

**Testimony of Andrew W. Herf, Executive Director
Ohio Licensed Beverage Association
Senate Select Committee on Gaming
March 3, 2021**

Chairman Schuring, Vice Chair Manning and members of the Senate Select Committee on Gaming, thank you for the opportunity to testify today.

My name is Andy Herf and I am here today representing the Ohio Licensed Beverage Association, which is a trade association of bars and taverns across Ohio.

As I testify today in support of sports gaming in Ohio, I am encouraged that the Ohio Senate is interested in taking a fresh look at the issue. I propose that the legislature consider three main objectives when drafting the proposal that comes out of this process:

1. Create a robust regulatory framework that is workable and enforceable for the state.
2. Maximize revenue for Ohio with a fair and reasonable tax structure.
3. Help as many Ohio businesses as possible.

On the first point, Ohio is in a strong position to regulate sports gaming because there are two regulatory bodies that regulate similar types of games—the Casino Control Commission and the Ohio Lottery Commission. Both agencies have experience in the gaming space, but in the past the issue of enforcement has been approached as an “either or” decision. Consideration for a hybrid model has not been given much attention up to this point, but I would propose that a hybrid could work in Ohio. The Casino Control Commission could regulate sports betting at casinos and racetracks, while the Lottery Commission could offer a game through existing lottery terminals. I will revisit this concept later in my testimony.

Secondly, it is important to create a fair and manageable tax structure. The primary purpose of the tax is to generate revenue for the state; at the very least, the revenue generated should cover the cost of the regulations. The tax should also generate additional income for the state beyond the cost of regulating the games. However, the taxes should also be competitive enough to incentivize players to participate in the legal regulated games. Other have weighed in on what the appropriate tax structure should be to achieve those goals, and we defer to their expertise.

Finally, I would like to address the third point, which is to help as many Ohio businesses as possible. For the businesses that the OLBA represents legalized sports gaming would serve as an economic aid package just as they emerge from lockdowns, curfews and social distancing.

Last year on March 15 at 9:00pm, bars and restaurants were closed by executive order due to the pandemic until May 21. In July, the Liquor Control Commission passed an emergency rule that prohibited serving alcohol after 10:00pm, which in turn was followed by the 10:00 statewide curfew. As hospitalizations dropped, the curfew was lifted on February 11, 2021. Based on an analysis of business hours, the average OLBA member lost nearly 2000 hours of operation. For the hours they are open, they are operating between 50% and 70% of their capacity pre-pandemic.

Legislators and the Governor understand the hardship that this has created, and have responded with a variety of programs to offset license fees, and to create grant programs to help these businesses survive. And for that, the industry is thankful. OLBA members have done everything they have been asked to do to curb the spread of coronavirus. We now ask to be considered to be included in sports gaming.

Within the OLBA, there are thousands of lottery retailers who currently market the Ohio Lottery to their customers. They participate in sales programs and promotions offered through the lottery to engage players in games. All of this is done within the strict regulatory framework that already exists within the Ohio Lottery, and very little change would be required to add a sports betting option to existing equipment. Many bars already have electronic kiosks. Simply adding sports games to the lottery kiosk would fall under the other regulations already in place. The regulations could limit the size of the bet and the types of games available.

The critics of this idea have stated that they do not want sports gaming to be everywhere, but every bill drafted and idea floated has included a mobile app—which would be downloaded by millions of players. The mobile app model undermines the argument against ubiquity.

As I stated earlier, the lottery product would be designed to capture the casual player, and offer the customer another option to participate without driving to a casino or racino and without downloading a mobile app because not everyone has a smartphone or decent broadband.

I would also like to address the idea of sports gaming as economic relief. An individual who has placed a bet on a sports game watches the entire game. When that person is watching the game at a bar, they also purchase food and drinks. Simply put, we believe sports betting will help to get our customers back when the pandemic ends. My members need those customers back, and the customers are looking for opportunities to socialize again.

OLBA members have been creative in using the tools offered to them by the state—such as cocktails to go—to survive. Like the cocktails to go order and now the law, sports gaming could be used as an economic stimulus that makes money for the state instead of costing money. When a retailer sells a cocktail, the state and JobsOhio both profit off the sale. This would work the same way. Every time a player places a bet the retailer would make a commission, the lottery will make its profit and the customer will stay longer and purchase more food and drink, which drives up tips for staff, and sales and excise taxes for the state. Sports gaming could save small businesses and generate revenue for the state.

In closing, I would like to point out that I am not here today proposing that any other gaming platform be excluded. Casinos, racinos, vets and fraternal and mobile apps all have a role to play in maximizing profits for the state of Ohio. Bars, taverns and other lottery agents do as well. Our goal is to keep businesses open so they can continue to pay employees and taxes well into the future.

Thank you for your time and your consideration, I am happy to answer questions.