

HOUSE BILL 666

By Staples

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 39; Title 47; Title 49 and Title 67, relative to
wagering on sporting events.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-501, is amended by adding the following as a new subdivision (1)(E):

(E) Sports wagering as defined in § 4-44-102 conducted in accordance with the Sports Wagering for Stronger Schools Act, compiled in title 4, chapter 44.

SECTION 2. Tennessee Code Annotated, Title 4, is amended by adding the following as a new chapter:

4-44-101. Short title. This chapter shall be known and may be cited as the "Sports Wagering for Stronger Schools Act."

4-44-102. Definitions. As used in this chapter:

(1) "Authorized sporting event" means any professional sport or athletic event, any college or university sport or athletic event, or any Olympic sport or athletic event sanctioned by the International Olympic Committee, but does not include horse racing;

(2) "Authorized sports bettor" means an individual who:

(A) Is physically present in this state when placing a sports wager; and

(B) Is not a prohibited sports bettor;

(3) "City" means an incorporated municipality with a population greater than one hundred sixty-seven thousand (167,000), according to the 2010 federal census or any subsequent federal census;

(4) "Commission" means the Tennessee sports wagering commission created by § 4-44-201;

(5) "Gross sports wagering revenue" means the total of cash or cash equivalents received from sports wagering minus the total of:

(A) Cash or cash equivalents paid to authorized sports bettors as a result of sports wagering; and

(B) Cash or cash equivalents paid to purchase annuities to fund prizes payable to authorized sports bettors over a period of time as a result of sports wagering;

(6) "Official league data" means statistics, results, outcomes, and other data related to a sporting event that matches data published by the relevant sports governing body;

(7) "Online sports wagering platform" means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and any associated wagers accessible by any electronic means, including mobile applications and internet websites accessed via a mobile device or computer;

(8) "Operator" means a person that manages the business of taking wagers and that receives a permit from the commission to operate a sports book;

(9) "Problem gambler" means an individual who exhibits persistent and recurrent maladaptive behavior relating to gambling that causes disruptions in any major area of life, including the psychological, social, or vocational areas of life;

(10) "Professional sports team" means a major or minor league professional baseball, football, basketball, soccer, or hockey franchise, or a motor sports team;

(11) "Prohibited sports bettor" means:

(A) Any officer or employee of the commission;

(B) Any principal or key employee of an operator if the sports wager is placed at the operator's physical sports book location or placed through the operator's online sports wagering platform;

(C) Any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of an operator if such person is directly involved in the operation or observation of sports wagering, or the processing of sports wagering claims or payments if the sports wager is conducted at the known operator's physical sports book location or accepted through the operator's online sports wagering platform;

(D) Any person subject to a contract with the commission if such contract contains a provision prohibiting such person from participating in sports wagering;

(E) Any individual with access to information that is known exclusively to prohibited sports bettors, when the individual wishes to place a wager directly relating to that information;

(F) Any amateur athlete if the sports wager is based on the sport or athletic event in which the athlete participates and that is overseen by the athlete's sports governing body;

(G) Any professional athlete if the sports wager is based on any sport or athletic event overseen by the athlete's sports governing body;

(H) Any sports agent, owner or employee of a team, player or umpire union personnel, and employee, referee, coach, or official of a sports governing body, if the sports wager is based on any sport or athletic event overseen by the individual's sports governing body;

(I) Any individual placing a wager as an agent or proxy for an otherwise prohibited sports bettor;

(J) Any individual who is physically located outside this state;

(K) Any individual who is under eighteen (18) years of age;

(L) Any individual whose name has been added to the commission's self-exclusion list; or

(M) Any individual convicted of a state or federal crime related to sports wagering;

(12) "Prohibited sporting event" means any sporting event that is not an authorized sporting event;

(13) "Sports book" means a physical location or an online sports wagering platform where an operator conducts the business of accepting wagers on authorized sporting events;

(14) "Sports governing body" means the organization that prescribes the final rules and enforces codes of conduct with respect to a sporting event and participants in the sporting event;

(15) "Sports wagering":

(A) Means placing a wager on authorized sporting events or any portion thereof, or on the individual performance statistics of athletes

participating in a sporting event, or combination of sporting events, by any system or method of wagering, including in-person communication and electronic communication through an online sports wagering platform;

(B) Does not include:

(i) Games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels, and the like;

(ii) Wagers that corrupt contest integrity, including, but not limited to, wagers on the first foul, wagers on the first injury, or any other wagers deemed by the commission to corrupt contest integrity;

(iii) Predominantly chance-based wagers such as parlays, teaser bets, and proposition bets based on chance events or occurrences; or

(iv) A fantasy sports contest as defined in § 47-18-1602(6); and

(C) Includes games of skill, including, but not limited to, single-game bets, over-under bets, moneyline bets, pools, exchange wagering, in-game wagering, in-play bets, proposition bets on an athletic statistic, and straight bets; and

(16) "Wager" means cash or cash equivalents paid by an authorized sports bettor to an operator to participate in sports wagering offered by an operator.

4-44-201. Tennessee sports wagering commission.

(a) There is created the "Tennessee sports wagering commission", to be administratively attached to the department of tourism.

(b) The commission is composed of nine (9) commissioners appointed as follows:

(1) Three (3) by the governor, with one (1) from each grand division of the state;

(2) Three (3) by the speaker of the senate, with one (1) from each grand division of the state; and

(3) Three (3) by the speaker of the house of representatives, with one (1) from each grand division of the state.

(c) To qualify for appointment as a commissioner, a person must:

(1) Be a United States citizen;

(2) Be a resident of this state; and

(3) Not be engaged in, or have a direct pecuniary interest in, sports wagering activities.

(d)

(1) All appointments to the commission must be made by July 1, 2019.

(2) The initial terms of the commissioners are as follows:

(A) The governor shall appoint two (2) commissioners to four-year terms and one (1) commissioner to a two-year term;

(B) The speaker of the senate shall appoint two (2) commissioners to four-year terms and one (1) commissioner to a two-year term; and

(C) The speaker of the house of representatives shall appoint one (1) commissioner to a four-year term and two (2) commissioners to two-year terms.

(3) After the initial terms, commissioners serve terms of four (4) years that begin on January 1 and terminate on December 31, four (4) years thereafter.

(e) An appointing authority may remove a member of the commission that the appointing authority appointed for misconduct, incompetency, willful neglect of duty, or other just cause, including, but not limited to, a violation of this chapter, the commission of a criminal offense under title 39, and the commission of a criminal offense under Title 18 of the United States Code.

(f) In case of a vacancy in the membership on the commission prior to the expiration of a commissioner's term, a successor must be appointed within thirty (30) days of the vacancy for the remainder of the unexpired term by the original appointing authority.

(g) The commission shall elect from its membership a chair, vice chair, and a secretary, who must serve for two-year terms. The commission shall meet at least four (4) times a year at a time and place designated by the chair or the commission. The governor shall call the first meeting within sixty (60) days after the appointment of the members.

(h) A majority of the commissioners to which the commission is entitled constitutes a quorum.

(i) The commission may appoint a director to oversee the day-to-day operations of the commission. The director may employ a staff sufficient to carry out the purposes of the commission.

(j) The commission shall produce a yearly report and submit the report by January 31 each year to the chair of the state and local government committee of the senate and the chair of the state government committee of the house of

representatives. The report must include, but is not limited to, the number of investigations conducted by the commission, the outcomes of the investigations, and a description of the investigations that were referred to law enforcement.

(k) Members of the commission receive no compensation for their service, but are reimbursed for travel and other necessary expenses incurred in the performance of official duties in accordance with the state comprehensive travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

4-44-202. Commission duties.

The commission shall:

(1) Exercise authority over all operators and sports books in this state;

(2) Determine qualifications for operators that are demonstrably necessary and carefully tailored to fulfill a legitimate public health or safety objective, including, but not limited to, addressing the issue of problem gamblers. The scope of the commission to enact regulations must be based on the narrowest construction of the authority set forth in this chapter. Judicial review of the commission's regulations must be without any deference to the commission;

(3) Require a criminal history background check for any director, officer, or owner of an operator prior to issuance or renewal of a sports book permit;

(4) Not issue or renew sports book permits for any entity whose director, officer, or owner has been convicted of a state or federal crime related to sports wagering;

(5) Issue and renew sports book permits to qualified entities;

(6) Enforce this chapter and conduct investigations regarding alleged violations of this chapter;

(7) Require that all operators contract annually with a third party to perform an independent financial audit, consistent with the attestation standards established by the American Institute of Certified Public Accountants, to ensure compliance with this chapter. Upon completion of the audit, the audit report must be submitted to the commission for examination and inspection no later than July 1 of the following year. These records are confidential and must not be open to public inspection pursuant to title 10, chapter 7;

(8) Require that all operators contract annually with a third party to perform an independent operational audit, consistent with the attestation standards established by the Institute of Internal Auditors, to ensure compliance with this chapter. Upon completion of the audit, the audit report must be submitted to the commission for examination and inspection no later than July 1 of the following year. These records are confidential and must not be open to public inspection pursuant to title 10, chapter 7;

(9) Provide information to the department of revenue to assist in its administration and collection of the privilege tax applicable to the gross sports wagering revenue of an operator;

(10) Require operators to report annually all winnings earned by sports bettors to the commission;

(11) Maintain a registry of operators permitted to operate in this state and each sports book operated by those operators;

(12) Require operators to use official league data in determining the outcome of sports wagers;

(13) Prohibit operators from obtaining or using the protected health information of an amateur or professional athlete for any purpose related to sports wagering without the express written authorization of the athlete or the designated representative of the athlete;

(14) Issue subpoenas to compel the attendance of operators and the production of pertinent books, accounts, records, and documents;

(15) Deny, suspend, or revoke a permit issued under this chapter to any applicant or operator who fails to comply with this chapter or fails to follow the rules promulgated by the commission;

(16) Maintain a list of individuals' names who wish to prohibit themselves from placing wagers;

(17) Establish and administer a gambling addiction treatment program;

(18) Establish and administer a dispute resolution service for complaints against operators;

(19) Require operators to disclose their identity in advertising;

(20) Require operators to share information about the wagers placed at sports books in real time upon request;

(21) Provide a system that enables operators to share information regarding security risks and threats;

(22) Refer evidence of potential criminal violations to the appropriate law enforcement agency;

(23) Provide information to and receive information from a sports governing body regarding any investigation into a suspected or confirmed violation of this chapter by a person governed by the sports governing body;

(24)

(A) Require the full cooperation of operators in any law enforcement or commission investigation into a violation of this chapter; and

(B) Require cooperation of operators in any investigation carried out by a sports governing body, including by providing account-level sports wagering information and any audio or video files related to one or more individuals who have placed a sports wager, to the extent the commission sees appropriate; and

(25) Promulgate rules to regulate the sports betting industry and implement this chapter in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. Rules promulgated by the commission must include, but are not limited to:

(A) A process by which persons may exclude themselves from placing wagers;

(B) A gambling addiction treatment program;

(C) A means for restricting wagers to those placed by authorized sports bettors within this state, such as geofencing;

(D) A requirement that operators must maintain sufficient cash reserves or cash equivalent reserves to cover the maximum possible loss of the operator;

(E) A requirement that operators must give bond executed by a surety company authorized to do business in this state as surety. The commission shall determine the amount of the surety, and the surety must be payable to the state; and

(F) A regulatory framework for the testing and certification of online wagering systems.

4-44-203. Sports book permitting fees.

(a) In addition to the duties set out in § 4-44-202, the commission may establish the following fees:

- (1) A nonrefundable application fee;
- (2) A nonrefundable permit fee;
- (3) An annual permit renewal fee;
- (4) Late fees;
- (5) A correction of information fee; and
- (6) A change of information fee.

(b) In addition to the fees authorized in subsection (a), the commission may charge an online transaction fee to cover costs associated with processing payments for applications for permits or renewals of permits submitted online.

4-44-204. Tax on gross sports wagering revenue.

(a) There is levied a privilege tax of ten percent (10%) on the gross sports wagering revenue of each operator for the privilege of being an operator. Each operator shall remit the privilege tax levied by this subsection (a) to the

department of revenue. Tax revenue collected pursuant to this section is earmarked and allocated specifically for pre-kindergarten through twelfth grade (pre-K-12) education and must be deposited in the education trust fund of 1992, created by § 49-3-357.

(b) In addition to the privilege tax levied under subsection (a), a municipality may, by ordinance, levy a privilege tax of up to two percent (2%) on the gross sports wagering revenue generated from wagers placed at a physical sports book located within the municipality's corporate boundaries. Each operator shall remit the privilege tax levied pursuant to this subsection (b) to the department of revenue. The department of revenue shall remit such revenue to the municipality in which it originated.

(c) The commissioner of revenue shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the collection of the tax levied pursuant to this section.

4-44-205. Disposition of fees and penalties.

(a) All penalties collected pursuant to this chapter are earmarked and allocated specifically for pre-kindergarten through twelfth grade (pre-K-12) education and must be deposited in the education trust fund of 1992, created by § 49-3-357.

(b) The commission shall use the fees collected pursuant to this chapter to fund:

(1) The commission's operations;

(2) The gambling addiction treatment program created by the commission pursuant to § 4-44-202; and

(3) The dispute resolution service for complaints against operators established and administered by the commission pursuant to § 4-44-202.

4-44-301. Operators authorized to accept wagers.

(a) Operators may operate a sports book and accept wagers from authorized sports bettors.

(b) An operator's physical sports book location must be within:

(1) The area designated for sports book locations, pursuant to § 4-44-402, by a city that has approved sports wagering, pursuant to § 4-44-401; or

(2) The stadium or arena complex, or property adjacent to the stadium or arena complex that is owned, operated, or controlled by the stadium or arena complex owner or professional sports team competing in the stadium or arena complex, where a professional sports team primarily plays home games, if the operator is a professional sports team or is contracted by a professional sports team to operate a sports book.

4-44-302. Consumer protections.

An operator shall:

(1) Establish and display the odds at which wagers may be placed on authorized sporting events;

(2) Not directly or indirectly operate or promote to consumers a sports book without a valid permit obtained pursuant to this chapter;

(3) Clearly and conspicuously display information concerning assistance available to problem gamblers, including information directing problem gamblers to the commission's gambling addiction treatment

program. Such information must be available free of charge during all times the sports book is open for accepting wagers and be placed upon any advertisement for an operator;

(4) Provide instructions for all types of sports wagering the operator accepts;

(5) Not require an authorized sports bettor to withdraw deposited funds, unless the account is subject to a reasonable, good-faith integrity inquiry, as determined by the commission;

(6) Not require an authorized sports bettor to participate in a publicity or an advertising activity;

(7) Not impose a minimum or maximum withdrawal limit for the account of an authorized sports bettor;

(8) Not place any restriction on the right to make an account withdrawal based on the extent of the sports wagering of an authorized sports bettor;

(9) Not impose a daily, weekly, or monthly withdrawal limit that is unreasonably low, as determined by the commission;

(10) Not impose a dormancy charge for an account of an authorized sports bettor that is not used to place a sports wager;

(11) Adequately provide clear information related to any bonus offered, including the terms of withdrawal of the bonus, before an authorized sports bettor opens an account;

(12) Maintain records, electronically or otherwise, for each sports wager placed with the operator for not less than five (5) years from the date on which the sporting event occurred. These records must:

(A) Include:

- (i) Personally identifiable information of the bettor;
- (ii) The amount and type of sports wager;
- (iii) The time at which the sports wager was placed;
- (iv) The location at which the sports wager was placed, including the internet protocol address, if applicable; and
- (v) Video camera recordings, if applicable; and

(B) Be made available for inspection by the commission or the applicable federal regulatory entity or as required by a court order;

(13) Ensure that all employees undergo a criminal history background check at the time of hiring and at least once every two (2) years thereafter;

(14) Not employ any individual who has been convicted of a state or federal crime related to sports wagering;

(15) Take reasonable steps to prevent unauthorized access to, or dissemination of, sports wagering and authorized sports bettor data;

(16) Use official league data;

(17) Share information with other operators regarding security risks and threats utilizing the system provided by the commission pursuant to § 4-44-202;

(18)

(A) Report to the commission:

(i) Any information relating to a criminal or disciplinary proceeding commenced against the operator;

(ii) Abnormal sports wagering activity or a pattern of abnormal sports wagering activity relating to the integrity of one (1) or more sporting events;

(iii) Suspicious or illegal sports wagering activity, including the use of funds derived from illegal activity;

(iv) Sports wagers to conceal or launder funds derived from illegal activity;

(v) Any bets placed by prohibited sports bettors; and

(vi) Any other conduct that corrupts the betting outcome of one (1) or more sporting events for purposes of financial gain, including match fixing; and

(B) The reporting of a suspicious transaction under, and in compliance with, state and federal law, will not be considered to violate any provision of the Bank Secrecy Act, or any regulation promulgated under the Bank Secrecy Act that limits the disclosure of information that would reveal the existence of a suspicious activity report filed with the Financial Crimes Enforcement Network under title 31 of the Code of Federal Regulations, chapter X; and

(19) Cooperate with investigations into a violation of this act to the extent prescribed by the commission pursuant to § 4-44-202.

4-44-303. Prohibited acts.

(a) An operator shall not accept a wager:

(1) From a prohibited sports bettor; or

(2) On a prohibited sporting event.

(b) An operator that violates subsection (a) may be charged and convicted under any of the offenses found in title 39, chapter 17, part 5.

4-44-304. Online sports wagering platforms.

(a) An operator accepting wagers through an online sports wagering platform shall:

(1) Maintain a physical sports book location within this state;

(2) Require persons starting an online wagering account to create the account in-person at the operator's physical sports book location or through an identity verification process pursuant to subsections (b) and (c);

(3) Prevent prohibited sports bettors from creating online accounts; and

(4) Utilize geofencing or similar technology to ensure that persons placing wagers are physically located within this state.

(b) An operator shall use commercially and technologically reasonable means to independently verify the age and identity of a person creating an account on the operator's online sports wagering platform or making a deposit to or withdrawal from an account. An operator may use a third-party vendor to verify the ages and identities of such persons.

(c) If an operator determines that the information provided by a person in creating an account or making a deposit or withdrawal is inaccurate or incapable of verification, the operator shall, within ten (10) days, require the submission of additional information that can be used to verify the age or identity of the player.

(d) If the information provided pursuant to subsection (c) is not sufficient to verify the age and identity of the person, or if no additional information is provided, the operator shall:

- (1) Immediately suspend the person's account and not allow the person to place any wagers;
- (2) Retain any winnings attributable to the person;
- (3) Refund the balance of deposits made to the account to the source of such deposit or by issuance of a check; and
- (4) Deactivate the account.

(e) An operator shall not permit a person who did not create the online account in-person to deposit or withdraw funds from the account prior to the person's age and identity being verified.

4-44-305. Civil penalties for violations of act.

(a) An operator that violates this chapter is subject to suspension or revocation of the operator's permit or a civil penalty, or both.

(b) The commission shall impose, at its discretion, a civil penalty not to exceed:

- (1) Five thousand dollars (\$5,000) for a first offense;
- (2) Ten thousand dollars (\$10,000) for a second offense; and
- (3) Fifty thousand dollars (\$50,000) for a third or subsequent offense.

4-44-401. Referendum.

(a) The county election commission shall call an election on the question of whether to authorize the operation of sports books in a city upon the receipt of:

(1) A petition requesting the holding of such election signed by residents of the city in a number equal to or greater than ten percent (10%) of the votes cast in the city for governor at the then last preceding gubernatorial election; or

(2) A resolution requesting the holding of such election passed by the governing body of the city.

(b) Upon the receipt of a petition or resolution, the county election commission shall set the date of the referendum to coincide with the next regular city election that is at least sixty (60) days from the date of receipt of the petition or resolution.

(c) In any election called pursuant to subsection (a), the county election commission shall submit the following question to the voters:

For sports book locations in (insert name of city).

Against sports book locations in (insert name of city).

(d) The county election commission shall certify the results of the election to the city mayor and to the commission.

(e) The operation of a physical sports book is approved if a majority of those voting on the question vote in the affirmative.

4-44-402. Designation of locations for physical sports books.

(a) After a petition is submitted pursuant to § 4-44-401(a)(1) and at least forty-five (45) days prior to the date of the election, or at the time a resolution is passed pursuant to § 4-44-401(a)(2), a city's governing body shall designate the area or areas of the city in which physical sports book locations may exist.

(b)

(1) To expand the designated area or areas in which physical sports book locations may exist, a city shall pass a resolution designating the area or areas proposed for expansion and forward that resolution to the county election commission.

(2) Upon receipt of a resolution pursuant to subdivision (b)(1), the county election commission shall call an election on the question of whether to expand the designated area or areas in which physical sports book locations may exist.

(3) The county election commission shall set the date of the referendum to coincide with the next regular city election that is at least sixty (60) days from the date of receipt of the petition or resolution.

(4) In any election called pursuant to subsection (a), the county election commission shall submit the following question to the voters:

For expansion of designated areas for sports book
locations in (insert name of city).

Against expansion of designated areas for sports book
locations in (insert name of city).

(5) The county election commission shall certify the results of the election to the city mayor and to the commission.

(6) The expansion of designated area or areas is approved if a majority of those voting on the question vote in the affirmative.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 1, Part 1, is amended by adding the following new section:

A public education institution shall not enter into any advertising or sponsorship contracts relating to sports betting.

SECTION 4. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 5. For purposes of promulgating rules and appointing commissioners, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2019, the public welfare requiring it.