



# House Bill 194

Version 10

Sports Gaming

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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 801-813*
- ✓ Requires no less than 3 of the 11 members have knowledge/experience in Sports Gaming, *Section 3770.01 (C), Lines 824-839*
- ✓ Creates a Sports Gaming Advisory Board, *Section 5753.10 (4), Lines 4180-4198*
  - ✓ Board shall advise, study and develop recommendations with respect to sports gaming to the commission
  - ✓ 5 Members, appointed by the Governor, no more than 3 members from the same political party
  - ✓ 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

## Commission Shall - *Section 3770.31 (Lines 1089-1154)*

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

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

- ✓ Application process, *Section 3770.32 (Lines 1155-1226)*
- ✓ Minimum capital investment, *Section 3770.33 (B)(3)(Lines 1252-1253)*
- ✓ Minimum employment requirements, *Section 3770.33 (B)(4)(Lines 1254-1255)*
- ✓ Eligibility to hold or renew a license, *Section 3770.33 (B)(7)(Lines 1272-1280)*

# Role of the Casino Control Commission

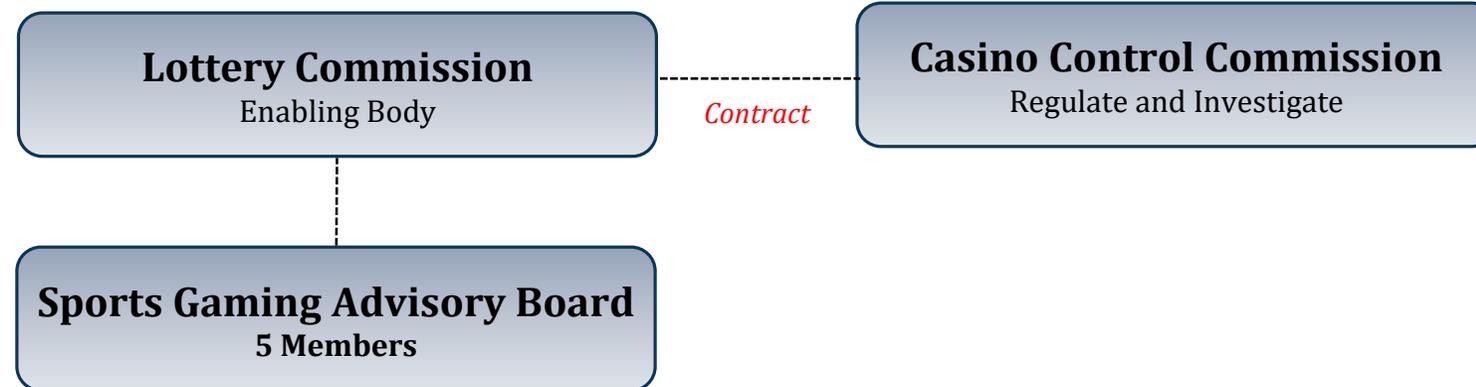


The Ohio casino control commission shall enter into an agreement with the director of the Ohio Lottery Commission to enforce the provisions of Chapter 3770. of the Revised Code relating to sports gaming. The Ohio casino control commission shall have jurisdiction over all persons conducting or participating in the conduct of sports gaming authorized under Chapter 3770 of the Revised Code, including the authority to investigate, and penalize those persons. The Ohio casino control commission shall enforce any sports gaming rules adopted by the state lottery commission. Section 3772.03 (N), (Lines 1978-1986)





# Organizational and Operational Structure





# What is Sports Gaming?

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“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, (F) Lines 1029-1032*

"Sports gaming" includes purchasing lottery tickets whose prize determinations are based on exchange wagering, parlays, over-under, moneyline, in-game wagering, single bets, teaser bets, in-play bets proposition bets, pools, pari-mutuel sports wagering pools, straight bets, or any other types of wagering approved by the commission. *Section 3770.30, (F) Lines 1032-1038*



# WHAT is an Eligible Sports Wagering Event?

“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 for sports gaming under this chapter, the individual performance statistics of athletes or participants in such an event, or a combination of those.” *Section 3770.30,(E) Lines 1023-1028*

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“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, (D) Lines 1019-1022*

“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, (B) Lines 1013-1016*



# Who Can Offer Sports Gaming?

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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 1157-1160)*



# WHERE Can Sports Gaming Be Offered?

"Sports gaming facility" means a designated area in which sports gaming is conducted on the premises of a **casino facility**, of a **racing facility** authorized to conduct horse racing meetings in this state, or of a facility with approved sports gaming equipment under section 3770.331 of the Revised Code. .  
*Section 3770.30, (J) Lines 1064-1069*

*And*

The commission shall adopt rules to permit a **veteran's or fraternal organization** to contract with a sports gaming agent to offer sports gaming through the agent using sports gaming equipment located in the organization's facility. *Section 3770.331 (B), Line 1317-1320*



# 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 1244-1280

*Only a casino operator or a video lottery sales agent may apply for a sports gaming agent license. The commission shall issue a sports gaming agent license to an applicant that does all of the following:*

- (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
- (7) Satisfies any other conditions for licensure required under this chapter and rules adopted under this chapter.

The term of a sports gaming agent license shall be concurrent with the term of the sports gaming agent’s casino operator license issued by the Ohio casino control commission under Chapter 3772. of the Revised Code and the rules adopted under that chapter, or the sports gaming agent’s video lottery sales agent license issued by the state lottery commission under this chapter and the rules adopted under this chapter. *Section 3770.33 (C) (1) Lines 1281-1288*

The sports gaming agent shall pay a nonrefundable renewal fee of one hundred thousand dollars (\$100,000) or one percent of the sports gaming agent’s total gross receipts received from the operation of the sports gaming in this state during the previous year, whichever is less. *Section 3770.33 (C) ,(3) Lines 1298-1302*



# Requirements – Fraternal or Veteran Organizations

*Fraternal or Veterans Organizations, Section 3770.331, Lines 1314-1347*

*The commission shall adopt rules to permit a veteran's or fraternal organization to contract with a sports gaming agent to offer sports gaming through the agent using sports gaming equipment located in the organization's facility. Section 3770.331,(B),Lines 1317-1320*

- (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 which shall be substantially similar to the compensation percentages paid to licensed lottery sales agent
- (5) Require the sports gaming agent to comply with all applicable requirements of this chapter and of the rules adopted by the commission concerning the conduct of sports gaming at the organization's sports gaming facility

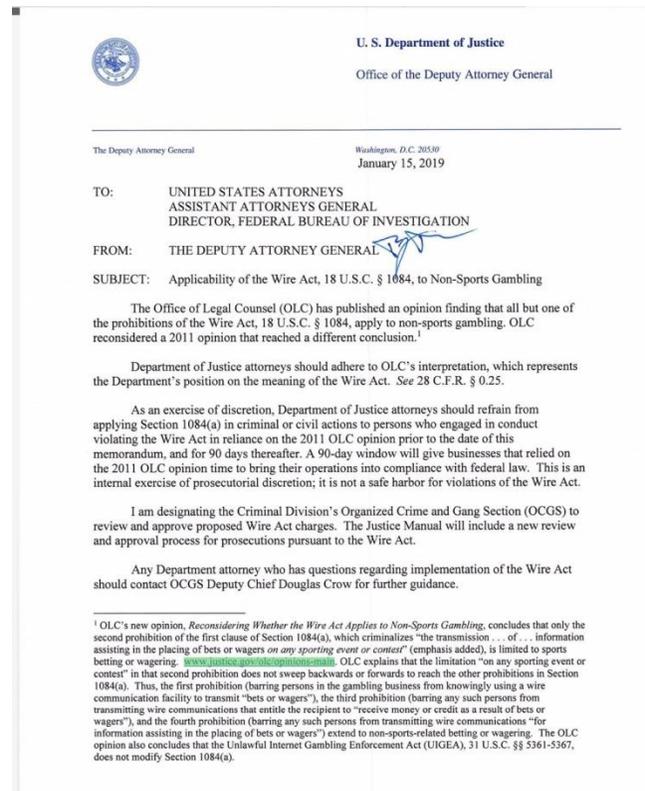
A contract between and veteran's or fraternal organization and a sports gaming agent under this section shall be for a term of one year. *Section 3770.331,(C),Lines 1340-1342*

Upon renewing the contract, the organization shall pay to the commission a non-refundable, annual fee of \$1,000, *Section 3770.331,(C),Lines 1346-1347*



# 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		<b><i>Expedited Treatment Requested</i></b>
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 ("NHLC") 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 are not listed directly, but it is 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."

"Sports gaming equipment" means any mechanical, electronic, or other device, mechanism, or equipment, including a personal device, and related software, materials, or supplies, that are used or consumed in the operation of sports gaming. *Section 7330-30 (I), Lines 1060-1063.*



# 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 (I), Lines 1151-1154*





# Revenue and Use of Proceeds

## Revenue:

Sports Wagering Tax – 10%,

For the purposes of funding the education needs of this state, funding efforts to alleviate 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 sports gaming agent at the rate of ten per cent of the sports gaming receipts received by the agent from the operation of sports gaming in this state. *Section 5753.021, lines 3717-3724*

## Use of Proceeds

The sports gaming revenue fund, *Section 5753.031,(D)(1), Line 3837*

Lottery commission sports gaming fund, *Section 5753.031,(D)(2), Line 3838*

Casino control commission sports gaming fund, *Section 5753.031,(D)(3) Lines 3839*

Sports Gaming tax administrative fund, *5753.031(D)(5) Line 3841*

98% Remaining funds to the Lottery profits Education Fund, *5753.031,(E) Lines 3881-3882*

2% Problem sports gaming and addiction fund, *5753.031,(E)(2) Line 3883-3885*

# Questions

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