

RESPONSES TO COMMENTS TO WV LOTTERY SPORTS WAGERING RULE			
	COMMENT	ACTION TAKEN	WV Lottery Recommendation
1	DN Comment 1 §179-9-2.18. Requests amended definition of "sports pool" to read "on premises" for authorized areas.	Instead of adding "on premise," made clarification to definition by adding the word "casino" so as to read "authorized casino areas" in order to comply with applicable legal requirements for gaming. See revisions set forth in §179-9-2.24.	Adopt action taken in §179-9-2.24.
2	DN Comment 2 and PN Comment 1 §179-9-2.15. Requests amending the definition of "prohibited sports pool participant" to mirror existing policy with Table Games law and policy to prohibit employee wagering at the casino where the employee is employed but allow such employees to place wagers at other casinos in the state.	Made several changes clarifying the definition of "prohibited sports pool participant" as set forth in §179-9-2.21. Language was added to make it clear that prohibited participants are (i) those who are self-excluded and those placed on an exclusion list by the Commission or a particular casino; (ii) employees of a casino licensee or casino who attempts to place a wager at the casino where the employee is employed; and (iii) any employee of a sports pool operator who attempts to place a wager with the operator that employs such employee.	Adopt action taken in §179-9-2.21.
3	DN Comment 3 and PN Comment 2 §179-9-2.27. Requests clarification of the definition of a "temporary sports pool facility" as to whether this rule is meant to mandate that a temporary facility use an existing cage as a location to place wagers, or just permit it. It is also requested to clarify the other options available to the licensee to set up other temporary locations for non-self-serve wagering machines at the casino.	The word "may" was added to definition to clarify that on a temporary basis, sports event wagers may be made at the current cage as noted in the section or at any self-service wagering machine located at the casino. See §179-9-2.36.	Adopt action taken in §179-9-2.36.
4	DN Comment 4 and PN Comment 3 §179-9-6.14. Requests refinement of the rule in order to avoid a patron from placing a wager, changing their mind about the wager, and using the self-exclusion regulation to get a refund.	Amended §179-9-6.14. to reflect that a casino's internal controls shall govern when any cancellation or refund is given with respect to self-exclusion.	Adopt action taken in §179-9-6.14
5	DN Comment 5 and PN Comment 4 §179-9-9.1 Request that language be adjusted to say "on premise kiosks" for wagering transaction.	Amended §179-9-9.1 to clarify location as "located at the casino or in the casino hotel complex."	Adopt action taken in §179-9-9.1.

6	DN Comment 6 and PN Comment 5 §179-9-9.2. Requests a change to allow a more flexible kiosk drop schedule that would coincide with business traffic demand.	Added definition of "sports pool kiosk" and retained requirement at §179-9-9.2 that sports kiosk drops must be performed on a daily basis to maintain security and reporting obligations.	Adopt action by defining "sports pool kiosk" at §179-9-2.26; retain requirement of daily sports kiosk drops.
7	DN Comment 7 and PN Comment 6 §179-9-12.1. Requests that language be adopted reducing from three to one the number of branded online sports pool websites and accompanying mobile applications that may be provided by each casino.	No change made in order to maximize potential revenue to the State and provide casinos the flexibility to use multiple branded online sports pool websites and accompanying applications.	Decline requested change.
8	DN Comment 8 and PN Comment 7 §179-9-12.2. Requests that sports pool intermediaries "prominently" display the casino licensee name/brand with which it is affiliated.	No change. The term "conspicuously" adequately addresses the concern of a "prominent" display.	Decline requested change.
9	DN Comment 9 and PN Comment 8 §179-9-15. Requests that Geolocation requirements speak in terms of placing a wager rather than accessing the system because sports wager operations typically do not verify a patron's location until the patron attempts to make a wager. This change will permit patrons to access the system to check their account balance regardless of location.	Adopted recommended change. Patrons will be permitted to access the system for non-wagering activity; the geolocation requirements will be enforced only when a patron places a wager.	Adopt action taken in §179-9-15.
10	LEAG Comment 1 §179-9-2.9. Requests a definition of "official league data."	Definition not added because it is not needed.	Decline requested change.
11	LEAG Comment 2 §179-9-2.19. Requests a definition of "sports governing body."	Definition not added because it is not needed.	Decline requested change.
12	LEAG Comment 3 §179-9-2.30. Requests a definition of "tier one sports wager."	Definition not added because it is not needed.	Decline requested change.
13	LEAG Comment 4 §179-9-2.31. Requests a definition of "tier two sports wager."	Definition not added because it is not needed.	Decline requested change.

<p>14 LEAG Comment 5 §179-9-4.10 Requests the addition of a section entitled "Sports Wagering Integrity; Confidential Information," which defines a sports pool operator's acquisition and use of sports "data" regarding statistics, results, and other data relating to sporting events; requires the use of "official league data" from the relevant sports governing body if available on "commercially reasonable terms"; and limits the use of "unofficial data" obtained from other sources.</p>	<p>No change. At this stage in the development of the West Virginia sports wagering system, the Lottery Commission declines to intervene in the negotiations between private business entities.</p>	<p>Decline requested change.</p>
<p>15 LEAG Comment 6 §§179-9-4.2 thru -4.4, -4.8, -4.9, and -4.11. Requests the addition of language that requires casino operators to monitor for and immediately report to the Lottery Commission and the relevant sports governing authority any potential breach of the governing body's internal rules and codes of conduct; and requiring the Commission and casinos to cooperate with investigations regarding unusual or suspicious activities.</p>	<p>No change. The requested change is overly expansive and unduly burdensome. The relevant sports governing bodies are responsible for overseeing professional sports and enforcing their internal rules and codes of conduct. The proposal would shift much of this burden to the Lottery Commission and casino operators. Once information is shared with a sports governing body, it is the responsibility of the governing body to determine if there has been a violation of its internal rules or codes of conduct. The Sports Wagering Act, at §29-22-12, and the proposed Sports Wagering Rule, at §179-9-4, require casino operators to maintain monitoring systems and software to identify unusual and suspicious activities; share information regarding such activities with all other casinos operators and the Commission; and share such information with any accredited regulatory agency or accredited sports integrity entity, as approved by the Commission. The specific reporting requirements shall be designated by the Commission in its Minimum Internal Control Standards. A specific rule requiring cooperation with investigations is unnecessary in light of the shared commitment to ensure the integrity of sports wagering in West Virginia, the agreement to share relevant information regarding unusual and/or suspicious activity, and §29-22D-18 of the Act regarding cooperation with the West Virginia State Police</p>	<p>Decline requested change.</p>

16	<p>LEAG Comment 7 §179-9-4.7. Requests the addition of language enabling a sports governing body to request that the Lottery Commission "restrict, limit, or exclude" the sources of data and associated video upon which a casino operator may rely in offering and paying wagers, and also restrict, limit, or exclude the types of bets that may be offered by a casino operator; limit the Commission's ability to deny such a request to a finding that a request is "arbitrary and capricious"; and give the body requesting the limitation the right to request an administrative hearing and submit evidence that its request is not arbitrary and capricious.</p>	<p>No change. Casino operators are required by §179-9-7 of the proposed Sports Wagering Rule to obtain approval from the Lottery Commission before accepting wager on a certain category of wagering event or certain type of wager. The requested changes (i) have the potential to discourage players from abandoning "black-market" wagering by restricting wagers that are available at regulated casinos; (ii) dilute the Commission's authority by permitting a third party to restrict certain wagering activity unless the Commission finds a requested restriction to be arbitrary and capricious; and (iii) will unnecessarily burden the Commission by requiring it to act as a quasi-judicial body required to hold hearings on a third party's request to restrict wagering activity. At this stage in the development of the West Virginia sports wagering system, the Lottery Commission declines to dilute its authority to regulate the wagering activities at licensed casinos or commit itself to convening administrative hearings regarding appropriate wagering activities.</p>	Decline requested change.
17	<p>LEAG Comment 8 §179-9-7. Requests the insertion of "and such wager has not been prohibited by the relevant sports governing body pursuant to section 4.7 of this rule."</p>	<p>No change. The request is unnecessary because the request to add §179-9-4.7 to the proposed rule has been denied (see LEAG Comment 7)</p>	Decline requested change.

From: Schippers, Eric <Eric.Schippers@pngaming.com>
Sent: Sunday, June 24, 2018 10:12 PM
To: Danielle E. Boyd; Alan Larrick
Cc: Saunders, Scott; Finamore, John; Donaghue, Frank; John Cavacini; Kimberly Florence; Jack McNeill; glennocarano@eldoradoresorts.com
Subject: Comments to Sports Wagering Rules from Hollywood Casino at Charles Town Races
Attachments: Comments from Hollywood Charles Town on Sports Betting Regs.docx

Alan and Danielle,

Thank you again for your willingness to consider our feedback on the proposed Sports Wagering Rules (please see our formal comments attached). I also want to reiterate our thankfulness for all your hard work in preparation for the launch of sports betting in West Virginia. We'd be happy to jump on a call to discuss any of the items in our attachment further with you.

All the best,

Eric

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Comments to West Virginia Lottery Sports Wagering Rules from Wheeling Island
Hotel-Casino-Racetrack & Mardi Gras Casino & Resort

Regulation: Terms - §179-9-2

12.18 "Sports pool" means the business of accepting wagers on any sports event by any system or method of wagering by the casino licensee or its sports pool intermediary. On site at the casino or other authorized areas approved for the casino to accept wagers.

Comment: We would request that the language be adjusted to say, "on premise" for authorized areas.

Regulation: Employee Wagering - §179-9-2.15, "Prohibited sports pool participant" means any individual who is prohibited pursuant to any self-exclusion or casino exclusion list, any individual whose participation may undermine the integrity of the wagering or the sports event or for other good cause, including but not limited to, any individual placing a wager as an agent or a proxy, and any employee of the Lottery Commission or a licensed sports pool operator as provided in W.Va. Code §§ 29-22D-1 et seq."

Comment: We are in favor of mirroring our existing employee wagering structure of prohibiting employees from playing at the casino they work at, but allowing employees to participate in sports wagering at another casino in the state.

Regulation: Temporary Sports Pool Facility - §179-9-2.27 "Temporary sports pool facility" means an area approved by the lottery for use in sports pool operations during the construction of a sports pool lounge and include the utilization of designated windows at the current casino cage for purposes of placing sports betting wagers and also includes self-service wagering machines located at the casino or the casino hotel complex.

Comment: We want to ensure we understand the interpretation of this rule, in which we can utilize a casino cage for the purposes of placing sports betting wagers, but that we can also use another location designated for sports betting not at the casino cage, approved by the lottery.

Regulation: Self-Exclusion - §179-9-6.14 "In the event a patron has a pending sports pool wager and then self-excludes, the wager shall be cancelled and the funds returned to the patron according to the casino licensee's internal controls."

Comment: We would request that the rule be refined to avoid a player from placing a future bet, changing their mind about the bet, and using the self-exclusion regulation to get a refund of their money.

Regulation: Sports Wagering Kiosks and "Approved Locations" - §179-9-9.1

"The casino licensee or its sports pool intermediary may utilize sports pool kiosks for wagering transactions in conjunction with an approved sports pool system in a location approved by the lottery Director."

Comment: We would request that the language be adjusted to say, "On premise kiosks" for wagering transactions.

Regulation: Sports Wagering Kiosks - §179-9-9.2 "On a daily basis, an operator of a sports pool shall remove the bill validator boxes in the sports pool kiosks (the sports pool kiosk drop). The sports pool kiosk drop shall be monitored and recorded by surveillance. The casino licensee shall submit the sports pool kiosk drop schedule to the lottery Director."

Comment: We would request adjusting the drop language to allow the flexibility to offer a drop schedule that meets the demands of the business traffic, so it could occur several times per week, instead of daily.

Regulation: Limitations on Licensed Operators - §179-9-12

12.1 Each casino licensee, in its discretion, may provide no more than three individually branded online sports pool websites and accompanying mobile applications.

12.2 Any individually branded online sports pool website/mobile application provided by a sports pool intermediary must, on its webpage, conspicuously bear the name of the casino licensee with which it is affiliated.

Comment: We would request the language of "no more than 3 individually branded online sports pool websites and accompanying mobile applications" be adjusted to say "no more than 1 individually branded online sports pool websites and accompanying mobile applications", with the interpretation that the licensed casino operators are the 1 individually branded website/mobile applications.

Additionally, we would request the sports pool intermediaries "prominently" display the casino licensee name/brand with which it is affiliated. For example, Greenbrier powered by Twinspires.

Regulation: Geolocation Requirement - §179-9-15.1 "In order to prevent unauthorized use of a online sports pool system, the casino licensee or sports pool intermediary must utilize a Geolocation System to reasonably detect the physical location of a player attempting to access

the online sports pool system; and to monitor and block unauthorized attempts to access the online sports pool system.

§179-9-15.2: "The Geolocation System shall ensure that any player is continually located within the permitted boundary, and shall be equipped to dynamically monitor the player's location and block unauthorized attempts to access the online sports pool system throughout the duration of the patron session."

Comment:

We would request the geolocation language be adjusted to allow players the ability to access the mobile app for non-wager functionality (ie account information, balances) from either inside or outside the West Virginia state borders, however restrict mobile app access when a player attempts to make a wager outside of West Virginia state borders.

From: Kimberly Florence <KFlorence@delawarenorth.com>
Sent: Monday, June 25, 2018 5:37 PM
To: Schippers, Eric; Danielle E. Boyd; Alan Larrick
Cc: Saunders, Scott; Finamore, John; Donaghue, Frank; John Cavacini; Jack McNeill; glennarano@eldoradoresorts.com
Subject: RE: Comments to Sports Wagering Rules from Hollywood Casino at Charles Town Races
Attachments: Comments from Wheeling_Mardi Gras on Sports Betting Regs.6.25.18.docx

Danielle,
Attached are comments on Sports Wagering Rules for Wheeling Island and Mardi Gras. I used the same page format as Hollywood for ease of read.

Thank you again for all the time and effort the Lottery has committed to launching sports betting in West Virginia.

Please let me know if you have any questions, thank you!

Kim Florence
Regional President & General Manager

Delaware North at Wheeling Island Hotel-Casino-Racetrack
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From: Schippers, Eric [<mailto:eric.schippers@dogwinning.com>]
Sent: Sunday, June 24, 2018 10:12 PM

To: Danielle E. Boyd <DBoyd@wvlottery.com>; Alarrick <alarrick@wvlottery.com>;
Car Saunders, Scott <Scott.Saunders@dogwinning.com>; Finamore, John <John.Finamore@dogwinning.com>; Donaghue, Frank <Frank.Donaghue@dogwinning.com>; John Cavacini <JohnCavacini@msd.com>; Kimberly Florence <KFlorence@delawarenorth.com>; Jack McNeill <JackMcNeill@delawarenorth.com>; glennarano@eldoradoresorts.com
Subject: Comments to Sports Wagering Rules from Hollywood Casino at Charles Town Races

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Alan and Danielle,

Thank you again for your willingness to consider our feedback on the proposed Sports Wagering Rules (please see our formal comments attached). I also want to reiterate our thankfulness for all your hard work in preparation for the launch of sports betting in West Virginia. We'd be happy to jump on a call to discuss any of the items in our attachment further with you.

All the best,
Eric

Eric Schippers
Senior Vice President
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Comments to West Virginia Lottery Sports Wagering Rules from Hollywood
Casino at Charles Town Races

Regulation: Employee Wagering - §179-9-2.15 "Prohibited sports pool participant" means any individual who is prohibited pursuant to any self-exclusion or casino exclusion list, any individual whose participation may undermine the integrity of the wagering or the sports event or for other good cause, including but not limited to, any individual placing a wager as an agent or a proxy, and any employee of the Lottery Commission or a licensed sports pool operator as provided in W.Va. Code §5 29-22D-1 et seq."

Comment: We question whether this definition will prohibit employees of one licensed casino from placing a sports betting wager at another licensed casino in the state. We are hoping that Lottery will follow a similar policy as it applies to our employees being prohibited from playing slot machines or table games at the location at which they work but they're able to play at other casinos in the state.

Regulation: Temporary Sports Pool Facility - §179-9-2.27 "Temporary sports pool facility" means an area approved by the Lottery for use in sports pool operations during the construction of a sports pool lounge and include the utilization of designated windows at the current casino cage for purposes of placing sports betting wagers and also includes self-service wagering machines located at the casino or the casino hotel complex.

Comment: We question whether this rule is meant to be a mandate that a temporary facility must use existing cage windows as the location for non-self-service bets, or just permits it. We'd like to better understand what options are available to us to set up other locations for non-self-service bets at the casino.

Regulation: Self-Exclusion - §179-9-6.14 "In the event a patron has a pending sports pool wager and then self-excludes, the wager shall be cancelled and the funds returned to the patron according to the casino licensee's internal controls."

Comment: While surely not the intent, as written this rule could allow for someone to place a large bet on a future, such as a team winning the Super Bowl, and if it looks like that team isn't even going to make the play-offs, they could self-exclude to get their money back.

Regulation: Sports Wagering Kiosks and "Approved Locations" - §179-9-9.1

"The casino licensee or its sports pool intermediary may utilize sports pool kiosks for wagering transactions in conjunction with an approved sports pool system in a location approved by the Lottery Director."

Comment: This appears to allow for intermediary operators to utilize kiosks in any location approved by the Lottery Director. We would request that the rule be amended to restrict all kiosks to locations "within a casino," so as to expressly prohibit the use of kiosks in any satellite locations, such as off-site bars and taverns, etc.

Regulation: Sports Wagering Kiosks - §179-9-9.2 "On a daily basis, an operator of a sports pool shall remove the bill validator boxes in the sports pool kiosks (the sports pool kiosk drop). The sports pool kiosk drop shall be monitored and recorded by surveillance. The casino licensee shall submit the sports pool kiosk drop schedule to the Lottery Director."

Comment: Typical internal controls for sports wagering operations require a weekly drop, or in peak periods, the drop may occur several times per week, but we believe a daily drop requirement is unnecessary and overburdensome.

Regulation: Limitations on Licensed Operators - §179-9-12

12.1 Each casino licensee, in its discretion, may provide no more than three individually branded online sports pool websites and accompanying mobile applications.

12.2 Any individually branded online sports pool website/mobile application provided by a sports pool intermediary must, on its webpage, conspicuously bear the name of the casino licensee with which it is affiliated.

Comment:

Given the legislative intent to help provide the state's existing casino industry with an added amenity in which to compete against casinos in neighboring states while generating new tax revenues for West Virginia, we would respectfully request that any brands deployed for sports betting be limited to those existing brands being utilized by the casinos in West Virginia. To allow for the use of "white label" brands from outside parties, such as Draft Kings, Poker Stars, Twin Spires, etc., will significantly cannibalize and dilute the revenue potential of the state's existing casinos. And, rather than generate incremental revenue for the state, this will merely siphon the potential revenue pool thinner for its incumbent operators who have invested hundreds of millions of dollars in the state and employ thousands of employees. Any out of state sports betting operator should not have the ability to merely sign an agreement with a licensed casino, pay no additional license fee to the state, and begin to flood the market with advertising on their own sports betting brands. At a minimum, any advertising or promotion by outside entities, or "intermediaries", should prominently display their affiliation with a licensed casino versus the current rule only requiring a "conspicuous" mention on the sports betting platform's website.

We would respectfully request that any "intermediaries" should be restricted to merely helping a licensed casino operate its sports betting platform, rather than the current rule which could allow for as many as 15 new out-of-state competitors to enter West Virginia and begin to swamp the state with their own brands and advertising. In fact, the current rules could theoretically allow for an intermediary to build up a database of West Virginia customers and use that to send them offers for an out-of-state casino. For example, Churchill Downs, which owns a prominent "Twin Spires" online platform could theoretically be allowed to build up a database of West Virginia customers -- beyond what they've already accumulated from advance deposit wagering -- and market their out-of-state casinos to them.

Regulation: Geolocation Requirement - §179-9-15.1 "in order to prevent unauthorized use of a online sports pool system, the casino license or sports pool intermediary must utilize a Geolocation System to reasonably detect the physical location of a player attempting to access the online sports pool system; and to monitor and block unauthorized attempts to access the online sports pool system.

§179-9-15.2: "The Geolocation System shall ensure that any player is continually located within the permitted boundary, and shall be equipped to dynamically monitor the player's location and block unauthorized attempts to access the online sports pool system throughout the duration of the patron session."

Comment:

The geolocation requirement speaks in terms of accessing the system, rather than actually placing a wager. Typically, a sports wagering operation does not verify location until a patron attempts to make a wager. That way West Virginia customers can access the app to check their account balance, for example, from outside the state.

From: Jason C. Pizatella <JPizatella@spilmanlaw.com>
Sent: Tuesday, September 4, 2018, 12:10 PM
To: Kim Lamb
Cc: Darrielle E. Boyd; Douglas P. Buffington@wv.gov; Dave Hardy@wv.gov; Kudon, Jeremy; Angel Moore; Ward, Scott
Subject: Comments of MLB, NBA, and the PGA Tour to the West Virginia Lottery Sports Wagering Rule
Attachments: Lamb ltr. 8.30.2018.pdf

Kim,

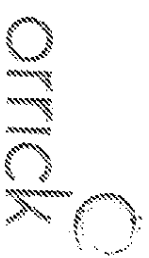
On behalf of Major League Baseball, the National Basketball Association, and the PGA Tour, please find attached the leagues' official comments to the proposed West Virginia Lottery Sports Wagering Rule. The original will be placed in the U.S. Mail and a copy of the same hand-delivered to the Director's office later today. If you have any trouble opening the file, please let me know.

Thank you.

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August 30, 2018

Via Email, kimab@wvlottery.com

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Mr. Kim Lamb

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Re: Meeting on Sports Betting Integrity Issues

Dear West Virginia Lottery Commission:

On behalf of Major League Baseball, the National Basketball Association, and the PGA TOUR, I submit this comment letter in response to the proposed West Virginia Lottery Sports Wagering Rule and emails from the Lottery Commission to the leagues concerning the prior adoption of the Lottery Commission's Emergency Rule. See Email from Alan H. Larrick, Director, W. Va. Lottery Commission, to Larry Puccio et al., August 8, 2018; Email from Alan H. Larrick, Director, W. Va. Lottery Commission, to Larry Puccio et al., August 9, 2018. The leagues still have serious concerns with the proposed Rule. However, at least with respect to official league data, the compromise you suggested in your August 8, 2018 email sets out a workable path to addressing the leagues' concerns.

If the Sports Wagering Rule does not include the strong and reasonable integrity protections the leagues are seeking, legalized sports gambling in West Virginia will deprive the leagues of important tools to detect and prevent manipulation and corruption. One scandal is all it would take to undermine our fans' trust in the integrity of the games they love. The leagues believe that any safe and responsible legalized sports gambling regime must protect our players and personnel from outside influences, ensure the accuracy of data used for sports betting purposes, and create open lines of communication to identify and eradicate corruption. Too much is at stake for the Lottery Commission to get this wrong.

The leagues have three major concerns with the proposed Rule. First, we propose incorporating the substance of Director Larrick's suggested compromise on official league data into the Rule. Second, we address the need for stronger provisions that require sports pool operators to cooperate with the leagues in protecting the integrity of the games that are the basis of sports wagering. And third, we explain why it is critical for the proposed Rule to give the leagues the right to request an "opt out" from certain wagers on sporting events that may be more prone to manipulation. In each section, we explain why these provisions are necessary, why the concerns raised by the Lottery Commission in prior emails are misplaced, and how the proposed Rule can be modified to address our concerns.

Mr. Kim Lamb

August 30, 2018

Page 2

The Official League Data Mandate: Trust in betting markets requires accurate, reliable data.

Professional sports leagues have invested enormous amounts of time and resources into proprietary data systems to create accurate, fast, and sophisticated data feeds that enhance the fan experience.

Not surprisingly, this data is also highly sought after for sports betting purposes, as it will make sports betting far more interactive, engaging, and profitable. For example, while traditional golf betting has focused on final round scores and leaderboard position, sophisticated sports betting customers are increasingly interested in "in-play" betting, which allows them to wager on outcomes (like whether a pro golfer's drive will travel 300 yards or more) in real time. As betting becomes more nuanced and granular, operators will require accurate and uniform data.

Consider how, if customers are betting on the distance of a drive, a single yard could mean the difference between a winning bet and a losing bet. Using the example above, imagine one sports pool operator indicates the drive distance as 299 yards, while the other marks it as 301. These types of conflicting or inaccurate bet outcomes across different sports wagering operators would occur if West Virginia sports pool operators are allowed to use unauthorized data, such as black-market data "scraped" from unreliable internet sources or data collected surreptitiously at sporting events. It would cause confusion among customers and jeopardize their confidence in the integrity of sports pool operators, betting markets and the games themselves. Moreover, allowing the use of black market data presents more opportunities for criminal elements to attempt to influence the game.

Accordingly, for the sake of accuracy, consistency, and reliability, no unofficial sources of statistics or data should be allowed for in-play sports betting purposes. We have proposed a two-tier system, separating traditional outcome-based bets like scores and wins (tier one) from real-time betting and bets involving advanced data (tier two). While tier one bets can be determined based on public information such as box scores, tier two bets should be determined solely by statistics based on official league data.

In discussions with the Lottery Commission on the prior Emergency Rule, the Lottery Commission stated that to consider adding an official data requirement, the Lottery believed it was important to include a provision that would allow the Lottery Commission to predicate an official league data requirement on the leagues offering their data on what the Commission determines to be "commercially reasonable terms." See Email from Alan H. Larrick, Director, W. Va. Lottery Comm'n, to Larry Precio et al., Aug. 8, 2018. And the email from Director Larrick proposed language to include in the regulation to that effect, the substance of which the leagues have incorporated into our proposed revisions below.

Mr. Kim Lamb

August 30, 2018

Page 3

We propose the addition of the following definitions of "official league data," "sports governing body," "tier one sports wagers," and "tier two sports wagers":

§179-9-2. Terms

2.9 "Official league data" means statistics, results, outcomes, and other data relating to a sporting event obtained pursuant to an agreement with the relevant sports governing body, or a sub-licensee expressly authorized by the sports governing body to provide such information to a book, which authorizes the use of such data for determining the outcome of tier two wagers.

2.19 "Sports governing body" means the organization that prescribes final rules and enforces codes of conduct with respect to a sports event and participants therein.

2.30 "Tier one sports wager" means a sports wager that is determined solely by the final score or final outcome of the sporting event and is placed before the sporting event has begun.

2.31 "Tier two sports wager" means a sports wager that is not a tier one wager.

We propose the following provision, to be inserted in §179-9-4:

§179-9-4. Sports wagering integrity; confidential information

4.10 For determining the result of tier one sports wagers, sports pool operators may use any data source, except as set forth below. Sports pool operators shall use only official league data to determine the result of tier two sports wagers, provided that the data is available from governing bodies or a data sub-licensee based on commercially reasonable terms. Whether data is offered on commercially reasonable terms shall be determined by the Lottery Commission. If the Lottery Commission determines, based on evidence and information provided by all relevant parties, that the terms are commercially reasonable then sports pool operators must use only official league data to determine the result of tier two sports wagers. In the event the Lottery Commission does not deem the terms commercially reasonable, sports pool operators are not required to use official league data, and pool operators will provide a statement indemnifying the state from any and all losses related to use of unofficial data. For determining the result of tier one sports wagers and tier two sports wagers, sports pool operators may not in any event use a data source that obtains its data directly or indirectly from live event attendees who collect the data in violation of the terms of admittance to an event and/or through automated computer programs that compile data from the internet in violation of the terms of service of the relevant website or other internet platform.

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Other Integrity Provisions: Mandating cooperation and coordination among sports pool operators, the leagues, and the Lottery to protect the integrity of games.

The leagues are committed to protecting our games, employees, and athletes from corruption. But our ability to spot potential areas of concern is only as good as the data we are able to obtain. We propose additional record-keeping and data sharing requirements for sports pools. The leagues should have access to data from sports pool operators to determine whether unusual betting patterns or other suspicious activity warrant further investigation.

Sports governing bodies are the best-positioned entities to monitor the integrity of our sports, since activity in any one state may not be indicative of larger trends or abnormal activity occurring in multiple jurisdictions. Our integrity protection efforts will require us to obtain betting data from across the United States. Requiring West Virginia sports pool operators to provide real-time data to the leagues will facilitate the aggregation of this information with data from other states to identify abnormal or suspicious betting patterns that may not be identified by the Lottery Commission alone. Accordingly, the Lottery Commission's stated position that real-time data sharing is not necessary because the Lottery will work with law enforcement to determine when there is a violation fails to recognize that betting manipulation and corruption are not limited to West Virginia's borders. See Email from Alan H. Larrick, Director, W. Va. Lottery Comm'n, to Larry Puccio et al., Aug. 9, 2018.

Consider a bettor who fixes a game or event and knows in advance that a star NBA player will foul out early in the game. To keep a low profile, the bettor decides to spread his betting activity across casinos and states. He starts at a sports pool operator in Youngstown, Ohio and drives through Pittsburgh, West Virginia, Maryland, Virginia, and Washington, DC, stopping at casinos along the way. At each stop, he places bets in amounts and structures that avoid triggering the suspicions of any individual operator—or even any individual state's gaming regulator. However, if sports pool operators were required to share their betting data with the NBA in real time, the league would be able to spot the larger suspicious interstate pattern as it is happening. In the absence of an integrated federal regime that would require all of this data to be collated and monitored across state lines, it is imperative that states like West Virginia require operators to share this data with the leagues in real time.

Ultimately, should data indicate areas of concern, the leagues may need to conduct further investigations. Therefore, we propose that the Rule require cooperation by sports pool operators with any such investigations, while providing the appropriate protections for confidential information.

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Likewise, because sports pool operators are the best gatekeepers at the time bets are made, they should be required to notify the leagues directly of wagers that suggest corruption of a sporting event and to make a reasonable effort to identify any insiders—players or league personnel—who may try to place a bet in violation of league policy or state law. The leagues will make a list of restricted insiders available to all operators for the purpose of enforcing this provision.

In prior discussions with the Lottery Commission, the Commission objected to these enhanced integrity provisions on the ground that they were overly burdensome and would shift the burden of regulation onto the Lottery and casino operators. See Email from Alan H. Larrick, Director, W. Va. Lottery Comm'n, to Larry Puccio et al., Aug. 9, 2018. The email from Director Larrick stated, "If information is shared with a relevant sports governing body then it is up to that governing body to determine if there is a violation of their internal rules and handle it appropriately."

We agree that if our responsibility to determine and enforce violations of our integrity rules. But we cannot do so unless the sports pool operators who are taking the bets that may violate league policy are required to provide data and report their suspicions to the leagues. We are committed to working with the Lottery Commission to ensure that this requirement would not place any undue burden on sports pool operators. For example, our proposals merely require the operators to notify the leagues of any potential breaches, i.e., breaches that the operators think may violate league rules. This is similar to "must report" rules that require certain entities to report suspicions of inappropriate conduct to the appropriate authorities—like a bank filing a Suspicious Activity Report when it suspects money laundering or fraud.

We propose the following amendment to §179-9-4:

§179-9-4. Sports wagering integrity; confidential information

4.2 All integrity monitoring system procedures shall provide for the sharing of information with each casino operator and shall disseminate all reports of unusual activity to all sports pool intermediary licensees and the relevant sports governing bodies, as well as with any accredited regulatory agency or accredited sports integrity entity. All sports wagering operators shall review such reports and notify other operators of whether or not they have experienced similar activity in the manner approved by the Lottery. Specific reporting requirements shall be designated by the Commission in its MFCs.

4.3 If an operator finds that previously reported unusual betting activity rises to the level of suspicious activity, they shall immediately notify all other operators, the Lottery, the relevant

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sports governing bodies, and all other regulatory agencies or governing authorities as approved by the Lottery.

4.4 Sports pool operators shall immediately notify the Lottery and the relevant sports governing body of any information relating to any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering.

4.8 The Lottery and sports pool operators shall cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including but not limited to, providing or facilitating the provision of account-level betting information and any audio or video files relating to persons placing wagers.

4.9 If a sports governing body has notified the Lottery that real-time information sharing for wagers placed on its sports events is necessary and desirable, sports pool operators shall share in real time, at the account level, and in pseudonymous form, the information required to be retained by sports pool systems under sections 6.5, 6.6, 6.7, and 6.8 of this rule with the sports governing body or its designee with respect to wagers on its sports events. Such information may be used by a sports governing body solely for integrity purposes.

4.11 Notwithstanding the other provisions of this section, all information and data received pursuant to administering the West Virginia Lottery Sports Wagering Act related to unusual or suspicious activity, or a potential breach of a sports governing body's internal rules or code of conduct pertaining to sports wagering shall be considered confidential and shall not be revealed in whole or in part except upon the lawful order of a court of competent jurisdiction or, with any law enforcement entity, or regulatory agency that the Lottery deems appropriate.

The Opt-Out Right: Restricting certain wagers that pose risks to integrity.

As sports betting expands in West Virginia and across the United States, sports leagues face the risk that a betting scandal will damage the hard-earned trust that fans and the public have placed in us and our contests. To that end, our model legislation allows the leagues to weigh in and work with state gaming regulators to identify and restrict types of betting that pose greater integrity risks. As the betting market matures, casinos are likely to offer more types of exotic bets, some of which may be inappropriate given the integrity concerns involved. For example, any bet involving outcomes that can be controlled by a single competitor, such as a missed free throw late in a one-sided game, may present a greater risk of manipulation and corruption. And we know from other sports that corruption risks are greater at lower levels of competition, like the minor leagues, due in part to the lower compensation of those athletes. The leagues are

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concerned that certain types of betting may invite more attempts at manipulation than others, and believe that these types of bets should therefore be limited or excluded entirely as appropriate.

However, we also understand that this provision should not be used to unreasonably restrict the ability of sports pool operators to offer new and varied types of betting. Therefore, we propose that the leagues be allowed to request that the Lottery Commission restrict operators from offering bets that pose a greater integrity risk. The Lottery Commission would have the final authority to determine whether such a restriction is necessary and the ability to reject any league request that it believes to be arbitrary and capricious.

In prior conversations with the leagues, the Lottery Commission raised three objections: (1) an opt-out right will funnel bettors into the black market; (2) the leagues should not have the unilateral ability to control what types of betting options sportsbooks can offer; and (3) arbitrary and capricious review will be overly burdensome for the Lottery Commission. The leagues are willing to work with the Lottery Commission to make sure its consideration of league opt-out requests will be streamlined and efficient. A limited opt-out right targeted at eliminating only the kinds of betting most vulnerable to manipulation and corruption will not funnel the vast majority of bettors into the black market. To the contrary, an opt-out right will only ensure bettors' trust in the fairness of the games and in legal betting markets. And the leagues are willing, as a matter of compromise, not to seek unilateral authority to restrict betting—rather, we are requesting that the Lottery Commission make this determination, subject only to a deferential arbitrary and capricious standard.

The language below is intended to give the leagues a strong voice in this determination, while ceding ultimate decision-making authority to the Lottery:

§ 179-9-4. Sports wagering integrity; confidential information

4.7 A sports governing body may notify the Lottery that it desires to restrict, limit, or exclude sports wagering on its sports events by providing notice in a format required by the Lottery, including, without limitation, restrictions on the sources of data and associated video upon which a sports pool operator may rely in offering and paying wagers and the bet types that may be offered. Upon receiving such notice, the Lottery shall only deny a request if it deems such request arbitrary and capricious. If the Lottery denies a request, the sports governing body shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with W. Va. Code §§ 29A.5-1 et seq. Offering or taking wagers contrary to the Lottery's rule is a violation of this section, in the event that a request is submitted in relation to an emergency situation, the Director of the Lottery may temporarily grant the request if the

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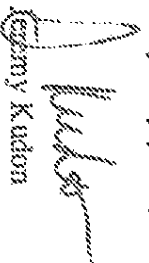
sports governing body until the Lottery makes a final determination as to whether such request is arbitrary and capricious.

§179-9-7. Patron Wagers

7.1 A casino licensee or sports pool intermediary shall not accept any wager on a sports event unless it has provided written notification to the Lottery Director of the first time that wagering on a category of wagering event (for example, wagering on a particular type of professional sport) or type of wager (for example an in play wager or exchange wager) is offered to the public, and such wager has not been prohibited by the relevant sports governing body pursuant to section 4.7 of this rule. Such notice shall be submitted prior to accepting a wager on such category of wagering event. Notice is not required whenever the odds change on a previously offered wagering event and the Lottery shall respond within 24 hours or by the next business day. The Lottery Director reserves the right to prohibit the acceptance of wagers, and may order the cancellation of wagers and require refunds on any event for which wagering would be contrary to the public policies of the State.

The leagues believe these amendments will lead to a safer, more sustainable, and more cohesive environment for sports betting in West Virginia while protecting our fans and the integrity of our sports.

Very truly yours,



Eoghan Kudon

cc:

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