**South Carolina General Assembly**

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**STATUS INFORMATION**

General Bill

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Summary: Sports and equine wagering

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/19/2023 House Introduced and read first time ([House Journal‑page 4](h:\hj\20230119.docx))

1/19/2023 House Referred to Committee on **Ways and Means** ([House Journal‑page 4](h:\hj\20230119.docx))

1/19/2023 House Member(s) request name added as sponsor: Tedder

4/4/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[01/19/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3749_20230119.docx)

[04/04/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3749_20230404.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY APPROPRIATING ONE MILLION DOLLARS TO THE DEPARTMENT OF REVENUE TO BE USED IN THE ADMINISTRATION OF THE PRIVILEGE TAX; BY ADDING CHAPTER 23 TO TITLE 52 ENTITLED “INTERACTIVE WAGERING” SO AS TO PROVIDE THAT CERTAIN SPORTS WAGERING IS LAWFUL, TO PROVIDE DEFINITIONS, TO PROVIDE THAT A LICENSEE IS SUBJECT TO CERTAIN PROVISIONS, TO PROVIDE FOR A CERTAIN PRIVILEGE TAX, TO PROVIDE THAT THE COMMISSION SHALL ISSUE CERTAIN LICENSES, TO PROVIDE THAT THE COMMISSION SHALL ISSUE CERTAIN SUPPLIER LICENSES, TO PROVIDE FOR WHO MAY NOT APPLY FOR OR OBTAIN A LICENSE, TO PROVIDE FOR WHO MAY OR MAY NOT PLACE CERTAIN BETS, TO PROVIDE FOR THE USE OF OFFICIAL LEAGUE DATA, TO PROVIDE FOR RESTRICTIONS ON LICENSEES, TO PROVIDE THAT A LICENSEE SHALL ALLOW BETTORS TO PLACE CERTAIN RESTRICTIONS ON THEMSELVES, TO PROVIDE THAT CERTAIN WAGERS ARE ENFORCEABLE CONTRACTS, TO PROVIDE THAT EACH LICENSEE SHALL ADOPT CERTAIN HOUSE RULES, TO PROVIDE FOR CERTAIN REPORTS, TO PROVIDE FOR CERTAIN REGISTRATION, TO PROVIDE THE EQUINE AND SPORTS WAGERING COMMISSION MAY AUTHORIZE AND REGULATE INTERACTIVE SPORTS WAGERING, TO PROVIDE RELATED REQUIREMENTS CONCERNING THE REGULATION OF INTERACTIVE SPORTS WAGERING, TO PROVIDE FOR CERTAIN ANNUAL REPORTS, TO PROVIDE FOR CERTAIN REGULATIONS, TO PROVIDE THAT CERTAIN INDIVIDUALS MAY INSPECT BOOKS AND RECORDS AT CERTAIN TIMES, TO PROVIDE FOR CERTAIN INVESTIGATIONS, TO PROVIDE FOR AN APPELLATE PROCESS, TO PROVIDE FOR CIVIL PENALTIES, TO PROVIDE THAT IT IS UNLAWFUL TO TRANSMIT CERTAIN INFORMATION, TO CREATE THE “SOUTH CAROLINA EQUINE AND SPORTS WAGERING COMMISSION”, TO PROVIDE FOR REMOVAL FROM THE COUNCIL, TO PROVIDE FOR AN EQUINE SUBCOMMITTEE, TO ESTABLISH A GRANT PROGRAM TO ASSIST THE GROWTH AND DEVELOPMENT OF THE EQUINE INDUSTRY IN SOUTH CAROLINA; TO PROVIDE DEFINITIONS; TO PROVIDE GUIDELINES FOR PARI‑MUTUEL WAGERING; TO PROVIDE APPLICATION GUIDELINES FOR PARI‑MUTUEL WAGERING; TO PROVIDE FOR APPLICATION AND LICENSE FEES; TO PROVIDE FOR THE EQUINE INDUSTRY DEVELOPMENT FUND; TO PROVIDE GUIDELINES AND PROTECTIONS FOR COMMITTEE MEMBERS; TO REQUIRE THE SUBCOMMITTEE TO SUBMIT AN ANNUAL REPORT; AND BY ADDING SECTION 16‑19‑135 SO AS TO PROVIDE THAT CERTAIN SPORTS WAGERING AND FANTASY SPORTS CONTESTS ARE NOT A VIOLATION OF CERTAIN LAWS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. There is appropriated one million dollars to the Department of Revenue to be used in the administration of the privilege tax pursuant to Article 1, Chapter 23, Title 52.

SECTION 2. Title 52 of the S.C. Code is amended by adding:

CHAPTER 23

Interactive Wagering

Article 1

Interactive Sports Wagering

Section 52‑23‑200. (A) Notwithstanding any other provision of law, the operation of sports wagering and ancillary activities are lawful when conducted pursuant to the provisions of this chapter and the rules adopted pursuant to this chapter.

(B) A person or entity may not engage in any activities in this State that require a license pursuant to this chapter unless all necessary licenses have been obtained pursuant to the provisions of this chapter and rules adopted pursuant to this chapter.

Section 52‑23‑210. As used in this article, unless the context otherwise requires:

(1) “Adjusted gross sports wagering receipts” means the total of all cash and cash equivalents received by a sports wagering operator minus the total of:

(a) all cash and cash equivalents paid out as winnings to sports wagering patrons;

(b) the actual costs paid by a sports wagering operator for anything of value, including merchandise or services, distributed to sports wagering patrons to incentivize sports wagering;

(c) any sums paid as a result of any federal tax, including the federal excise tax;

(d) voided or cancelled wagers; and

(e) uncollectible sports wagering receivables, not to exceed the lesser of:

(i) a reasonable provision for uncollectible patron checks, ACH transactions, debit card transactions, and credit card transactions received from sports wagering operations; or

(ii) two percent of the total of all sums, including checks, whether collected or not, less the amount paid out as winnings to sports wagering patrons. For purposes of this item, a counter or personal check that is invalid or unenforceable pursuant to this item is considered cash received by the sports wagering operator from sports wagering operations.

(2) “Cash equivalent” means an asset convertible to cash for use in connection with authorized sports wagering that includes the following but excludes free bets and promotional credits:

(a) foreign currency and coin;

(b) personal checks and drafts;

(c) digital, crypto, and virtual currencies;

(d) online and mobile payment systems that support online money transfers;

(e) credit cards and debit cards;

(f) a prepaid access instrument; and

(g) any other form approved by the commission.

(3) “Cheating” means improving the chances of winning or of altering the outcome by deception, interference, or manipulation of a sporting event or of any equipment, including software pertaining to or used in relation to the equipment, used for or in connection with the sporting event on which wagers are placed or are invited, including attempts and conspiracy to cheat.

(4) “Collegiate” means belonging to, or involving, a public or private institution of higher education.

(5) “Collegiate sporting event” means a sporting or athletic event involving a sports or athletic team of a public or private institution of higher education.

(6) “Commission” means the South Carolina Equine and Sports Wagering Commission.

(7) “Covered sporting event” means any event of the relevant sports governing body on which one or more operators offer or accept bets.

(8) “Designated operator” means a professional sports team that competes at the highest professional level in football, basketball, baseball, ice hockey, or soccer and plays the majority of its home games in this State, a sports governing body that holds one or more annual PGA Tour tournaments in this State, or a sports governing body that holds one or more national association for stock car auto racing national touring races in the State, or the designee of such a team or sports governing body, who is licensed to offer sports wagering pursuant to Section 52‑23‑240. If such a team or sports governing body appoints a designee, the designee is considered the sports wagering operator and the licensee with respect to the application pursuant to Section 52‑23‑240 and all other purposes under this article and the regulatory control of the Commission. The Commission will establish a procedure for a team or sports governing body to appoint a designee.

(9) “Executive director” means the Executive Director of the South Carolina Equine and Sports Wagering Commission appointed by the Advisory Council pursuant to Section 52‑23‑500(O).

(10) “E‑sport” means a multiplayer video game played competitively for spectators, either in person or by means of a remote connection, in which success principally depends upon the superior knowledge, training, experience, and adroitness of the players.

(11) “Fantasy sports contest” means a simulated game or contest with an entry fee that meets all of the following conditions:

(a) A fantasy sports contest team is not composed entirely of individual contestants who are members of the same real‑world sports team.

(b) Each prize and award or the value of all prizes and awards offered to winning fantasy sports contest players is made known to the fantasy sports contest players in advance of the fantasy sports contest.

(c) Each winning outcome reflects the relative knowledge and skill of the fantasy sports contest players and is determined by the aggregated statistical results of the performance of multiple individual contestants who each fantasy sports contest player has selected to form that player's fantasy sports contest team. The individual performances of the individual contestants in the fantasy sports contest directly correspond with the actual performances of those contestants in a real‑world sporting event in which those individuals participated.

(d) A winning outcome is not based on the performance of a single real‑world sports team, any combination of real‑world sports teams or a single contestant in a real‑world sporting event, nor is it based on the score or point spread of one or more real‑world sporting events.

(e) The fantasy sports contest does not constitute or involve a slot machine or a fixed, commercial electrical gaming device.

(12) “Fantasy sports contest player” means a person who engages in selecting individual contestants to comprise a team for a fantasy sports contest.

(13) “Interactive sports wagering” means placing a wager on a sporting event by means of the Internet, a mobile device, or other telecommunications platform.

(14) “License” means an entity licensed by the commission pursuant to Section 52‑23‑240 to operate sports wagering through an approved mobile application or other digital platform that involves, at least in part, the use of the Internet.

(15) “Licensee” means a person who holds a license issued pursuant to Section 52‑23‑240.

(16) “Material nonpublic information” means information that has not been disseminated publicly concerning an athlete, contestant, prospective contestant, or athletic team including, but not limited to, confidential information related to medical conditions or treatment, physical or mental health or conditioning, physical therapy or recovery, discipline, sanctions, academic status, educational records, eligibility, playbooks, signals, schemes, techniques, game plans, practices, strategies, assessments, systems, drills, or recordings of practices or other athletic activities.

(17) “Minor” means a person who is less than eighteen years of age.

(18) “National criminal history background check system” means the criminal history record system maintained by the Federal Bureau of Investigation, based on fingerprint identification or another method of positive identification.

(19) “Official league data” means statistics, results, outcomes, and other data related to a professional sporting event obtained pursuant to an agreement with the relevant governing body of a sport or sports league, organization, or association whose corporate headquarters are based in the United States, or an entity expressly authorized by the governing body to provide this information to licensees for purposes of determining the outcome of tier two sports wagers.

(20) “Mobile sports wagering platform” means the combination of hardware, software, and data networks used to manage, administer, or control sports wagering and associated wagers accessible by electronic means, including mobile applications and Internet websites accessed by means of a mobile device or computer.

(21) “Operator” means an entity that offers mobile sports wagering under Section 52‑23‑240.

(22) “Professional sports or athletic event” means an event at which two or more contestants participate in a sports event or an athletic event and one or more participants receive compensation.

(23) “Prohibited sports event” means a youth sports event or any event for which wagering has been prohibited by the commission.

(24) “Sporting event” means a professional sporting or athletic event, including motorsports and e‑sports, a collegiate sporting or athletic event, or an Olympic sporting or athletic event sanctioned by a national or international organization or association, or any other event approved by the commission. “Sporting event” does not include horse racing.

(25) “Sports governing body” means the organization, league, or association that oversees a sport and prescribes final rules and enforces codes of conduct with respect to the sport and participants in the sport.

(26) “Sports wagering” means the business of accepting wagers on sporting events or portions of sporting events, the individual performance statistics of individuals in sporting events, or a combination of any of the same by any system or method of wagering approved by the director via a mobile sports wagering licensee’s mobile applications and digital platforms that use communications technology to accept wagers. The term includes, but is not limited to, single‑game bets, teaser bets, parlays, over‑under, moneyline, pools, exchange wagering, in‑game wagering, in‑play bets, proposition bets, and straight bets or any other form or manner authorized by the commission. “Sports wagering” does not include fantasy contests.

(27) “Sports wagering account” means a financial record established by an operator for an individual patron in which the patron may deposit and withdraw funds for interactive sports wagering and other authorized purchases and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The account may be established electronically through an approved mobile application or digital platform.

(28) “Sports wagering supplier” means a person that provides critical services to an operator, but not to directly accept wagers. Critical services are considered to be geolocation and know your customer (KYC) services.

(29) “Supervisory employee” means a principal or employee with ultimate control over decision making of a licensee to manage and advance the business operations of a licensee in this State.

(30) “Tier one sports wager” means a sports wager that is determined solely by the final score or final outcome of the relevant covered sporting event and is placed before the relevant covered sporting event has begun.

(31) “Tier two sports wager” means a sports wager on the relevant covered sporting event that is not a tier one sports wager.

(32) “Vendor” means a contractor, subcontractor, or independent contractor hired, or contracted with, by the commission or a licensee for the purpose of facilitating the business of the commission or licensee pursuant to this article.

(33) “Wager” or “bet” means a sum of money that is risked by a bettor.

(34) “Youth sports” means an event in which the majority of participants are under the age of eighteen or are competing on behalf or under the sponsorship of one or more public or private preschool, elementary, middle, or secondary schools. The term does not include professional sports or events that occur under the sponsorship or oversight of national or international athletic bodies that are not educational institutions and that include participants both over and under the age of eighteen.

Section 52‑23‑215. (A) There is created a commission to be known as the “South Carolina Equine and Sports Wagering Commission”, which is considered to be a public commission and an instrumentality of the State. The commission and its employees are subject to the South Carolina Consolidated Procurement Code, South Carolina Administrative Procedures Act, South Carolina Ethics Reform Act, and South Carolina Freedom of Information Act. Venue for the commission is in Richland County.

(B) Beginning in December 2023, and every three years thereafter, or by the request of five members of the House of Representatives or five members of the Senate, the Legislative Audit Council shall conduct a management performance audit of the commission. The cost of this audit is an operating expense of the commission.

Section 52‑23‑220. A person issued a license to offer interactive sports wagering pursuant to this article is subject to all provisions of this article relating to licensure, regulation, and civil and criminal penalties.

Section 52‑23‑230. (A) It is a taxable privilege to offer sports wagering in this State under a license issued in accordance with this article. Notwithstanding any other provision of law, a licensee shall pay a privilege tax only on its adjusted gross sports wagering receipts in accordance with this section.

(B)(1) There is imposed upon the adjusted gross sports wagering receipts of a licensee a privilege tax of ten percent.

(2) If a licensee’s adjusted gross sports wagering receipts for a month is a negative number, such licensee may carry over such negative amount to subsequent months.

(C) A licensee shall complete and submit the return for the preceding month by electronic communication to the director, on or before the fifteenth calendar day, in the form prescribed by the director, which must provide:

(1) the gross sports wagering receipts and adjusted gross sports wagering receipts during that month;

(2) the tax amount for which the licensee is liable; and

(3) any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the director.

(D)(1) Eighty percent of the privilege tax collected pursuant to this section must be transmitted by the commission to the Department of Revenue for deposit into the general fund.

(2) Fifteen percent of the privilege tax collected under this section must be transmitted by the commission quarterly to the Department of Revenue for deposit into the general fund, to be remitted quarterly to each local government in this State on a per capita basis, as determined by population based on the last federal census. For purposes of calculating the allocation, the population of counties excludes the population of each municipality within the boundaries of the county. Funds remitted to a local government under this subsection must be allocated to the county or city general fund, as applicable, to be used for local infrastructure projects including, but not limited to, transportation and road projects and public buildings.

(3) Notwithstanding the provisions of Section 49‑150‑340, five percent of the privilege tax collected under this section must be transmitted by the commission to the Department of Revenue and allocated to the Department of Mental Health to use in the manner prescribed by Section 52‑23‑310.

(E) A licensee is not subject to additional state or local taxation not prescribed by this section.

Section 52‑23‑240. (A) The commission shall review and issue licenses to each qualifying designated operator and up to six licenses to other operators. This provision may not be interpreted to direct the commission to permit an unqualified applicant. The branding for each mobile sports wagering platform is determined by the licensee. The applicant shall complete and submit an application on a form prescribed by the commission. The applicant shall submit the nonrefundable application fee and a licensing fee of five hundred thousand dollars. If the application is denied, the licensing fee must be refunded, minus any expenses the commission incurs in reviewing the application.

(B) An applicant for a license shall submit an application on a form in the manner and in accordance with the requirements as may be prescribed by regulation.

(C) An application for a license must include:

(1) the identification of the applicant’s principal owners who own ten percent or more of the company, partners, members of its board of directors, and officers;

(2) a national criminal background check for each person identified pursuant to item (1) conducted by SLED or another appropriate law enforcement agency, or the results of a criminal history record check conducted in another state within the last twelve months and a certification that there has been no material change since the criminal history record check was completed. A set of fingerprints must be supplied upon request and in the manner requested by the investigating agency;

(3) information, documentation, and assurances as may be required to establish by clear and convincing evidence the applicant’s good character, honesty, and integrity. The information may include, but is not limited to, information pertaining to family, character, reputation, criminal and arrest records, business activities, financial affairs, and business, professional, and personal associates, covering at least the ten‑year period immediately preceding the filing of the application;

(4) notice and a description of civil judgments obtained against the applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of another state, jurisdiction, province, or country;

(5) proof of active operation in at least five states and letters of reference from the regulatory body that regulates sports wagering that specify the standing of the applicant with the regulatory body; provided, however, that if no such letters are received within sixty days of the request, the applicant may submit a statement under oath that the applicant is or was, during the period the activities were conducted, in good standing with the governing body;

(6) information, documentation, and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity, and responsibility of the applicant including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. Each applicant shall authorize in writing the examination of all bank accounts and records as may be deemed necessary by the commission. The commission may consider relevant evidence of financial stability. The applicant is presumed to be financially stable if the applicant establishes by clear and convincing evidence that it meets each of the following standards:

(a) the ability to assure the financial integrity of sports wagering operations by the maintenance of a bankroll or equivalent provisions adequate to pay winning wagers to bettors when due. An applicant is presumed to have met this standard if the applicant maintains reserves that cover outstanding liabilities for wagers which means the sum of the amount paid by patrons for wagers that have not yet been determined and the amount owed but unpaid by licensees to patrons for wagers whose results have been determined;

(b) the ability to meet ongoing operating expenses which are essential to the maintenance of continuous and stable sports wagering operations; and

(c) the ability to pay, as and when due, all state and federal taxes;

(7) information, documentation, and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and gaming experience as to establish the likelihood of the creation and maintenance of a successful, efficient sports wagering operation;

(8) information, as required by rule of the commission, regarding the financial standing of the applicant including, but not limited to, each person or entity that has provided loans or financing to the applicant; and

(9) additional information required by the commission.

(D) The commission shall keep all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the commission in the course of its review or investigation of an application for or renewal of a license as described in this article confidential and shall use that material only to evaluate the applicant for a license or renewal. Nothing in this article or any other law must be construed to permit the disclosure of such information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the commission pursuant to this section.

(E) Upon review of the application, the commission shall approve or deny an application for a license no more than sixty days after receipt of an application.

(F)(1) A license issued by the commission authorizes the licensee to offer interactive sports wagering in this State and is valid for three years.

(2) An applicant for a license as defined pursuant to this section and licensed to operate sports wagering by at least five other jurisdictions may submit with the application a request to the commission for the immediate commencement of sports wagering operations through a temporary license. Such a request must include the initial license fee of five hundred thousand dollars payable to the commission. Upon receiving a request for a temporary license, the commission shall review the request. If the commission determines that the entity requesting the temporary license has paid the initial license fee and has submitted an application for a license, the commission shall authorize the applicant to conduct sports wagering until a final determination on the operator’s license application is made. Sports wagering conducted pursuant to authority of a temporary license must comply with the operator’s house rules adopted pursuant to Section 52‑23‑330.

(G) A licensee may renew its license by submitting an application on a form, in such manner, and in accordance with such requirements as may be prescribed by regulation of the commission. A licensee shall submit the nonrefundable application fee with its application for the renewal of its license.

(H) For each application for licensure or renewal of a license that is approved pursuant to this section, the amount of the application fee must be credited toward the licensee’s license fee and the licensee shall remit the balance of the license fee to the commission upon approval of a license. The fees collected from licensees pursuant to this section must be used by the commission to pay the actual operating and administrative expenses incurred pursuant to this article.

(I) Except as provided in subsection (F), licensing and application fees collected by the commission must be transmitted to the Department of Revenue for deposit into the general fund.

(J) Each person holding a license pursuant to this article has a continuing duty to inform the commission as soon as commercially reasonable of any change in status relating to any information that may disqualify the person from holding the license.

Section 52‑23‑250. (A) The commission shall issue a supplier license upon finding that the applicant meets all requirements of this section and rules adopted under this chapter.

(B) An applicant for a supplier license shall demonstrate that the equipment, systems, or services that the applicant plans to offer to an operator conform to standards established by rule by the commission. The commission may accept approval by another jurisdiction that is specifically determined by the commission to have similar equipment standards as evidence the applicant meets the standards established by the director by rule.

(C) A supplier license granted by the director pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the State within the terms and conditions of the license and any rules adopted under this chapter.

(D) The fee for an initial or renewed supplier license is ten thousand dollars and must be retained by the commission for the costs of administering this chapter. In addition to the license fee, the director may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

(E) A supplier license granted or renewed under this section is valid for three years.

(F) An applicant for a supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of ten thousand dollars. If the commission determines that the applicant is qualified under subsection (2), meets the requirements established by rule for a temporary license and has paid the initial license fee and the commission is not aware of any reason the applicant is ineligible for a license under this section, the director shall issue a temporary supplier license. A temporary license issued under this subsection is valid until a final determination on the supplier license application is made. If after investigation the director determines that the applicant is eligible for a supplier license under this chapter, the commission shall issue the initial supplier license, at which time the temporary license terminates.

Section 52‑23‑260. The following persons may not apply for or obtain a license:

(1) a member or employee of the council or commission;

(2) a coach of, or player for, a collegiate, professional, or Olympic sports team or sport;

(3) a person who has been convicted of a crime as specified in rules adopted by the commission;

(4) a referee or official having the ability to directly affect the outcome of a sporting event; and

(5) another category of people, promulgated by regulation, that if licensed, would affect the integrity of sports wagering in this State.

Section 52‑23‑270. (A) Except for those persons ineligible to place bets pursuant to Section 52‑23‑280, a person who is eighteen years of age or older and who is physically located in this State may place a wager in the manner authorized by law.

(B) A licensee shall take commercially reasonable measures to ensure that all wagers accepted in this State are from qualified bettors and in accordance with this article.

Section 52‑23‑280. (A) The following persons or categories of persons may not, directly or indirectly, place a wager on a sporting event in this State:

(1) a member, officer, or employee of the council or commission;

(2) with respect to a licensee, a principal owner, partner, member of the board of directors, officer, or supervisory employee with that licensee;

(3) with respect to a vendor of a licensee, a principal owner, partner, member of the board of directors, officer, or supervisory employee with a licensee that vendor contracts with;

(4) a contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, of a licensee, if the person is directly involved in the licensee’s operation of sports wagering or the processing of sports wagering claims or payments through that licensee’s mobile sports wagering platform;

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

(6) a person with access to information that is known exclusively to a person who is prohibited from placing a wager in this State pursuant to this section;

(7) an amateur or Olympic athlete if the 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;

(8) a professional athlete if the wager is based on a sport or athletic event overseen by the athlete’s sports governing body;

(9) an owner or employee of a team, player, umpire or sports union personnel, or employee, referee, coach, or official of a sports governing body, if the wager is based on a sporting event overseen by the person’s sports governing body. For purposes of this subdivision “owner of a team” shall mean an individual who owns ten percent or more of a team;

(10) a trustee or regent of a governing commission of a public or private institution of higher education, if the wager is based on a collegiate sporting event;

(11) a person prohibited by the rules of a governing body of a collegiate sports team, league, or association from participating in sports wagering activities;

(12) with respect to a student or an employee of a public or private institution of higher education, a person who has access to material nonpublic information concerning a student athlete or team, and the information is relevant to the outcome of a sporting event; provided, that the person is only prohibited from using the information to place a wager on a collegiate sporting event; and

(13) a person having the ability to directly affect the outcome of a sporting event.

(B) The commission may prescribe by rule additional categories of persons who are prohibited from placing a wager in this State.

(C) A person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not more than one hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, must be fined not more than five hundred dollars or imprisoned not more than thirty days; and

(3) for a third or subsequent offense, must be fined not more than one thousand dollars or imprisoned not more than ninety days. A person charged with a violation of this item must be tried exclusively in magistrates court.

Section 52‑23‑290. (A) Operators are not required to use official league data for determining:

(1) the results of tier one sports wagers on events of any organization whether headquartered in the United States or elsewhere; or

(2) the results of tier two sports wagers on events of organizations that are not headquartered in the United States.

(B) A sports governing body may notify the commission that it desires operators to use official league data to settle tier two sports wagers on covered sporting events of such sports governing body. The notification must be made in the form and manner as the commission may require. The commission shall notify each operator of a sports governing body’s notification within five days of the commission’s receipt of the notification. If a sports governing body does not notify the commission, an operator is not required to use official league data for determining the results of tier two sports wagers on covered sporting events of the sports governing body.

(C) Within sixty days of the commission notifying each operator of such a sports governing body notification to the commission, or such longer period as may be agreed between the sports governing body and the applicable operator, operators shall use only official league data to determine the results of tier two sports wagers on covered sporting events of that sports governing body, unless:

(1) the sports governing body or its designee cannot provide a feed of official league data to determine the results of a particular type of tier two sports wager, in which case operators are not required to use official league data for determining the results of the applicable tier two sports wager until such time as such a data feed becomes available from the sports governing body on commercially reasonable terms and conditions;

(2) an operator can demonstrate to the commission that the sports governing body or its designee will not provide a feed of official league data to the operator on commercially reasonable terms and conditions; or

(3) the designee of a sports governing body does not obtain a supplier license from the commission to provide official league data to operators to determine the results of tier two sports wagers, if and to the extent required by law.

(D) The following is a nonexclusive list of factors the commission may consider in evaluating whether official league data is being offered on commercially reasonable terms and conditions for purposes of items (1) and (2) of subsection (C) above:

(1) the extent to which operators have purchased the same or similar official league data on the same or similar terms, particularly in jurisdictions where such purchase was not required by law or was required by law, but only if offered on commercially reasonable terms;

(2) the nature and quantity of the official league data including, but not limited to, its speed, accuracy, reliability, and overall quality as compared to comparable nonofficial data;

(3) the quality and complexity of the process used to collect and distribute the official league data as compared to comparable nonofficial data;

(4) the availability of a sports governing body’s tier two official league data to an operator from more than one authorized source;

(5) market information including, but not limited to, price and other terms and conditions regarding the purchase by operators of comparable data for the purpose of settling sports wagers in this State and other jurisdictions; and

(6) the extent to which sports governing bodies or their designees have made data used to settle tier two sports wagers available to operators and any terms and conditions relating to the use of that data.

(E) Notwithstanding any other provision of this section, during the pendency of the commission’s determination as to whether a sports governing body or its designee will provide a feed of official league data on commercially reasonable terms, an operator is not required to use official league data for determining the results of tier two sports wagers. The commission’s determination must be made within sixty days of the operator notifying the commission that it desires to demonstrate that the sports governing body or its designee will not provide a feed of official league data to the operator on commercially reasonable terms.

(F) Any sports governing body on whose covered sporting events the commission has authorized wagering also may enter into commercial agreements with operators or other entities in which the sports governing body may share in the amount bet from sports wagering on covered sporting events of such sports governing body. A sports governing body is not required to obtain a license or any other approval from the commission to lawfully accept the amounts.

(G) All disclosures of information under this article are subject to compliance with all federal, state, and local laws and regulations, including, but not limited to, laws and regulations relating to privacy and personally identifiable information.

Section 52‑23‑300. (A) To accept wagers from bettors on sporting events issued pursuant to Section 52‑23‑250, a licensee may not:

(1) allow a minor to place a wager;

(2) offer, accept, or extend credit to a bettor;

(3) directly advertise or promote sports wagering to minors. The commission shall adopt rules specific to the manner in which a licensee may advertise its business operations as authorized by this article;

(4) offer or accept a wager on any event, outcome, or occurrence other than a sporting event or other event approved by the commission including, but not limited to, a youth sports event; or

(5) accept a wager from a person who is on the registry created and maintained by the commission pursuant to Section 52‑23‑310(C).

Section 52‑23‑310. (A) Licensees shall allow bettors to restrict themselves from placing wagers with the licensee, including limits on the time spent betting and amounts wagered, and take reasonable steps to prevent those bettors from placing these wagers. At the request of a bettor, a licensee may share the request with the commission for the sole purpose of disseminating the request to other licensees.

(B) The commission shall promulgate regulations that require a licensee to implement responsible sports wagering programs that include comprehensive training on responding to circumstances in which individuals present signs of a gambling addiction.

(C)(1) The Department of Mental Health shall use the funds distributed to the department pursuant to Section 52‑23‑230(E)(3) to oversee one or more grant programs with organizations to provide treatment services for individuals with problem gambling or a gambling disorder, and to establish prevention initiatives to reduce the number of individuals with problem gambling or a gambling disorder. The department also may use the funds distributed to the department to cover its actual administrative costs and the costs of professional services associated with overseeing each grant program.

(2) The Department of Mental Health annually shall generate a report outlining the activities of the department with respect to funding received pursuant to this article for problem gambling and gambling disorders including, but not limited to, descriptions of programs, therapies, grants, and other resources made available, the success and outcomes of using the programs, therapies, grant programs, and resources, the number of people treated, the number of people who complete programs and therapies, and the rate of recidivism, if known. The department shall file the annual report with the Governor, the President of the Senate, and the Speaker of the House of Representatives, and annually shall publish the report on its website before January first. The annual report must include an itemization of the department’s expenditures relating to administrative costs and professional services associated with its activities under this subsection.

Section 52‑23‑320. Notwithstanding any other provision of law, each wager placed in accordance with this article is considered to be an enforceable contract.

Section 52‑23‑330. (A) Each licensee shall adopt and adhere to a written, comprehensive policy outlining the house rules governing the acceptance of wagers and payouts. The policy and rules must be approved by the commission before the acceptance of a wager by a licensee. The policy and rules must be readily available to a bettor on the licensee’s website.

(B) The commission shall promulgate regulations regarding:

(1) the manner in which a licensee accepts wagers from and issues payouts to bettors; and

(2) reporting requirements for suspicious wagers.

Section 52‑23‑340. (A) A licensee annually shall report to the commission before January fifteenth:

(1) the total amount of wagers received from bettors for the immediately preceding calendar year;

(2) the adjusted gross income of the licensee for the immediately preceding calendar year; and

(3) additional information the commission considers to be in the public interest or necessary to maintain the integrity of sports wagering in this State.

(B) A licensee as soon as commercially reasonable shall report to the commission information relating to:

(1) the name of a newly elected officer or director of the commission of the licensed entity; and

(2) the acquisition by a person of ten percent or more of a class of corporate stock.

(C) With respect to information reported pursuant to subsection (B), a licensee shall include with the report a statement as to a conflict of interest that may exist as the result of the election or acquisition.

(D) Upon receiving a report pursuant to this section or Section 52‑23‑370(B), the commission may conduct a hearing in accordance with Section 52‑23‑430 to determine whether the licensee remains in compliance with this article.

Section 52‑23‑350. (A) Before placing a wager with a licensee by means of interactive sports wagering, a bettor shall register with the licensee remotely and attest that the bettor meets the requirements to place a wager with a licensee in this State. Before verification of a bettor’s identity in accordance with this section, a licensee may not allow the bettor to engage in sports wagering, make a deposit, or process a withdrawal by means of interactive sports wagering. A licensee shall implement commercially and technologically reasonable procedures to prevent access to sports wagering by minors on its interactive platforms. A licensee may use information obtained from third parties to verify that a person is authorized to open an account, place wagers, and make deposits and withdrawals.

(B) A licensee shall adopt a registration policy to ensure that all bettors using interactive sports wagering are authorized to place a wager with a licensee within this State. The policy must include, but is not limited to, a mechanism by which to:

(1) verify the name and age of the registrant;

(2) verify the registrant is not prohibited from placing a wager pursuant to Section 52‑23‑280; and

(3) obtain the following information:

(a) a physical address other than a post office box;

(b) a phone number;

(c) a unique user name; and

(d) an active email account.

(C) A licensee may require a bettor attest that the bettor is qualified to engage in sports wagering pursuant to this article as part of the registration policy of the licensee.

(D) A bettor may not register more than one account with a licensee, and a licensee shall use all commercially and technologically reasonable means to ensure that each bettor is limited to one account.

(E) A licensee, in addition to complying with state and federal law pertaining to the protection of the private, personal information of registered bettors, shall use all other commercially and technologically reasonable means to protect the information consistent with industry standards.

(F) Once a bettor account is created, a bettor only may fund the account through:

(1) electronic bank transfer of funds, including such transfers through third parties;

(2) debit and credit cards;

(3) online and mobile payment systems that support online money transfers; and

(4) other method approved by the rule of the commission.

(G)(1) Each financial transaction with respect to an account between a bettor and licensee must be confirmed by email, telephone, text message, or other means agreed upon by the account holder. A licensee shall use commercially reasonable means to independently verify the identity of the bettor making a deposit or withdrawal.

(2) If a licensee determines that the information provided by a bettor to make a deposit or process a withdrawal is inaccurate or incapable of verification or violates the policies and procedures of the licensee, the licensee shall, within ten days, require the submission of additional information that can be used to verify the identity of the bettor.

(3) If the information is not provided or does not result in verification of the bettor’s identity, and the licensee determines that the bettor is intentionally avoiding identification, the licensee immediately shall:

(a) suspend the bettor’s account and not allow the bettor to place wagers;

(b) retain any winnings attributable to the bettor;

(c) refund the balance of deposits made to the account to the source of the deposit or by issuance of a check; and

(d) deactivate the account.

(H) A licensee shall use geolocation or geofencing technology to ensure that interactive sports wagering is only available to bettors who are physically located in this State. A licensee shall maintain in this State its servers used to transmit information for purposes of accepting or paying out bets or wagers on a sporting event placed by bettors located in this State. The intermediate routing of electronic data relating to lawful intrastate sports wagers authorized pursuant to this section may not determine the location or locations in which such wager is initiated, received, or otherwise made. Nothing in this section shall prohibit the use of cloud computing.

(I) The commission shall promulgate regulations for purposes of regulating sports wagering by means of interactive sports wagering.

Section 52‑23‑360. (A) The commission has the authority to regulate the conduct of sports wagering under this chapter.

(B) The commission shall examine the regulations implemented in other states where sports wagering is conducted and, as far as practicable, shall adopt a similar regulatory framework through the adoption of rules and the promulgation of regulations. The commission shall adopt rules governing the conduct of sports wagering in the State, which must include:

(1) qualifications for obtaining a license or supplier license;

(2) qualifications for obtaining a temporary license or a temporary supplier license.

(C) The commission has the authority to adopt rules and promulgate regulations necessary for the successful implementation, administration, and enforcement of this article. Within one hundred eighty days after the effective date of this article, the commission shall adopt rules and promulgate regulations in accordance with this section, except rules and regulations proposed by the commission before such time may be adopted or promulgated as temporary rules or regulations in accordance with applicable procedures for the adoption and promulgation of temporary rules and regulations.

(D) The commission, by regulation, shall prohibit wagering on injuries, penalties, and other types or forms of wagering pursuant to this article that are contrary to public policy, unfair to consumers, or considered by the commission to violate the Constitution of the State of South Carolina, 1895.

(E) A sports governing body may submit to the commission in writing, by providing notice in such form and manner as the commission may require, a request to restrict, limit, or exclude a certain type, form or category of sports wagering with respect to covered sporting events of such body, if the sports governing body believes that such type, form, or category of sports wagering with respect to covered sporting events of such body may undermine the integrity or perceived integrity of such body or covered sporting events of such body. The commission shall request comment from operators on all such requests. After giving due consideration to all comments received, the commission shall, upon demonstration of good cause from the requestor that the type, form, or category of sports wagering is likely to undermine the integrity or perceived integrity of the body or covered sporting events of the body, grant the request. The commission shall respond to a request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, no later than seven days after the request is made. If the commission determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the commission may provisionally grant the request of the sports governing body until the commission makes a final determination as to whether the requestor has demonstrated good cause. Absent the provisional grant by the commission, sports wagering operators may continue to offer sports wagering on covered sporting events that are the subject of such a request during the pendency of the commission’s consideration of the applicable request.

Section 52‑23‑370. (A) The commission and operators shall use commercially reasonable efforts to cooperate with investigations conducted by sports governing bodies or law enforcement agencies including, but not limited to, using commercially reasonable efforts to provide or facilitate the provision of betting information.

(B)(1) Operators shall report, as soon as practical, to the commission any information relating to abnormal betting activity or patterns that may indicate a concern with the integrity of a sporting event or events, or any other conduct that corrupts a betting outcome of a sporting event or events for purposes of financial gain, including match fixing.

(2) Operators shall simultaneously report such information to the relevant sports governing body.

(C) The commission and operators shall maintain the confidentiality of information provided by a sports governing body for purposes of investigating or preventing the conduct described in Section 52‑23‑360(E), unless disclosure is required by this article, the commission, other law, or court order, or unless the sports governing body consents to disclosure.

(D) With respect to any information provided by a sports wagering operator to a sports governing body relating to conduct described in Section 52‑23‑360(E), a sports governing body:

(1) only may use such information for integrity purposes and may not use the information for any commercial or other purpose; and

(2) shall maintain the confidentiality of such information, unless disclosure is required by this article, the commission, other law, court order, or unless the sports wagering operator consents to disclosure.

(E) Operators shall maintain records of all bets and wagers placed, including personally identifiable information of the bettor, amount and type of bet, time the bet was placed, location of the bet, including IP address if applicable, the outcome of the bet, records of abnormal betting activity for three years after the sporting event occurs, and video camera recordings in the case of in‑person wagers for at least one year after the sporting event occurs, and shall make the data available for inspection upon request of the commission or as required by court order.

(F) Operators shall use commercially reasonable efforts to maintain in real time and at the account level, anonymized information regarding a bettor, amount and type of bet, the time the bet was placed, the location of the bet, including the IP address if applicable, the outcome of the bet, and records of abnormal betting activity. The commission may request such information in the form and manner as required by rule of the commission. Nothing in this section may require an operator to provide any information that is prohibited by federal, state, or local laws or regulations including, but not limited to, laws and regulations relating to privacy and personally identifiable information.

(G) If a sports governing body has notified commission that access to the information described in Section 52‑23‑370(F) for wagers placed on covered sporting events of the sports governing body is necessary to monitor the integrity of the body’s covered sporting events, and represents to the commission that it specifically uses such data for the purpose of monitoring the integrity of covered sporting events of the sports governing body, then operators shall share, in a commercially reasonable frequency, form, and manner, with the sports governing body or its designee the same information the operator is required to maintain under Section 52‑23‑370(F) with respect to sports wagers on covered sporting events of such sports governing body. Sports governing bodies and their designees only may use information received pursuant to this section for integrity monitoring purposes and may not use information received pursuant to this section for any commercial or other purpose. Nothing in this section may require an operator to provide any information that is prohibited by federal, state, or local laws or regulations including, but not limited to, laws and regulations relating to privacy and personally identifiable information.

(H) In addition to its specific rulemaking authority under this article, the commission may promulgate regulations it considers necessary to maintain the integrity of sports wagering in this State and to protect the public interest.

Section 52‑23‑380. (A) The commission shall enforce this article and supervise compliance with laws and rules relating to the regulation and control of wagering on sporting events in this State.

(B) The commission shall adopt rules and promulgate regulations to carry out the provisions of this chapter.

Section 52‑23‑390. (A) The commission shall prepare and submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives containing:

(1) the number of active licensees;

(2) the aggregate gross and adjusted gross sports wagering receipts of all licensees; and

(3) the financial impact on this State and local governments as the result of the sports wagering industry in this State.

(B) The report prepared under subsection (A) annually must be submitted before September thirtieth. A report submitted under subsection (A) may be submitted electronically.

Section 52‑23‑400. The commission shall prescribe by regulation:

(1) minimum requirements by which each licensee must exercise effective control over its internal fiscal affairs including, without limitation, requirements for:

(a) safeguarding assets and revenues, including evidence of indebtedness;

(b) maintenance of reliable records relating to accounts, transactions, profits and losses, operations, and events; and

(c) global risk management;

(2) requirements for internal and independent audits of licensees;

(3) the manner in which periodic financial reports must be submitted to the commission from each licensee, including the financial information to be included in the reports;

(4) the type of information deemed to be confidential, financial, or proprietary information that is not subject to the reporting requirements of this article;

(5) policies, procedures, and processes designed to mitigate the risk of cheating and money laundering; and

(6) postemployment restrictions necessary to maintain the integrity of sports wagering in this State.

Section 52‑23‑410. The commission may promulgate regulations prescribing the manner in which a license may be transferred and a fee for the transfer of the license.

Section 52‑23‑420. Members of the commission or designated employees or agents of the commission may, during normal business hours, enter the premises of a facility of a licensee or a third party used by the licensee to operate and conduct business in accordance with this article for the purpose of inspecting books and records kept as required by this article, to ensure that the licensee is in compliance with this article, or to make another inspection of the premises necessary to protect the interests of this State and its consumers.

Section 52‑23‑430. (A) The commission may investigate and conduct a hearing with respect to a licensee upon information and belief that the licensee has violated this article, or upon the receipt of a credible complaint from a person that a licensee has violated this article. The commission shall conduct investigations and hearings in accordance with rules adopted by the commission.

(B) If the commission determines that a licensee has violated a provision of this article or rule of the commission, the commission may:

(1) suspend, revoke, or refuse to renew a license; and

(2) for a violation by a licensee, impose an administrative fine not to exceed twenty‑five thousand dollars for each violation.

(C) Except as provided in Section 52‑23‑440, the commission shall promulgate regulations establishing a schedule of administrative fines that may be assessed in accordance with subsection (B) for each violation of this article.

(D) Fines assessed under this section must be accounted for separately for use by the commission in a manner consistent with rules of the commission.

(E) The commission may issue subpoenas to compel the attendance of witnesses and the production of relevant books, accounts, records, and documents for purposes of carrying out its duties under this article.

Section 52‑23‑440. (A) The commission, using security personnel of the commission, shall conduct investigations to determine whether:

(1) a licensee is accepting wagers from minors or other persons ineligible to place wagers in this State; and

(2) a person is unlawfully accepting wagers from another person without a license or at a location in violation of this article.

(B) After a hearing pursuant to Section 52‑23‑450, if the commission finds that:

(1) a licensee is accepting wagers from minors or other persons ineligible to place wagers in this State, the commission shall impose a fine against the licensee in the following amount:

(a) for a first offense, one thousand dollars;

(b) for a second offense, two thousand dollars; and

(c) for a third or subsequent offense, five thousand dollars;

and

(2) a person is unlawfully accepting wagers from another person without a license, the commission shall impose a fine against the person in the following amount:

(a) for a first offense, ten thousand dollars;

(b) for a second offense, fifteen thousand dollars; and

(c) for a third or subsequent offense, twenty‑five thousand dollars.

(C) This section does not prohibit the commission from suspending, revoking, or refusing to renew the license of a licensee in accordance with Section 52‑23‑430.

Section 52‑23‑450. (A) A licensee or other person aggrieved by a final action of the commission may appeal that decision to the Administrative Law Court pursuant to the Administrative Procedures Act.

(B) The Administrative Law Court shall hear appeals from decisions of the commission and, based upon the record of the proceedings before the commission, may reverse the decision of the commission only if the appellant proves the decision to be:

(1) clearly erroneous;

(2) arbitrary and capricious;

(3) procured by fraud;

(4) a result of substantial misconduct by the commission; or

(5) contrary to the United States Constitution, the Constitution of the State of South Carolina, 1895, or this article.

(C) The Administrative Law Court may remand an appeal to the commission to conduct further hearings.

Section 52‑23‑460. (A) A licensee or other person who violates this article is liable for a civil penalty of not more than five thousand dollars for each violation, not to exceed fifty thousand dollars for violations arising out of the same transaction or occurrence, which must accrue to the commission and may be recovered in a civil action brought by the Office of Attorney General in the name of the commission.

(B) The Attorney General may seek and obtain an injunction in a court of competent jurisdiction for purposes of enforcing this article.

(C) Costs may not be taxed against the Attorney General or this State for an action brought under this section.

Section 52‑23‑470. (A) It is unlawful for a person or entity, directly or indirectly, to knowingly receive, supply, broadcast, display, or otherwise transmit material nonpublic information for the purpose of wagering on a sporting event or influencing another person’s or entity’s wager on a sporting event.

(B) This section does not apply to the dissemination of public information as news, entertainment, or advertising.

(C) A person who violates this section is guilty of a misdemeanor and, upon conviction, for a first offense, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

Article 3

Equine and Sports Wagering Commission Sports Wagering Advisory Council

Section 52‑23‑500. (A) There is created the “Equine and Sports Wagering Commission Sports Wagering Advisory Council” to assist the commission with sports wagering activities.

(B) The council is composed of nine members. Three members must be appointed by the Governor, three members must be appointed by the President of the Senate, and three members must be appointed by the Speaker of the House of Representatives.

(C) Before the appointment of a member to the council, the appointing authority shall submit the name of the potential member to SLED, which shall conduct a criminal records check on the potential member. SLED may contract with any other law enforcement agency to assist in the investigation. The potential member shall supply a set of fingerprints upon request and in the manner requested by the investigating entity.

(D) The term of each member begins on July first. For purposes of staggering the terms of the council:

(1) one member from each of the appointees is appointed for an initial term of four years;

(2) one member from each of the appointees is appointed for initial terms of three years; and

(3) one member from each of the appointees is appointed for initial terms of two years.

(E) After the initial terms, the term of an appointed or reappointed member is four years.

(F) Notwithstanding the provisions of subsection (E), at the end of the member’s term, the member continues to serve until his successor is appointed and qualified.

(G)(1) Each member of the council must:

(a) be a citizen of the United States;

(b) be, and remain, a resident of this State; and

(c) possess and demonstrate honesty, integrity, and good character.

(2) A person is not eligible for appointment to the council if the person:

(a) holds an elective office in state government;

(b) is an officer or official of a political party;

(c) has a direct pecuniary interest in the sports wagering or gaming industry;

(d) has been convicted of a felony;

(e) has been convicted of a misdemeanor involving gambling, theft, computer‑related offenses, forgery, perjury, dishonesty, or unlawfully selling or providing a product or substance to a minor;

(f) has been convicted of a violation under this chapter; or

(g) has been convicted of an offense in a federal court, military court, or court of another state, territory, or jurisdiction that under the laws of this State would disqualify him pursuant to items (d), (e), or (f).

(H) In making appointments to the council, the appointing authorities shall strive to ensure that the council membership is diverse in educational background, ethnicity, race, gender, and geographic residency and has experience in:

(1) the sports industry;

(2) accounting; and

(3) law enforcement.

(I) A vacancy on the council must be filled for the balance of the unexpired term in the same manner as the original appointment.

(J) Five members of the council constitute a quorum for the purposes of voting and conducting the business of the council.

(K) The council shall elect a chair from among its membership. The chair shall serve in that capacity for one year and is eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of other members.

(L) The council shall meet no less than quarterly, and may hold additional regular and special meetings at the call of the commission.

(M) The members must be reimbursed for per diem and travel expenses as provided for commissions and boards.

(N) The council shall advise the commission of best practices with respect to sports wagering.

(O)(1) The council shall appoint an executive director. The Equine and Sports Wagering Commission shall provide staff necessary to carry out the provisions of this chapter.

(2) The council shall keep and maintain the revenues for sports wagering and equine wagering in separate accounts and distribute funds in accordance with this chapter.

(3) The council shall appoint and provide for the compensation of an executive director which may not be based upon or a function of profitability or percentage of sales. The executive director must be an employee of the commission who directs the day‑to‑day operations and management of the commission and is vested with powers and duties specified by the board and by law. The executive director serves at the pleasure of the board.

(4) The council shall hire and provide for the compensation of an internal auditor and necessary staff who may be employees of the commission and who are vested with the powers and duties specified by the council and by law. The internal auditor shall report directly to the council.

(5) The executive director of the commission shall direct and supervise all administrative and technical activities as provided for in this chapter, regulations promulgated pursuant to the Administrative Procedures Act, and policies and procedures adopted by the council. It is the duty of the executive director to employ and direct necessary personnel, employ by contract and compensate necessary persons and firms, except that the contract must not be with an entity for the purpose of having that entity undertake the organization and conduct of the commission, prepare a budget for the approval of the board, report monthly to the board a full and complete statement of revenues and expenses for the preceding six months, and perform other duties as provided for in this chapter and assigned to the executive director by the council.

(6) The executive director may not contribute to or make independent expenditures relative to the campaign of a candidate for the General Assembly or a statewide constitutional office; to a political party, as defined in Section 8‑13‑1300(26), or to a committee, as defined in Section 8‑13‑1300(6). An executive director who violates this section must be summarily dismissed.

Section 52‑23‑510. A member of the council may be removed from the council by the appointing authority if, in the opinion of the appointing authority, the member has committed misfeasance or malfeasance in office or neglect of duty.

Section 52‑23‑520. (A) There is created the “Equine Subcommittee” (subcommittee) within the Equine and Sports Wagering Commission Sports Wagering Advisory council.

(B) The subcommittee is composed of five members, two members appointed by the Speaker of the House of Representatives, two members appointed by the President of the Senate, and one member appointed by the Governor. The five members must be members of the equine industry. The commission shall hire a director of Equine Advancement with the advice and consent of the subcommittee. The director must be an employee of the commission and report to the executive director. The director is responsible for carrying out the duties and responsibility of Article 5 as well as any other duties provided by the council or subcommittee.

(C) Subcommittee members shall serve for terms of four years and until their successors are appointed and qualify with the term of office beginning on July first of the appropriate year. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term. Members shall serve without compensation, but are allowed mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions.

(D) In addition to the powers contained elsewhere in this chapter, the subcommittee, or at the direction of the subcommittee, the director of Equine Advancement, has all power necessary, useful, or appropriate to fund, operate, and administer the subcommittee and to perform its other functions including, but not limited to, the power to:

(1) have perpetual succession;

(2) adopt, promulgate, amend, and repeal bylaws not inconsistent with provisions in this chapter for the administration of the subcommittee’s affairs and the implementation of its functions, including the right of the subcommittee to select qualifying grants and to provide other financial assistance;

(3) sue and be sued in its own name;

(4) have a seal and alter it at its pleasure, although the failure to affix the seal does not affect the validity of an instrument executed on behalf of the subcommittee;

(5) license for use in this State horse racing‑related advance deposit wagering applications and to collect licensing fees;

(6) make grants to qualified recipients to finance the eligible costs of qualified projects;

(7) expend funds to obtain accounting, management, legal, and financial consulting, and other professional services necessary to the operations of the subcommittee;

(8) expend funds appropriated to the subcommittee as the subcommittee determines necessary for the costs of administering the subcommittee’s operations;

(9) establish advisory committees as the subcommittee determines appropriate, which may include individuals from the private sector with relevant expertise;

(10) collect fees and charges in connection with the use of a licensed horse racing‑related advance deposit application;

(11) enter into contracts or agreements related to providing grants and other financial assistance;

(12) approve takeout rates as may be requested by the ADW licensee; and

(13) perform all other responsibilities necessary or convenient to exercise powers granted or reasonably implied by this chapter.

(E) The council shall provide such administrative support to the subcommittee or any of its divisions or components as the subcommittee may request and require in the performance of their duties including, but not limited to, financial management, human resources management, information technology, procurement services, and logistical support.

(F) The subcommittee shall approve any equine‑related licenses required by this chapter.

Article 5

Equine Advancement

Section 52‑23‑600. This article may be referred to and cited as the "South Carolina Equine Advancement Act". This article is enacted to benefit South Carolina and its residents through the improvement and development of South Carolina's equine‑related agriculture, business, and recreation.

Section 52‑23‑610. As used in this article, unless the context clearly indicates otherwise:

(1) “Application” means a program or piece of software designed and written to fulfill a particular purpose of the user through a computer or mobile electronic device.

(2) “Subcommittee” means the equine subcommittee within the Equine and Sports Wagering Commission Sports Wagering Advisory Council.

(3) “Mobile electronic device” means a cellular telephone, portable computer, GPS receiver, electronic game, or any substantially similar stand‑alone electronic device used to communicate, display, or record digital content.

(4) “Pari‑mutuel wagering” means the system of wagering on horse races in which those who wager on horses that finish in the position or positions for which wagers are taken share in the total amounts wagered, plus any amounts provided by a licensee, less deductions required or permitted by law, and includes pari‑mutuel wagering on races conducted at any licensed pari‑mutuel facility.

(5) “Advance deposit account wagering” means a method of pari‑mutuel wagering in which an individual may establish an account with an entity licensed by the subcommittee to place pari‑mutuel wagers electronically through an application.

(6) “ADW licensee” means any person or entity licensed by the subcommittee to conduct advanced deposit account wagering in this State.

(7) “ADW licensee's earnings” means the licensee's gross receipts from takeout on advance deposit account wagering minus fees required to be paid by the licensee to offer the races for wagering.

(8) “Takeout” means the total amount of money withheld from each pari‑mutuel pool as authorized by this chapter or regulation promulgated pursuant to this chapter.

Section 52‑23‑620. (A) No person shall operate a pari‑mutuel wagering application in this State unless he has obtained an ADW license issued by the subcommittee in accordance with the provisions of this article. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars, imprisoned for not more than one year, or both. Each wager accepted on an application in violation of this section constitutes a separate offense. Furthermore, following a conviction of a violation of this section, the person convicted is not eligible for a license pursuant to this article.

(B) Pari‑mutuel wagering on horse races is unlawful unless the pari‑mutuel wagering occurs through an advance deposit wagering application maintained by an ADW licensee. Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned for not more than one year, or both.

Section 52‑23‑630. (A) Any person desiring to offer application‑based pari‑mutuel wagering in this State shall file with the subcommittee an application for an ADW license. The application must be filed at the time and place prescribed by the subcommittee and must be in the form and contain the information prescribed by the subcommittee including, but not limited to:

(1) the name and address of the person; if a corporation or company, the state of its incorporation or organization, the full name and address of each officer and director thereof, and, if a foreign corporation or company, whether it is qualified to do business in this State; if a partnership or joint venture, the name and address of each officer of the partnership or joint venture;

(2) the name and address of each stockholder or member of the corporation or company constituting a majority of the share or membership or each partner of the partnership or joint venture and of each person who has contracted for a pecuniary interest in the applicant that individually or collectively constitute majority ownership;

(3) additional information that the subcommittee considers to be appropriate regarding the character, background, and responsibility of the applicant and the members, partners, stockholders, officers, and directors of the applicant;

(4) a description of the application through which wagers will be accepted and processed;

(5) information relating to the financial responsibility of the applicant as the subcommittee considers to be appropriate;

(6) a business plan with a statement of expected benefit to the State, its residents, and its horse‑related agribusiness. The business plan and statement must be considered by the subcommittee in determining whether, in the subcommittee’s opinion and sole discretion, an applicant's plan sufficiently achieves the objectives of this chapter as stated in Section 52‑23‑300 to qualify for licensing including, but not limited to, whether the applicant's plan would contribute to the financial betterment and improvement of:

(a) the State through tax or fee, or both, payments, economic impact, and job creation;

(b) the state's horse breeding incentive programs;

(c) the state's horse training centers; and

(d) equine‑related instruction including, but not limited to, veterinarians, equine business operations, youth development, and mentoring conducted by academic institutions, and other organizations; and

(7) any other information which the subcommittee in its discretion considers to be appropriate.

(B) The subcommittee may grant a license to an applicant to operate pari‑mutuel wagering on horse races through an application for a duration not to exceed ten years.

(C) The subcommittee shall review each license annually to ensure that each licensee is acting in accordance with applicable laws and regulations and in a manner consistent with the original issuance of the license. A licensee who is not acting in accordance with applicable laws and regulations, or in a manner inconsistent with the original issuance of his license, is subject to suspension or revocation of his license at the subcommittee’s discretion.

(D) The subcommittee shall set and collect a license application fee equal to ten percent of the applicant's projected ADW licensee's earnings in the State during the first full year of operations. Thereafter, the subcommittee shall collect an annual fee from each ADW licensee equal to ten percent of the ADW licensee's earnings in the State during the previous twelve months. The annual fee shall be paid within four calendar weeks of the end of the ADW licensee's fiscal or calendar year. The ADW licensee shall designate whether he is paying on a fiscal‑year or calendar‑year basis at the time that his license is issued.

(E) The subcommittee may not issue more than a total of three licenses. The subcommittee may issue additional ADW licenses to any applicant entity conducting live horse‑racing events in the State for the sole purpose of conducting wagering on such live South Carolina‑based events through its own application.

Section 52‑23‑640. The subcommittee may retain up to five percent of the application and annual license fees collected for the subcommittee’s expenses. The remainder of the fees collected shall be credited to the Equine Industry Development Fund.

Section 52‑23‑650. (A) There is established in the State Treasury the “Equine Industry Development Fund”. This fund is separate and distinct from the general fund of the State and all other funds. The fund shall consist of fees collected pursuant to Section 52-23-630(D) less those amounts retained by the subcommittee pursuant to Section 52-23-640 and donations, contributions, bequests, or other gifts. The purpose of the fund is to provide grants to promote and improve the equine industry in the State. Earnings and interest on this fund must be credited to it and any balance at the end of a fiscal year will carry forward to the fund in the succeeding fiscal year.

(B) The subcommittee shall establish a grant program utilizing funds in the Equine Industry Development Fund to promote and improve the equine industry in this State. No later than twelve months after this chapter is effective, the subcommittee shall promulgate regulations establishing the grant program. The regulations, at a minimum, shall establish the criteria to qualify for grants and shall set forth the procedures for applying for grants. The subcommittee may require any information of the grant applicant that is necessary to properly evaluate the grant proposal.

Section 52‑23‑660. The subcommittee is performing an essential governmental function in the exercise of the powers conferred upon it and is not required to pay taxes or assessments upon property or upon its operations or the income from them or taxes or assessments upon property or loan obligations acquired or used by the subcommittee or upon the income from them.

Section 52‑23‑670. Neither the subcommittee nor any officer, employee, or committee of the subcommittee acting on behalf of it, while acting within the scope of its authority, is subject to any liability resulting from carrying out any of the powers given in this chapter and is absolutely immune from actions or inactions within the scope of their authority.

Section 52‑23‑680. Following the close of each state fiscal year, the subcommittee shall submit an annual report of its activities for the preceding year to the Governor and to the General Assembly.

SECTION 3. Chapter 19, Title 16 of the S.C. Code is amended by adding:

Section 16‑19‑135. A person who engages in sports wagering or fantasy sports contests as defined in Article 1, Chapter 23, Title 52 is not in violation of Section 16‑19‑130.

SECTION 4. This act takes effect upon approval by the Governor.

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