](#)

May 14, 2018

The Supreme Court on Monday opened the door to an unprecedented expansion of legalized betting on college and professional sports, striking down a federal law that forbade states from authorizing such gambling.



Why Are We Here?

The Primary purposes of this legislation is in direct response to the United States Supreme Court's decision to allow States the ability to offer "legalized betting on professional and college sports.

This Bill addresses areas of:

- ✓ Creating a program that is both constitutional and operates legally under the Federal Wire Act.
- ✓ Provides consumer protections
- ✓ Increases resources for gaming and addiction services
- ✓ Enhances regulatory and enforcement laws against unlawful sport gaming
- ✓ Provides additional funding for public education in Ohio



What Does This Bill Do?

- ✓ Codifies the Lottery Commission to administer Sports Gaming in Ohio. *(By inclusion in Section 3770 of the ORC)*
- ✓ Expands the current size of the Lottery Commission from 9 to 11 Members, *Section 3770.01 (A), Lines 798-811*
- ✓ Requires no less than 3 of the 11 members have knowledge/experience in Sports Gaming, *Section 3770.01 (C), Lines 834-836*
- ✓ Creates a Sports Gaming Advisory Board, *Section 5753.10 (4), Lines 3898-3921*
 - ✓ Board shall advise, study and develop recommendations with respect to sports gaming to the commission
 - ✓ 11 Members, 7 appointed by the Governor, 2 by the Senate and 2 by the House
 - ✓ Members serve without compensation
 - ✓ Board shall cease to exist after 3 years



Why The Lottery Commission

Ohio Legislative Service Commission

Memorandum R-133-0809

State Lottery Commission's Authority to Offer Sports Betting

Relevant Excerpts:

"It appears that nothing in the Ohio Constitution or Lottery Law would prevent the State Lottery Commission from creating and operating a sports betting lottery.", page 1, paragraph 1

"The Constitution generally is understood to prohibit gambling, but state conducted lotteries are permitted so long as the entire net proceeds are deposited into a fund to benefit public education in Ohio." page 1, paragraph 1

"The Lottery Law specifically states that Chapter 2915 of the Revised Code, which contains the Gambling Law, Does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter. Under this provision, schemes of chance like sports betting that would be illegal under Ohio's Gambling Law are exempted from that law if conducted under the Lottery Law." page 3, paragraph 1



Why The Lottery Commission, *continued*

Ohio Legislative Service Commission

Memorandum R-133-0809

State Lottery Commission's Authority to Offer Sports Betting

Conclusion

"Although the Ohio Constitution has been understood to prohibit gambling generally in Ohio, lotteries are permitted so an the lottery is conducted by the state and the entire net proceeds from the lottery are deposited into a fund to benefit public education in Ohio. Because the Lottery Law grants broad authority to the State Lottery Commission to conduct lotteries and the lotteries are exempt from the Gambling Law, it appears that the Commission may be able to create and operate a sports betting lottery under Ohio Law. The Commission would need to adopt rules to govern a sports betting lottery, and the entire net proceeds from the sports betting lottery would be required into a fund to support public education in Ohio." page 3, paragraph 2



The Lottery Commission, *continued*

Commission Shall - *Section 3770.31 (Lines 1083-1144)*

- ✓ Adopt Rules, (A)
- ✓ Establish and approve minimal internal control standards, (B)
- ✓ Determine licensee guidelines, (C)
- ✓ Levy and collect all fees, surcharges and civil penalties, (D)
- ✓ Discipline licensees, (E)
- ✓ Develop its own advertising services, (F)
- ✓ Share data with professional and collegiate sports leagues to ensure integrity of sports gaming, (G)

Establish Operator Guidelines/Requirements, including but not limited to:

- ✓ Application process, *Section 3770.32 (Lines 1145-1211)*
- ✓ Minimum capital investment, *Section 3770.33 (B)(3)(Lines 1225-1226)*
- ✓ Minimum employment requirements, *Section 3770.33 (B)(4)(Lines 1227-1228)*
- ✓ Eligibility to hold or renew a license, *Section 3770.33 (B)(5)(Lines 1229-1230)*



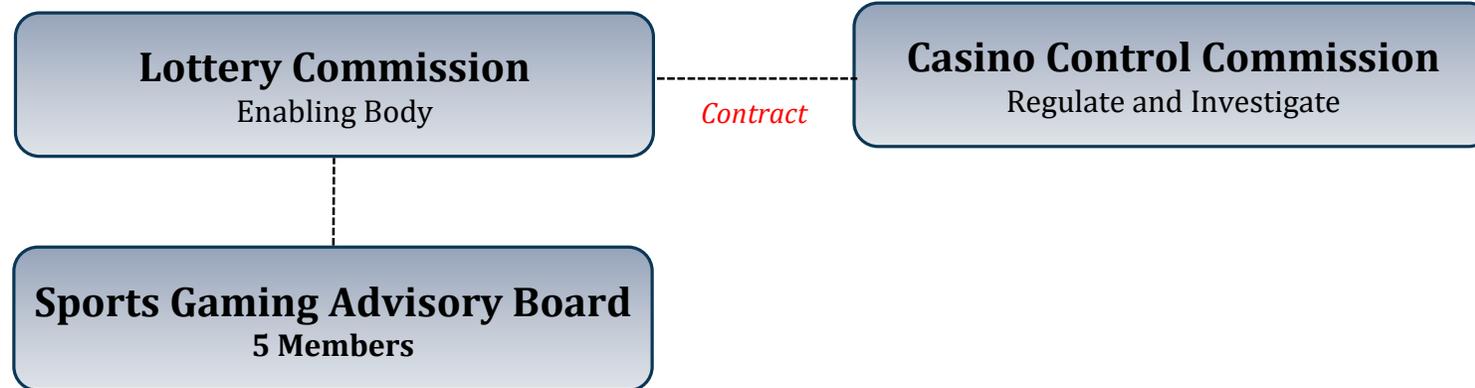
Role of the Casino Control Commission

The Director (Casino Control Commission) shall enter into an agreement with the director of the Ohio Lottery Commission to enforce the provisions of Chapter 3770. of the Revised Code relating to sports gaming, and shall have jurisdiction over all persons conducting or participating in the conduct of sports gaming authorized under Chapter 3770 of the Revised Code, including the authority to regulate, investigate, and penalize those persons. The Commission shall enforce any sports gaming rules adopted by the commission. Section 3772-03 (N), (Lines 1807-1814)





Organizational and Operational Structure





What is Sports Gaming?

“Sports gaming” means participating in the sports gaming lottery operated by the state lottery commission through the business of accepting wagers on sporting events and other events, the individual performance statistics of athletes in a sporting event or other events, or a combination of any of the same by any system or method of wagering the commission approves. *Section 3770.30, Lines 1029-1034*

"Sports gaming" includes purchasing lottery tickets whose prize determinations are based on exchange wagering, parlays, over-under, moneyline, pools, pari-mutuel sports wagering pools, and straight bets. *Section 3770.30, Lines 1035-1038*



WHAT is an Eligible Sports Wagering Event?

“Sports Event or Sporting Event” means any professional sport or athletic event, any collegiate sport or athletic event, motor race event, or any other special event the commission authorizes under this chapter.” *Section 3770.30, Lines 1025-1028*

“Professional sport or athletic event” means an event at which two or more person participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in the event. *Section 3770.30, Lines 1021-1024*

“Collegiate sport or athletic event” means a sport or athletic even offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level. *Section 3770.30, Lines 1009-1012*



Who Can Offer Sports Gaming?

No person may operate, conduct, or assist in operating or conducting sports gaming in this state without first obtaining the appropriate sports gaming license from the commission. *Section 3770.32 (A), (Lines 1145-11148)*



WHERE Can Sports Gaming Be Offered?

Sports Wagering Facility means a designated area on the premises of a casino facility, racing facility authorized to conduct a horse racing meeting in this state, or facility with an approved sports wagering terminal under section 3770.331 of the Revised Code. *Section 3770.30, Lines 1062-1066*

And

The commission shall adopt rules under Chapter 119. of the Revised Code to permit a veteran's or fraternal organization to contract with a sports wagering operator to offer sports wagering through the operator on a single terminal in the organization's facility." *Section 3770.331 (B), Line 1280-1284*



WHERE Can Sports Wagering Be Offered?

Casino's (4)



Racino's (7)



Fraternal and Veteran's Organizations



Requirements – Casino’s and Racino’s

Casino’s and Racino’s Section 3770.33(B) Lines 1217-1237

The commission shall issue a sports wagering operator license to an applicant that is a casino operator or video lottery sales agent after the applicant satisfies the following conditions:

- (1) Submit a written application on a form furnished by the commission;
- (2) Pay a nonrefundable application fee of one hundred thousand dollars (\$100,000);
- (3) Agree to a minimum capital investment as approved by the commission;
- (4) Commit to employing a certain number of individuals on a full-time basis as provided by the commission; and
- (5) Any other conditions for licensure required under this chapter and rules adopted under this chapter

A sports game agent license has a term that is concurrent with the term of the licensee’s casino operator license issued by the casino control commission under Chapter 3772. *Section 3770.33 (B) Lines 1231-1234*

The licensee shall pay a nonrefundable renewal fee of one hundred thousand dollars (\$100,000) or one percent of the licensee’s handle over the previous one year license term, whichever is less. *Section 3770.33 (B) Lines 1243-1246*



Requirements – Fraternal or Veteran Organizations

Fraternal or Veterans Organizations, Section 3770.331, Lines 1277-1306

The commission shall adopt rules under Chapter 119. of the Revised Code to permit a veteran's or fraternal organization to contract with a sports wagering operator to offer sports wagering through the operator on a single terminal in the organization's facility. *Section 3770.331,(B),Lines 1280-1306*

- (1) Participation limited to members only
- (2) Pay a non-refundable, application fee of \$1,000
- (3) Require the organization to hold a D-class liquor license
- (4) Establish compensation due to the organization with a sports gaming terminal, which shall be substantially similar to the compensation percentages paid to licensed lottery sales agent
- (5) Any other procedure or thing the commission determines necessary to complete its duties under this section

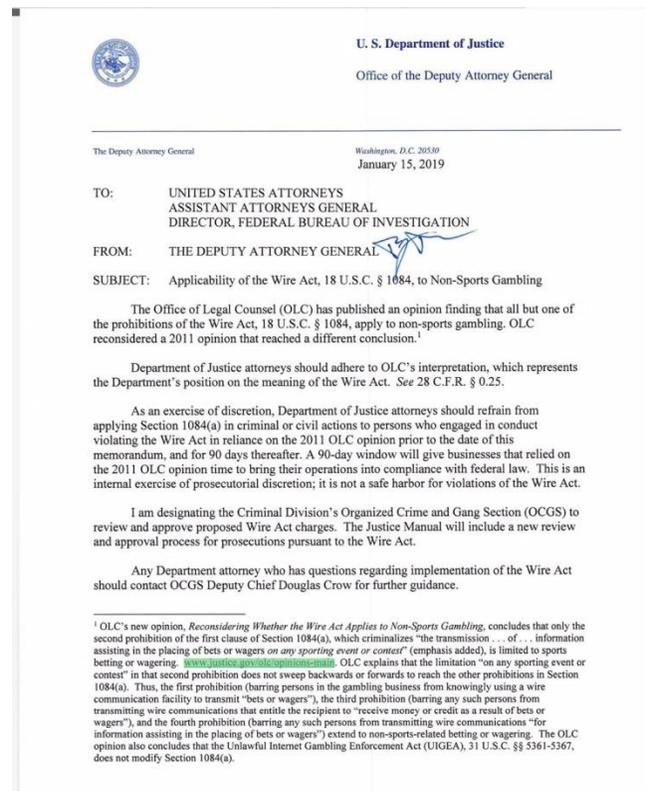
A contract entered into under this section has a term of one year. *Lines 1301-1302*

Pay a non-refundable, annual fee of \$1,000, *Lines 1304-1306*



Why Not Mobile and Online - YET?

The Wire Act - Challenges



Then New Hampshire Lottery Files a Complaint

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

New Hampshire Lottery Commission, Plaintiff,		
v.		Civil Case No. 19-cv-163
William Barr, in his official capacity As Attorney General, United States Department of Justice		Expedited Treatment Requested
Defendants		

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

The Plaintiff, the New Hampshire Lottery Commission, by and through counsel, submits this motion for summary judgment, and states as follows:

1. Through this action the New Hampshire Lottery Commission ("NHL") challenges an interpretation of 18 U.S.C. § 1084 advanced by binding opinion of the United States Department of Justice ("USDOJ") dated November 2, 2018, titled *Reconsidering Whether the Wire Act Applies to Non-Sports Gambling* (the "2018 Opinion"), 42 Op. O.L.C. 1-23.
2. The 2018 Opinion reverses a 2011 opinion of the USDOJ, which found that 18 U.S.C. § 1084, a criminal statute known as the Wire Act, applies only to betting or wagering on sporting events or contests and therefore did not apply to sales of lottery tickets over the Internet by States. See *Whether Proposals by Illinois and New York to Use the Internet and Out-of-State Transaction Processors to Sell Lottery Tickets to In-State Adults Violates the Wire Act*, 35 Op. O.L.C. 1-13 (2011) (the "2011 Opinion").
3. Just as the USDOJ concluded in 2011, at least two federal circuit courts of appeal, including the First Circuit, have held that 18 U.S.C. § 1084 applies solely to betting or wagering on sports events or contests. See *United States v. Lyons*, 740 F.3d 702, 718 (1st Cir. 2014) ("The



Mobile and Online Gaming- WHEN?

Currently, the United States Department of Justice has issued an opinion that nullified various conditions its 2011 directive relating to the Wire Act. With this said, this issue is currently tied up in United States District Court of Appeals in New Hampshire.

With this said and based on the pending litigation, this Bill broadly implies to Mobile and Online gaming as merely a delivery vehicle issue as it relates to Sports Gaming in Ohio. As such, Mobile and Online Gaming is not listed directly, but is it believed that once this issue is resolved at the Federal level, that if permissible, then Ohio simply will allow Mobile and Online Gaming as allowable under the definition of a “Sports Gaming Equipment”, i.e., a “Device”.

“Sports Gaming Equipment” means any mechanical, electronic, or other device, mechanism, or equipment, and related supplies used or consumed in the operation of sports gaming at a sports gaming facility. *Section 7330-30 (E), Lines 1058-1061.*



Integrity and Monitoring of Gaming Activity

The commission may make anonymized sports wagering data available to professional and collegiate sports leagues as the commission determines necessary to ensure the integrity of sports gaming.

Section 3770.31 (G), Lines 1141-1143





Revenue and Use of Proceeds

Revenue:

Sports Wagering Tax – 10%,

For the purpose of funding the education needs of this state, funding efforts to alleviated problem gambling and addiction, and of defraying the costs of enforcing and administering the law governing sports gaming and the tax levied by this section, a tax is hereby levied on the sports gaming receipts of a sport gaming agent at the rate of ten percent of the sports gaming receipts received by the agent from the operation of sports gaming in this state. *Section 5753.021, lines 3435-3442*

Use of Proceeds

Lottery Commission, *Section 5753.031,(D), Lines 3575-3581*

Veterans and Fraternal, *Section 5753.031,(D), Lines 3582-3584*

Casino Control Commission, *Section 5753.031,(D) Lines 3585-3588*

2% Problem sports gaming and addiction fund, *5753.031,(D) Lines 3601-3603*

Remaining funds to the Lottery profits Education Fund, *5753.031,(D) Lines 3599-3600*

Questions

