

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 165

Short Title: Off-Track Pari-Mutuel Betting. (Public)

Sponsors: Senator Fitch (Primary Sponsor).

Referred to: Rules and Operations of the Senate

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE NORTH CAROLINA STATE LOTTERY COMMISSION TO
3 LICENSE AND REGULATE OFF-TRACK PARI-MUTUEL HORSE RACE WAGERING.
4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 18C of the General Statutes reads as rewritten:

6 "...

7 **"§ 18C-102. Purpose and intent.**

8 The General Assembly declares that the purpose of this Chapter is to establish a Lottery
9 Commission to regulate and maintain a State-operated lottery and other gaming activities to
10 generate funds for the public purposes described in this Chapter.

11 **"§ 18C-103. Definitions.**

12 As used in this Chapter, unless the context requires otherwise:

- 13 (1) "Commission" means the North Carolina State Lottery Commission.
14 (2) "Commissioner" means a member of the Commission.
15 (3) "Director" means the person selected by the Commission to be the chief
16 administrator of the North Carolina State Lottery.
17 (4) "Game" or "lottery game" means any procedure or amusement authorized by
18 the Commission where prizes are distributed among persons who have paid,
19 or unconditionally agreed to pay, for tickets or shares that provide the
20 opportunity to win those prizes and does not utilize a video gaming machine
21 as defined in G.S. 14-306.1(c).
22 (4a) "Licensed organization" means an organization licensed by the Commission
23 to hold off-track pari-mutuel wagering pursuant to this Chapter and rules
24 promulgated by the Commission.
25 (5) "Lottery" means any lottery game or series of games established and operated
26 pursuant to this Chapter.
27 (6) "Lottery contractor" means a person other than a lottery retailer with whom
28 the Commission has contracted for the purpose of providing goods or services
29 to the Commission on an ongoing basis.
30 (6a) "Lottery supplier" means a person, other than a lottery retailer, with whom the
31 Commission has contracted for the purpose of providing goods or services to
32 the Commission for an individual purchase which may include a maintenance
33 program.
34 (6b) "Pari-mutuel wagering" means a form of wagering on the outcome of horse
35 rac
36 es in which wagers are purchased on a horse or horses and all wagers for
each race are pooled and held by the licensed organization for distribution.



- 1 (6c) "Pari-mutuel pool" means the total money wagered by individuals on any
 2 horse or horses in a particular horse race to win, place, or show and held by
 3 the licensed organization for pari-mutuel wagering.
 4 (7) "Person" means any natural person or corporation, limited liability company,
 5 trust, association, partnership, joint venture, subsidiary, or other business
 6 entity.
 7 (7a) "Potential contractor" or "lottery potential contractor" means any person other
 8 than a lottery retailer who submits a bid, proposal, or offer to procure a
 9 contract for goods or services for the Commission on an ongoing basis.
 10 (8) "Retailer", "lottery retailer", or "lottery game retailer" means a person with
 11 whom the Commission has contracted to sell tickets or shares in lottery games.
 12 (9) "Share" means any method of participation in a lottery game, other than by a
 13 ticket purchased on an equivalent basis with a ticket.
 14 (10) "Ticket" means any tangible evidence authorized by the Commission to
 15 demonstrate participation in a lottery game.
 16 (11) Repealed by Session Laws 2009-357, s. 5, effective July 27, 2009.

17 ...

18 **"§ 18C-110. Establishment of the North Carolina State Lottery Commission to be a**
 19 **self-supporting agency of the State.**

20 There is created the North Carolina State Lottery Commission to establish and oversee the
 21 operation of a ~~Lottery-Lottery~~ and to regulate other gaming activities. The Commission shall be
 22 located in the Department of Commerce for budgetary purposes only; otherwise, the Commission
 23 shall be an independent, self-supporting, and revenue-raising agency of the State. The
 24 Commission shall reimburse other governmental entities that provide services to the
 25 Commission.

26 ...

27 **"§ 18C-114. Powers and duties of the Commission.**

28 (a) The Commission shall have the following powers and duties:

- 29 (1) To specify the types of lottery games and gaming technology to be used in the
 30 ~~Lottery-Lottery~~ and other gaming activities regulated by the Commission.
 31 (2) To prescribe the nature of lottery advertising which shall comply with the
 32 following:
 33 a. All advertising shall include resources for responsible gaming
 34 information.
 35 b. No advertising may intentionally target specific groups or economic
 36 classes.
 37 c. No advertising may be misleading, deceptive, or present any lottery
 38 game as a means of relieving any person's financial or personal
 39 difficulties.
 40 d. No advertising may have the primary purpose of inducing persons to
 41 participate in the Lottery.
 42 (3) To specify the number and value of prizes for winning tickets or shares in
 43 lottery games, including cash prizes, merchandise prizes, prizes consisting of
 44 deferred payments or annuities, and prizes of tickets or shares in the same
 45 lottery game or other lottery games.
 46 (4) To specify the rules of lottery games and other gaming activities regulated by
 47 the Commission and the method for determining winners of lottery games.
 48 (5) To specify the retail sales price for tickets or shares for lottery games.
 49 (6) To establish a system to claim ~~prizes, prizes and pool winnings,~~ including
 50 determining the time periods within which prizes and pool winnings must be
 51 claimed, to verify the validity of tickets or shares claimed to win ~~prizes, prizes~~

- 1 and pool winnings, and to effect payment of those prizes, prizes and pool
 2 winnings.
 3 (7) To conduct a background investigation, including a criminal history record
 4 check, of applicants for the position of Director, which may include a search
 5 of the State and National Repositories of Criminal Histories based on the
 6 fingerprints of applicants.
 7 (8) To charge a fee of potential contractors and lottery contractors to not exceed
 8 the cost of the criminal record check of the potential ~~contractors~~-licensed
 9 organizations, contractors, and lottery contractors.
 10 (9) To specify the manner of distribution, dissemination, or sale of lottery tickets
 11 or shares to lottery game retailers or directly to the public.
 12 (10) To determine the incentives, if any, for any lottery employees, lottery retailers,
 13 lottery contractors, or electronic computer terminal operators.
 14 (11) To specify the authority, compensation, and role of the Director, and to specify
 15 the authority, selection, and role of the other employees of the Commission.
 16 All of the following apply to all employees of the Commission:
 17 a. No employee of the Commission may have a financial interest in any
 18 licensed organization, lottery potential contractor or lottery contractor,
 19 other than an interest as part of a mutual fund.
 20 b. No employee of the Commission with decision-making authority shall
 21 participate in any decision involving the ~~retailer~~-licensed organization,
 22 retailer, or potential contractor with whom the employee has a
 23 financial interest.
 24 c. No employee of the Commission who leaves the employment of the
 25 Commission may represent any licensed organization, lottery
 26 contractor, potential contractor, or retailer before the Commission for
 27 a period of one year following termination of employment with the
 28 Commission.
 29 d. A background investigation shall be conducted on each applicant for
 30 employment with the Commission.
 31 e. The Commission shall bond all employees with access to lottery funds
 32 or revenue or security.
 33 (12) To approve and authorize the Director to enter into agreements with other
 34 states to operate and promote multistate lotteries consistent with the purposes
 35 set forth in this Chapter.
 36 (13) Any other powers necessary for the Commission to carry out its
 37 responsibilities under this Chapter.
 38 (b) Article 15 of Chapter 143B of the General Statutes shall not apply to the Commission.

39 ...

40 **"§ 18C-120. Selection of the Director; powers and duties.**

41 (a) The Commission shall select a Director to operate and administer the Lottery and to
 42 serve as the Secretary of the Commission. Except as to the provisions of Articles 6 and 7 of
 43 Chapter 126 of the General Statutes, the Director shall be exempt from the North Carolina Human
 44 Resources Act.

45 (b) The Director shall have the following powers and duties, under the supervision of the
 46 Commission:

- 47 (1) To provide for the reporting of payment of pool winnings and lottery game
 48 prizes to State and federal tax authorities and for the withholding of State and
 49 federal income taxes from pool winnings lottery game prizes as provided in
 50 State and federal law.

- 1 (2) To conduct a background investigation, including a criminal history record
 2 check, of applicants for employment with the Commission, licensed
 3 organizations, lottery retailers, and lottery potential contractors, which may
 4 include a search of the State and National Repositories of Criminal Histories
 5 based on the fingerprints of applicants.
- 6 (3) To set the salaries of all Commission employees, subject to the approval of
 7 the Commission. Except for the provisions of Articles 6 and 7 of Chapter 126
 8 of the General Statutes, all employees of the Commission shall be exempt
 9 from the North Carolina Human Resources Act.
- 10 (4) To enter into contracts with lottery retailers, lottery contractors, or lottery
 11 suppliers upon approval by the Commission.
- 12 (5) To provide for the security and accuracy in the operation and administration
 13 of the ~~Commission and Commission~~, the Lottery, and other gaming activities,
 14 including examining the background of all prospective licensed organizations,
 15 employees, lottery potential contractors, lottery contractors, and lottery
 16 retailers.
- 17 (6) To coordinate and collaborate with the appropriate law enforcement
 18 authorities regarding investigations of violations of the laws relating to the
 19 operation of the Lottery and other gaming activities and make reports to the
 20 Commission regarding those investigations.
- 21 (7) To confer with the Commission on the operation and administration of the
 22 Lottery and make available for inspection by the Commission all books,
 23 records, files, documents, and other information of the Lottery.
- 24 (8) To study the operation and administration of other lotteries and gaming
 25 activities in other states and to collect demographic and other information
 26 concerning the Lottery and other gaming activities and make
 27 recommendations to improve the operation and administration of the Lottery
 28 and other gaming activities to the Commission, to the Governor, and to the
 29 General Assembly.
- 30 (9) To provide monthly financial reports to the Commission of all lottery
 31 revenues, prize disbursements, expenses, net revenues, and all other financial
 32 transactions involving lottery funds.
- 33 (10) To enter into agreements with other states to operate and promote multistate
 34 lotteries consistent with the purposes set forth in this Chapter and upon the
 35 approval of the Commission.

36 ...

37 **"§ 18C-170. Preemption of local regulation.**

38 A county or municipality shall not enact any ordinance or regulation relating to the ~~Lottery,~~
 39 Lottery or any other gaming activities regulated by the Commission, and this Chapter preempts
 40 all existing county or municipal ordinances or regulations that would impose additional
 41 restrictions or requirements in the operation of the ~~Lottery.~~ Lottery or other gaming activities
 42 regulated by the Commission. To the extent that this Chapter conflicts with any local act, this
 43 Chapter prevails to the extent of the conflict.

44 **"§ 18C-171. Lawful activity.**

45 Other than this Chapter, any other public or local law, ordinance, or regulation providing any
 46 penalty, restriction, regulation, or prohibition for the manufacture, transportation, storage,
 47 distribution, advertising, possession, or sale of any lottery tickets or shares, or for the operation
 48 of any lottery game or other gaming activity shall not apply to the operation of the Commission
 49 or lottery games or other gaming activity established or regulated by this Chapter where the
 50 penalty, restriction, regulation, or prohibition applies only to the Lottery or other gaming activity
 51 as operated or regulated by the North Carolina State Lottery Commission.

1 ...

2 "Article 9.

3 "Pari-Mutuel Wagering.

4 **"§ 18C-180. License required for holding pari-mutuel wagering; exemptions.**

5 (a) No person shall hold off-track pari-mutuel wagering in this State without a license
6 issued by the Commission and compliance with all provisions of this Article and all rules and
7 regulations promulgated by the Commission.

8 (b) Nothing in this Article shall be deemed to require licensure for any fair or other event
9 sponsored by the State or any of its subdivisions.

10 **"§ 18C-181. Licensed organizations; requirements.**

11 (a) Any person desiring to hold off-track pari-mutuel wagering in this State shall apply
12 to the Commission for an organization license on a form to be prescribed by the Commission.
13 The application shall contain at least all of the following:

14 (1) The name and address of the entity applying for licensure.

15 (2) A certified copy of any organizing documents for the entity applying for
16 licensure.

17 (3) To the extent applicable, the names and addresses of officers, directors,
18 managers, shareholders, and partners of the entity applying for licensure.

19 (4) The address of the locations where the off-track pari-mutuel wagering held by
20 the entity applying for licensure will occur.

21 (5) Any other information the Commission deems relevant.

22 (b) No person shall own any silent or undisclosed interest in any entity applying for
23 licensure. The Commission shall not issue a license to any applicant that fails to comply with the
24 requirements of this section.

25 (c) Off-track pari-mutuel wagering must be in compliance with 15 U.S.C. § 3001, et seq.,
26 and any other applicable laws. Wagers may be placed in separate pari-mutuel pools or be
27 combined with other licensed organizations located in this State.

28 (d) It is unlawful for any person to conduct off-track pari-mutuel wagering without being
29 currently licensed according to all necessary State and federal requirements.

30 (e) The Commission shall charge an application fee for each application submitted in an
31 amount not to exceed one thousand dollars (\$1,000) for each location authorized in the
32 application. Applications shall be renewed annually.

33 (f) A licensed organization shall provide a place or establishment to its patrons at which
34 the licensed organization has received Commission approval to conduct, operate, and supervise
35 wagering and where the public may view the progress of wagering and the odds paid.

36 (g) A licensed organization shall maintain records of all wagering activity for each
37 off-track race conducted, including dates, times, wagers placed, odds given, claims paid,
38 breakage amounts, and any unclaimed payouts.

39 (h) The Commission may deny, revoke, or suspend any license issued upon reason to
40 believe a violation of this Article or any promulgated rule has occurred.

41 **"§ 18C-182. Distribution of wager proceeds; inspection of records; audits; bond.**

42 (a) At least quarterly, an amount equaling twenty percent (20%) of all money wagered at
43 each licensed location shall be remitted to the Commission by the licensed organization. The
44 licensed organization shall also submit a copy of the wagering records recorded for the relevant
45 period. Amounts remitted to the Commission pursuant to this subsection shall be credited to the
46 North Carolina State Lottery Fund established in G.S. 18C-160.

47 (b) Winnings that remain unclaimed after the period set by the Commission for claiming
48 the winnings shall not be considered abandoned property. If a valid claim is not made for
49 winnings within the applicable period, the unclaimed winnings shall be handled in accordance
50 with rules adopted by the Commission.

1 (c) The Commission shall periodically inspect the wagering records maintained by a
2 licensed organization. As a condition of licensure, the Commission may require an audit of
3 wagering records by an independent certified public accountant and the posting of a bond in an
4 amount not to exceed one million dollars (\$1,000,000).

5 (d) All winnings are subject to the State income tax.

6 "**§ 18C-183. Persons prohibited from wagering.**"

7 (a) It shall be unlawful for a person to allow a person under the age of 18 years to
8 participate in pari-mutuel wagering. No person under the age of 18 years shall participate in
9 pari-mutuel wagering. No winnings shall be paid to a person under the age of 18. A person who
10 violates this subsection shall be guilty of a Class 1 misdemeanor.

11 (b) It shall be a defense for the person who operates pari-mutuel wagering in violation of
12 subsection (a) of this section if the person does either of the following:

13 (1) Shows that the participant produced a valid drivers license, a special
14 identification card issued under G.S. 20-37.7, a military identification card, or
15 a passport, showing the participant to be at least 18 years old and bearing a
16 physical description of the person named on the card that reasonably describes
17 the participant.

18 (2) Produces evidence of other facts that reasonably indicated at the time of sale
19 that the participant was at least 18 years old.

20 (c) No wager shall be made by, and no winnings shall be paid to, a member of the
21 Commission, the Director, or employee of the Commission, or to any spouse, parent, or child
22 living in the same household as a person disqualified by this subsection.

23 "**§ 18C-184. Rule making.**"

24 The Commission shall establish, by rule, all necessary regulations, forms, and procedures
25 needed to carry out the provisions of this Article."

26 **SECTION 2.** This act becomes effective January 1, 2020.