

RÉSUMÉ DIGEST

ACT 440 (SB 247)

2021 Regular Session

Cortez

New law enacts the "Louisiana Sports Wagering Act".

Prior law vested all regulatory authority, control, and jurisdiction over all aspects of gaming activities and operations of riverboats, the land-based casino, video poker, and fantasy sports contests with the La. Gaming Control Board (board).

New law retains prior law and adds authority, control, and jurisdiction for the board over sports wagering.

Prior law defined a "gaming position" as a seat a gaming machine or space at a table game. Prior law limited riverboats to 2,365 gaming positions, the racetrack in Orleans Parish to 700 slot machines, and the other three racetracks to 1,632 gaming positions.

New law provides that seats or spaces at sports wagering kiosks or sports wagering windows shall not be included as "gaming positions".

Prior law defined allowable games to be played exclusively within land-based casino; wagering on horse races is specifically excluded from authorized games.

New law deletes the specific exclusion of wagering on horse races in prior law and specifically authorizes racehorse wagering which it defines as wagers placed on horse racing conducted under the pari-mutuel form of wagering at licensed racing facilities that are accepted by a licensed racehorse wagering operator. Provides a permitting process for a qualified racehorse wagering operator to conduct racehorse wagering at the land-based casino and requires the racehorse wagering operator to provide to the licensed racing association 25% of audited net profits from this activity to be used as purse supplements.

Prior law regarding video poker, provided several criteria and amenities for a truck stop to qualify to be licensed as an establishment to conduct video poker. One of the amenities is an onsite restaurant which must have certain features including seating for at least 50 patrons, open at least 12 hours a day, offers a varied menu, operates a fully equipped kitchen and in Orleans Parish, must provide full table service for sit-down meals.

New law authorizes a truck stop to have an Alcohol and Tobacco Control Class A-General retail permit operating as a sports wagering lounge which sells food instead of prior law onsite restaurant.

New law specifically provides that any license, permit, approval, or thing obtained or issued pursuant to new law is expressly declared by the legislature to be a pure and absolute revocable privilege and not a right, property or otherwise, under the federal or state constitution.

New law provides for definitions and requires the board to adopt rules in accordance with the Administrative Procedure Act to:

- (1) Develop qualifications and standards and a process and procedure for the issuance of a license to operate a sports book as well as the renewal thereof. Requires there also be a process to notify eligible applicants of available licenses.
- (2) Develop qualifications and standards and a procedure and process for approval and permitting of sports wagering platform providers, manufacturers, suppliers, and personnel, as well as the renewal, suspension, and revocation of a permit.
- (3) Promulgate forms, processes, and procedures necessary to implement, administer, and regulate sports wagering as authorized by new law.
- (4) Establish standards for the amount of reserves required to be maintained by an operator and the allowable form of those reserves, including standards for initial reserves for a new licensee or newly permitted sports wagering platform provider.

- (5) Establish guidelines for the acceptance of wagers on a series of sports events by an operator.
- (6) Prohibit an operator from unilaterally rescinding a wager except in compliance with rules of the board.
- (7) For cash wagers placed in person or via a sports wagering mechanism, establish standards for the type of wagering tickets which may be used, information required to be printed on a ticket, and methods for issuing tickets.
- (8) Establish the method of accounting to be used by operators, the types of records required to be kept, and the length of time records shall be retained.
- (9) Require operators to comply with anti-money laundering standards.
- (10) Provide standards for the use of credit and checks by players and other protections for players.
- (11) Require operators to submit for approval by the board its policies and procedures on internal controls for all aspects of electronic wagering, including procedures for system integrity, system security, operations, accounting, patron disputes, and reporting of problem gamblers.
- (12) Require operators to submit for approval by the board its policies and procedures on operational controls for server-based gaming systems, software and hardware utilized on electronic sports wagering, including but not limited to appearance, functionality, contents, collection, storage, and retention of data and security.
- (13) Require operators to submit for approval by the board its policies and procedures on operational controls for sports wagering accounts, including but not limited to procedures for establishment and closure of an online account, funding for withdrawal of funds from an online account, and generation of an account statement for a patron's online account.
- (14) Establish standards for servers and other equipment used to accept wagers by operators and procedures for inspection and for addressing defective or malfunctioning devices, equipment, and accessories related to sports wagering.
- (15) Require operators post the toll-free telephone number available to provide information and referral services regarding compulsive or problem gambling.
- (16) Require operators to submit for board approval a responsible gaming policy that allows patrons to restrict themselves from placing wagers with the operator, including limits on time spent wagering and limits on amounts wagered, and identifies actions by the operator to honor those self-imposed restrictions.

New law authorizes emergency rulemaking procedures to be used for the initial promulgation of administrative rules.

New law provides that the gaming division of state police shall be charged with inspecting and ensuring compliance with all the requirements of new law and with any other tasks deemed necessary by the board.

New law provides that no person, business, or legal entity shall operate a sports book without first being licensed by the board and that a sports wagering license shall be in addition to any other license.

New law provides that the board shall issue no more than 20 licenses to operate a sports book. Requires the board to first consider applications for licensing from the following:

- (1) The land-based casino.
- (2) The 15 licensed riverboats.

- (3) The four race tracks, provided that the race track has the approval of the La. State Racing Commission to apply to be licensed to operate a sports book.

New law provides that for the initial application process, should any of the initial 20 eligible applicants elect not to apply for a license or fail to submit a completed application by January 1, 2022, or within 30 days of applications being available, whichever is later, it shall not be considered for a license and the board may consider for the remaining licenses, applications from suitable applicants who are:

- (1) Video poker licensed establishments; however, any applicant that is also licensed as an offtrack betting parlor shall also have the La. State Racing Commission's approval to apply to be licensed for a sports book.
- (2) Fantasy sports operators.

New law provides that if the number of applications received by the board that are determined to be eligible applicants exceeds the number of licenses available, the board shall provide for a concealed bid process and issue the available licenses to bidders, in accordance with the board's ranking of the bids, to the applicant that in the board's discretion has the greatest potential for revenue generation for the state.

New law provides that should a license become available after the initial issuance, the board shall notify the riverboats, race tracks, or the landbased casino who do not have a sports wagering license about the available license and provide those entities an opportunity to apply for the license by a certain date. Provides that if the number of applications from eligible applicants exceeds the number of available licenses, the board shall provide for a concealed bid process and issue the available licenses to bidders, in accordance with the board's ranking of the bids, to the applicant that in the board's discretion has the greatest potential for revenue generation for the state.

New law provides that should a license becomes available after the initial issuance and the riverboats, race tracks, and the landbased casino declines to apply or the number of available licenses exceeds the number of riverboats, race track, or the landbased casinos that are interested, the board shall notify the licensed video poker establishments (bars and lounges, restaurants, truck stops, offtrack betting parlors, and hotels) that do not have a sports wagering license about the available license and provide those entities an opportunity to apply for the license by a certain date. If the number of applications from eligible applicants exceeds the number of available licenses, the board shall provide for a concealed bid process and issue the available licenses to bidders, in accordance with the board's ranking of the bids, to the applicant that in the board's discretion has the greatest potential for revenue generation for the state.

New law provides that the board shall only award a license to operate a sports book to an applicant that it determines to be suitable, and specifically provides other information that the board may consider in addition to the information the board uses in determining suitability for other gaming licenses.

New law provides that each applicant shall submit as part of its application a detailed plan of design of its sports book lounge and other areas of its establishment where sports wagering mechanisms may be placed. Requires the board to only issue a license to an applicant whose detailed plan of design the board finds acceptable.

New law provides that a licensed sports wagering establishment may operate the sports book itself or contract for operation of its onsite or its mobile operation with a sports wagering platform provider. Provides that only a licensed sports wagering establishment, or its sports wagering platform provider on its behalf, shall process, accept, offer, or solicit sports wagers.

New law specifically provides that a licensed sports wagering establishment shall be responsible for the conduct of its sports wagering platform provider.

New law provides that prior to beginning operations, a licensed sports wagering establishment shall install and thereafter maintain a sports wagering platform that meets the specifications required by law and by rule and is approved by the board.

New law requires a sports wagering platform provider to meet the same standards of suitability as a licensee.

New law requires a sports wagering platform provider to be permitted by the board and to contract with a licensee to provide sports wagering services. Requires that the contract provide access by the division and the board to any information maintained by the platform provider for verification of compliance with new law.

New law limits a sports wagering platform provider to one sports wagering platform to offer, conduct, or operate a sports book on behalf of a licensee. Requires a sports wagering platform provider to keep books and records for the management and operation of sports wagering and for services for which it is contracted by a licensee. Requires the keeping of books and records separate and distinct from any other business the sports wagering platform provider might operate. Requires a sports wagering platform provider to file quarterly returns with the board listing all of its contracts and services related to sports wagering authorized under new law.

New law requires the board to provide by rule for the standards and requirements of a sports wagering platform. Requires the rules to specify technical requirements as well as operational requirements and provides that only a sports wagering platform that meets the standards and requirements as provided by rule may be used by an operator to book sports wagers.

New law requires that the sports wagering platform shall provide to the gaming division of state police a readily available point of contact to ensure compliance with the requirements of new law.

New law requires that all servers responsible for the processing of sports wagers shall be physically located in Louisiana and nothing in new law shall prevent the use of cloud computing. Provides that any sports wagering platform utilized for electronic wagering shall have a component of its design to reasonably verify that the person attempting to place the wager is at least 21 years of age, physically located in the state, and not physically located in a parish that has not approved a proposition to authorize sports wagering at the time the wager is initiated or placed, and not a person who is otherwise prohibited from wagering with the operator.

New law authorizes the board to issue a temporary certificate of authority to an applicant for a license or permit if:

- (1) The applicant has filed with the board a completed application, including all fees.
- (2) The applicant has substantially demonstrated to the satisfaction of the board that the person meets the requirements of new law, the board's rules, including emergency rules, and the board's or division's orders.
- (3) The applicant of a sports wagering platform provider permit or service provider permit holds a gaming license or permit for similar activity in Louisiana or another state and the license or permit is in good standing.
- (4) The applicant agrees in writing that the temporary certificate of authority does not create a right or privilege and that the board may rescind the temporary authority to conduct business at any time, with or without notice and without a hearing, if the board is informed that the suitability of the person may be at issue or the person fails to cooperate with the investigation into the qualifications and suitability.

New law provides that the temporary certificate of authority shall expire 6 months after issuance; the board may issue one 90-day extension of the certificate upon a showing of good cause; and, if a license or permit is issued to the holder of a temporary certificate of authority, the license or permit term will begin on the date of issuance of the temporary certificate of authority.

New law provides that an operator may conduct sports wagering in person or via a sports wagering mechanism located on its premises or through a website or mobile application. Requires each licensee to house its sports book in a sports wagering lounge on its premises which shall be restricted to patrons who are 21 years of age or older and conform to all

requirements concerning square footage, design, equipment, security measures, and related matters which the board prescribes by rule.

New law requires an operator to establish and display the odds at which wagers may be placed on sports events. Prohibits an operator from accepting a wager in person, via a sports wagering mechanism, or through a website or mobile application unless the wagering proposition is posted by electronic or manual means.

New law requires an operator to adopt comprehensive rules which the board approves to govern sports wagering transactions with its patrons. Requires the rules to specify the amount to be paid on winning wagers and the effect of schedule changes. Requires that the rules, together with any other information the board deems appropriate, to be conspicuously displayed in the establishment, posted electronically on any sports wagering mechanism, website, or mobile application, and included in the terms and conditions of the sports wagering account system.

New law requires an operator to maintain records of sports wagering activities and operations in accordance with rules and regulations of the board and to follow federal anti-money laundering standards in the day-to-day operations of its business.

New law requires each operator to designate one or more key employees who shall be responsible for the operation of the sports book. Requires at least one key employee to be on premises whenever in person sports wagering is conducted and for mobile wagering, requires at least one key employee be electronically accessible for patrons and the division at all times.

New law declares that all wagers on sports events authorized pursuant to new law shall be initiated, received, and otherwise made within the state unless otherwise determined by the board in accordance with applicable federal and state laws.

New law authorizes an operator to pool wagers with persons who are not physically present in this state if the board determines that this wagering is not inconsistent with federal law or the law of this state, including any foreign nation, in which the person is located, or that the wagering is conducted pursuant to a reciprocal agreement to which the state is a party that is not inconsistent with federal law.

New law provides that to place a sports wager with an operator, a player must be, and an operator must confirm that the player is:

- (1) 21 years of age or older.
- (2) Physically located in a parish that has approved a proposition authorizing sports wagering.
- (3) Have a wagering account established with the operator if the player is attempting to place a sports wager through a website or mobile application.
- (4) Not prohibited from wagering with the operator by law, rule, policy of the operator, self-exclusion, or pursuant to Uniform Compulsive and Problem Gambling Program.

New law prohibits an operator from knowingly accepting wagers from:

- (1) A person who is an athlete, coach, referee or other official, or staff of a participant or team that is participating in the sports event on which the person is attempting to place the wager.
- (2) A person who is the operator itself or is a director, officer, owner, or employee of the operator or any relative or other person living in the same household as a director, officer, owner, or employee of the operator.

New law provides that no sports wagers may be accepted or paid by any operator on any of the following:

- (1) On any sport or athletic event not authorized by law or the board.

- (2) On any sport or athletic event which the operator knows or reasonably should know is being placed by or on behalf of an athlete, coach, referee or other official, or staff of a participant or team that is participating in that event.
- (3) On the occurrence of injuries or penalties, or the outcome of an athlete's disciplinary rulings, or replay reviews.
- (4) On other types, forms, or categories of wagering prohibited by the board by rule.

New law authorizes a sports governing body to submit to the board a request to restrict, limit, or exclude a certain type, form, or category of sports wagering with respect to sporting events of its body if the sports governing body believes that such wagers may undermine the integrity or perceived integrity of the body or sporting event of the body. Upon receipt, the board shall request comments from operators and after due consideration to all comments received, the board shall grant the request if the board finds a demonstration of good cause from the requestor that such type, form, or category of sports wagering is likely to undermine the integrity or perceived integrity of the body or the sporting event.

New law requires an operator to promptly report to the board on the following activities:

- (1) Any criminal or disciplinary proceedings commenced against the licensee or its employees, or a sports wagering platform provider or its employees, in connection with the operations of the sports book.
- (2) Any abnormal wagering activity or patterns that may indicate a concern about the integrity of a sports event.
- (3) Any other conduct with the potential to corrupt a wagering outcome of a sports event for purposes of financial gain, including but not limited to match fixing.
- (4) Suspicions or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification.

New law requires every operator to adopt procedures to obtain personally identifiable information from any individual who places an in person single wager in an amount of \$10,000 or greater on a sports event.

New law provides that an operator may accept wagers made electronically using a sports wagering mechanism located on its premises or through a website or mobile application.

New law provides that a player may make a deposit in his sports wagering account or place a wager via a sports wagering mechanism. Provides that the deposit or wager may be made with cash, vouchers, or utilizing the player's established sports wagering account. Requires that sports wagering mechanisms:

- (1) Be located only on a licensee's premises in areas where accessibility is limited to patrons 21 years of age or older.
- (2) Be branded in the same brand as the licensee or the sports wagering provider, or both.
- (3) Be configured in such a way that no device, program, switch, or function will alter the reading of a bet, value, or amount of wagering or deposits to reflect a bet, value, or amount other than that actually wagered or deposited or any switches, jumpers, wire posts, or any other means of manipulation that could affect the operation or outcome of a wager.
- (4) Be divided into separate secure areas with locking doors for the logic board and software, the cash compartment, and the mechanical meters as required by the rules of the board and prohibit access to one area from the other.
- (5) Not have any functions or parameters adjustable by or through any separate video display or input codes, except for the adjustment of features that are wholly cosmetic.

- (6) Have a circuit-interrupting device, method, or capability which will disable the machine if the board approved program is accessed or altered.
- (7) Have a serial number or other identification number permanently affixed to the mechanism by the manufacturer.
- (8) Be linked to an operator's sports wagering platform for purposes of polling or reading mechanism activities and for remote shutdown of mechanism operations. If the platform fails as a result of a malfunction or catastrophic event, or the mechanism loses connectivity to the platform, provides that the mechanism not accept any additional wagers until the connection to the platform is restored.

New law provides that the board may provide for additional specifications for mechanisms to be approved and authorized as it deems necessary to maintain the integrity of sports wagering mechanisms and operations.

New law requires that any sports wager placed with cash via a sports wagering mechanism be evidenced by a ticket indicating the name of the operator booking the wager, the sports event on which the wager was placed, the amount of cash wagered, the type of bet and odds if applicable, the date of the event, and any other information required by the board.

New law provides that a patron with a winning ticket shall redeem the ticket at the establishment of the licensee that booked the wager within 180 days of the date of the event. Provides that wagers placed through a player's established sports wagering account shall be settled through the player's wagering account.

New law authorizes mobile wagering. Provides that for purposes of mobile wagering, each licensee may contract with no more than two sports wagering platform providers who may each provide individually branded websites each of which may have an accompanying mobile application bearing the same brand as the website. The website and mobile application shall only be offered under the same brand as the licensee, or the sports wagering platform provider, or both. The website and mobile application shall be, at the discretion of the licensee, in addition to any other websites or mobile applications operated by the platform provider and offering other types of mobile gaming.

New law, regarding mobile wagering, requires that:

- (1) A patron establish a wagering account with the operator, in person or remotely, before the operator may accept any sports wager through a website or mobile application from the patron and that the operator conduct an initial verification of the account, either in person or remotely. Provides that an account may be established with a line of credit or as an advance deposit wagering account.
- (2) Prohibits an operator from accepting a sports wager through a website or mobile application from the public or any person who does not have an established account with the operator and when the player is physically located out of state or in a parish that has not approved a proposition authorizing sports wagering. Requires an operator to maintain geofencing and geolocation services and bear all costs and responsibilities associated with the services as required by the board.

New law requires winning wagers that were placed in person or via a sports wagering mechanism with cash and are evidenced by a ticket receipt to be redeemed by a player within 180 days from the time of the event. Requires an operator to pay winning tickets upon presentation after performing validation procedures unless otherwise allowed pursuant to the rules and regulations of the board. Provides that the failure to produce a winning ticket within 180 days shall constitute a waiver of the right to the payment and the holder of the ticket shall thereafter have no right to enforce payment of the ticket. Provides that an operator's obligation to pay a winning ticket expires after 180 days from the date of the sports event if not present for payment.

New law provides that funds held by an operator for payment of outstanding tickets shall be retained by the operator for that purpose until the expiration of 180 days after the date of the sports event. Provides that after that, the operator shall each day accumulate the amount equal to the sum of any unclaimed winnings, less the amount of state tax paid by the operator

on the unclaimed monies that expire that day. Provides that on or before the 15th day of the first month following the end of a calendar-year quarter, the operator shall remit to the state treasurer for deposit into the Crime Victims Reparations Fund as provided for in prior law an amount equal to the accumulated total for the previous calendar-year quarter. The funds shall be used exclusively to pay the expenses associated with health care expenses of victims of sexually-oriented crimes.

New law provides that winning wagers placed using a sports wagering account shall be credited by the operator to the patron's account within one day from the time of the event unless otherwise allowed pursuant to the rules and regulations of the board.

New law authorizes an operator who seeks to reduce its risk exposure on a sports event to place a wager with another book. Requires the operator that places a wager to inform the book accepting the wager that the wager is being placed by a book and to disclose its identity.

New law (HB 697 of 2021 R.S.) provides for taxes on net gaming proceeds of an operator. Net gaming proceeds are defined as the difference between all wagers taken in by the operator and all winning paid out to players. In determining the taxable amount, operators are allowed to subtract up to \$5M in wagers in a calendar year that are directly attributable to promotional play.

New law provides that the \$5M cap applies per licensee. Provides that notwithstanding new law, if a licensee pools its wagers with other licensees in the state, the maximum amount of eligible promotional play shall apply per pool and the amount of eligible promotional play per participating licensee shall be allocated in accordance with an agreement among licensees participating in the pool. Requires board approval of the pooling of wagers and the corresponding agreement. Also, prohibits a licensee from claiming promotional play from more than one sports wagering platform in a calendar year.

Prior law prohibited gambling houses, gambling, and gambling by computer.

New law retains prior law, but makes an exception for gaming conducted in accordance with new law.

Prior law provided that it is unlawful for any person under 21 years of age to play casino games, gaming devices, or slot machines.

New law retains prior law and includes sports wagering to casino games that persons under 21 years of age are prohibited from playing.

Effective July 1, 2021, however, the board is not authorized to issue any licenses or permits until state laws are enacted regarding the taxation of net gaming proceeds generated through the operation of a sports book.

(Amends R.S. 13:4721, R.S. 14:90.5(A), (B), and (C), R.S. 27:15(B)(1), 15.1, 24(A)(5) and (6), 27.1(C)(intro para), 44(9) and (13), 58(5), 65(B)(11), 205(11) and (12), 239.1, 353(2) and (5), 361(F), 364(A)(1)(c)(ii) and (5), 371(C), 372(B) and (C), 375(D), and 417(A)(2)(intro para), and R.S. 46:1816(B)(8); adds R.S. 14:90(E) and 90.3(K), R.S. 27:15(8)(c), 205(35), 249.1, 601-611, and 627; repeals R.S. 27:24(A)(5)(f))