SENATE BILL 688: Sports Wagering.

2021-2022 General Assembly

Committee:	Senate Commerce and Insurance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	August 10, 2021
Introduced by:	Sens. Perry, Lowe	**Prepared by:**	Nicholas Giddings and Erika Churchill Staff Attorneys
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 688 would do the following:

- ***Authorize, regulate, and tax sports wagering in North Carolina. The Lottery Commission would be responsible for issuing licenses to involved parties and regulating sports wagering in North Carolina.***
- ***Create and provide funding for the North Carolina Major Events, Games, and Attractions Fund, which would be administered by the Department of Commerce and provide grants for local governments or nonprofit entities working with local governments to attract major entertainment, musical, political, sporting, and theatrical events to the State that will stimulate economic activity and create jobs.***

[As introduced, this bill was identical to H631, as introduced by Reps. Saine, Hardister, Hawkins, which is currently in House Commerce.]

CURRENT LAW: In 1992, Congress passed the Professional and Amateur Sports Protection Act (PASPA), which effectively prohibited sports betting nationwide. However, PASPA grandfathered in states that had legal sports gambling regulations in place at the time of the act taking effect[1] and provided states that operated licensed casino games for the previous ten-year period prior to the act taking effect a one-year deadline to pass legislation permitting sports wagering.[2] In 2014, New Jersey repealed its previous legislation prohibiting certain sports gambling in the state in an effort to challenge PASPA and was sued by the NCAA, among others. The case made it to the United States Supreme Court which struck down PASPA as unconstitutional in 2018.[3] Since PASPA was overturned, states have been authorized to legalize and regulate sports betting. Currently, over 20 states, plus the District of Columbia, authorize sports betting in some capacity.

Sports wagering is not authorized in North Carolina generally; however, certain approved Indian lands are authorized to conduct sports wagering in the State.[4]

BILL ANALYSIS: Senate Bill 688 would create Article 9 of Chapter 18C to authorize sports wagering in North Carolina. The North Carolina State Lottery Commission (Commission) would be charged with

[1] Only four states had regulations in place: Delaware, Montana, Nevada and Oregon. Only Nevada authorized and regulated sports betting of all types, while Delaware, Montana and Oregon authorized and regulated limited forms of sports betting.
[2] New Jersey had operated licensed casino games for the previous ten-year period but did not pass legislation to authorize sports wagering within the grace period afforded by Congress.
[3] *Murphy v. National Collegiate Athletic Association*, 584 US ___ (2018).
[4] G.S. 14-292.2. Currently, only the Eastern Band of Cherokee Indians and the Catawba Indian Nation have valid Compacts with the State of North Carolina to conduct sports wagering in North Carolina.

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regulating sports wagering in the State. Wagers would be authorized via mobile devices, computer terminals, or similar access devices in places of public accommodation, which are defined as property containing a sports facility, or property owned or controlled by the owner or operator of a sports facility or affiliated with the owner or operator that is within one-half mile of the sports facility. A sports facility is a facility that hosts professional sports with a minimum seating capacity of 17,000 people or is a facility that hosts an annual professional golf tournament.

Sports wagers would be authorized on professional sports, college sports, electronic sports, amateur sports, or any other event approved by the Commission. Electronic sports are competitions where individuals or teams play video games, either in-person or online, for prizes, money, or entertainment. Amateur sports are not professional, college or youth sports and includes domestic, international, or Olympic sporting competitions.

Licenses

The Commission would be responsible for issuing licenses and collecting any license application fee. Licenses would be valid for five years. Except for sports wagering supplier license applicants, all license applicants as well as any directors or officers required by the Commission would be subject to extensive background checks by the Commission. The licenses are as follows:

- Interactive Sports Wagering License – required to offer and accept sports wagers in North Carolina. The Commission must authorize at least 10, but not more than 12, interactive sports wagering licenses. If there are more than 12 applicants, the Commission, in its discretion, must select the most qualified applicants. The application fees for an interactive sports wagering license are as follows:
    - Initial application fee: $500,000.
    - Renewal application fee: $100,000.
- Service Provider License – required for a person to provide covered services to any interactive sports wagering licensee. Covered services are services that involve the operation, management, or control of sports wagers, including development or operation of a sports wagering platform and the provision of odds and line information. It does not include payment processing, customer identity, age verification, geolocation services, streaming or other video and data that does not include odds or line information, telecommunications or internet service that is not designed for sports wagering, or other goods or services not designed for use in connection with sports wagering. The application fees for a service provider license are as follows:
    - Initial application fee: $25,000.
    - Renewal application fee: $10,000.
- Sports Wagering Supplier License – required to sell, lease, distribute, offer, or otherwise provide services, goods, software, or other components necessary for the creation of betting markets and determining bet outcomes, directly or indirectly, to any license holder or applicant involved in the acceptance of bets. Upon approval of the Commission, a provisional sports wagering supplier license may be issued prior to issuance of a sports wagering supplier license. A sports wagering supplier license is not required for interactive sports wagering licensees that act as a sports wagering supplier. The application fees for a sports wagering supplier license are as follows:
    - Initial application fee: $15,000.
    - Renewal application fee: $5,000.

Only registered players would be permitted to create an account and place wagers with an interactive sports wagering licensee. The interactive sports wagering licensee would be responsible for ensuring the identity and age of any registered player. A registered player must be at least 21 years of age. Individuals would be allowed to voluntarily exclude themselves from placing sports wagers through a voluntary exclusion program established by the Commission.

Civil and Criminal Penalties

The Commission would be authorized, subject to 15 days' notice and a hearing, to suspend or revoke a license, impose a penalty of not more than $10,000 per violation of any licensee, or both.

The bill would create the following criminal penalties:

- Class 2 misdemeanor for knowingly offering or engaging in sports wagering in violation of the Article.
- Class 2 misdemeanor for engaging in sports wagering when under the age of 21.
- Class G felony for knowingly attempting to collude or conspire to influence the outcome of a competition subject to sports wagering in this State.
- Class I felony for any interactive sports wagering licensee or service provider licensee who willfully gives false information on their license application.

Tax and Revenues

A tax of 8% would be levied on the adjusted gross revenue of each interactive sports wagering licensee. Adjusted gross revenue includes all gross wagering revenue received by an interactive sports wagering licensee minus winnings paid, costs of personal property distributed as a result of a sports wager, cash value of bonuses or promotional credits provided to registered players which are returned in the form of a deposit or wager, uncollectible receivables (up to 4%, unless a greater amount is authorized by the Commission), and excise tax payments on sports wagers remitted to the federal government. The tax would be due monthly to the Commission.

The Commission would be required to do the following with revenues, which includes the tax levied and the license application fees collected:

- Remit 50% of the *tax collected* (does not include license application fee revenue) to the newly created North Carolina Major Events, Games, and Attractions Fund.
- Reimburse itself for expenses in administering sports wagering in the State.
- Remit the revenues that remain to the Department of Revenue, which would credit the revenue to the General Fund.

Guidance from Commission

The Commission would be responsible to provide guidance to parties regulated by the newly created Article 9 of Chapter 18C. The guidance must address electronic sports with due consideration to the key role of game publishers as creators of the underlying video game.

The Commission may accept license applications when the act becomes law; however, any license issued would not become effective until October 1, 2021.

North Carolina Major Events, Games, and Attractions Fund

Senate Bill 688 would also create the North Carolina Major Events, Games, and Attractions Fund (Fund). The Fund would be administered by the Department of Commerce (Department). The Department would use revenues in the Fund to enter into multiparty agreements with site selection organizations and local entities to provide grants to promote the attraction of major events to the State which stimulate economic

activity and create jobs. A major event is an entertainment, musical, political, sporting, or theatrical event that satisfies certain criteria. Site selection organizations are organizations responsible for determining the location of major events. A local entity, which is a city, county, or local organizing committee, would be responsible for applying for a grant from the Fund. A local organizing committee is a nonprofit authorized by a local government to work with site selection organizations with the goal of hosting a major event in the State.

The Department, in conjunction with the Governor's Office, would be required to develop guidelines on the administration of the Fund, the selection of projects to receive grants from the Fund, and the disbursement of any grants awarded.

EFFECTIVE DATE: Section 5 of the act, requiring the Commission to issue guidance, would be effective when the act becomes law. The remainder of the act would become effective October 1, 2021.