

PUBLIC HEARING ON
THE “SPORTS WAGERING AMENDMENT ACT OF 2024,” BILL 25-0753

Before the
Committee on Business and Economic Development
Council of the District of Columbia

The Honorable Kenyan R. McDuffie, Chairman

May 6, 2024, 10:00 a.m.



Testimony of
Frank Suarez, Executive Director
Office of Lottery and Gaming

Glen Lee
Chief Financial Officer
Government of the District of Columbia

Good morning, Chairman McDuffie and members of the Committee on Business and Economic Development. I am Frank Suarez, Executive Director of the Office of Lottery and Gaming (“OLG”). I appreciate this opportunity to provide testimony on Bill 25-0753, the “Sports Wagering Amendment Act of 2024” (the “Bill”). Joining me today are my colleagues Ridgely Bennett, Chief Counsel for OLG, and Peter Alvarado, Director of Regulation and Oversight.

As the Bill looks to amend the current sports wagering model in the District, I would like to provide an update on its current state. The District currently has three active Class A licensees that operate retail sportsbooks at Audi Field, Capital One Arena and Nationals Park. Class A licensees are also provided with a two-block exclusionary zone around their locations in which no other sports wagering operator can offer retail, mobile or online sports wagering. A class A operator can operate their own mobile app within that two-block zone as well. The District also currently has five Class B licensees that operate retail-only sports books inside their respective locations, including three newly-approved licenses in Fiscal Year 2024. Class B licensees are not provided with any exclusionary zones. Both Class A and Class B operators pay a monthly tax of 10% of their Gross Gaming Revenue (GGR), which is handle minus prize payouts. Year-to-date in Fiscal Year 2024 (as of March 30, 2024), privately operated sports wagering has provided \$683,987, which is \$13,807 less than Fiscal Year 2023.

The District also offers District-operated sports wagering, which OLG originally operated under the name GambetDC and is currently in the process of transitioning to the FanDuel platforms. OLG is the sole operator of mobile and online sports wagering across the District, except in Class A exclusionary zones and the area covered by the Shipstead-Luce Act. OLG also operates retail sports wagering through self-service kiosks at 63 sports wagering licensed retail locations across the District. The GambetDC mobile/online platform was converted to FanDuel on April 15, 2024, with GambetDC retail locations transitioning to FanDuel this summer. The conversion to FanDuel as the sports wagering subcontractor for Intralot provides the District with a 40% share of GGR with a minimum guarantee of \$5 million in the first full year and \$10 million for every year of the contract that follows. The District also received an upfront payment in Fiscal Year 2024 of \$5 million. The recent launch of the FanDuel mobile app has surpassed expectations, generating \$13.5 million in handle and \$2.3 million in GGR in its first 14 days of operation, which is 371% higher in handle and 1,325% higher in GGR than GambetDC accomplished in the same period in Fiscal Year 2023. The FanDuel change has already brought back more than 22,000 active users to the District that were likely placing their bets in bordering states.

In general, the Bill proposes the expansion of District-wide mobile and online sports wagering to Class A operators and creates a new Class C license that will

allow designated professional sports teams in the District to operate District-wide mobile and online sports wagering. A Class C operator license may be assigned, delegated, or subcontracted to a commercial partner that provides sports wagering through a mobile or online application upon the approval of the Office. Class A operators would be taxed at 20% of GGR and Class C operators at 30% of GGR. The Bill also increases license application fees for Class A operators to \$1 million for the first time and \$500,000 for renewals. New Class C operators would be charged \$2 million for the first time and \$1 million for renewals.

The Bill provides Class B operators with an exclusive geofence for their premises, which restricts any other mobile and online sports wagering applications from being accessible within a Class B licensed location. The Bill directs the first \$300,000 of tax revenue to be used for programs to prevent, treat, and research problem gambling. It then directs the next \$1,000,000 to fund out-of-school time sports and other extracurricular programming for students in the District.

I commend you on the additional funding directed to help address and prevent problem gambling. OLG believes player health is a top priority and these funds will help in those efforts as gaming continues to grow in the District. OLG has some suggested technical amendments to the Bill. These suggested amendments are appended to these comments for the Committee's consideration.

There are also some provisions of the Bill that the Committee may wish to review while considering the Bill. OLG currently receives 40% of GGR, as well as receives minimum guarantees for each year of its contract. FanDuel has the largest market share in the country and in our neighboring states of Virginia and Maryland. FanDuel is expected to obtain the vast majority of players and handle in the District before this Bill would be enacted. The proposed tax rate for Class A operators is 20% of GGR, which is half of the share that OLG currently receives. Class C operators will be taxed at 30% of GGR, 10 percentage points less than the OLG share. The Office of Revenue Analysis (ORA) has estimated that the FanDuel platform would generate \$42.2 million more in revenue over four years when compared to the February 2024 revenue estimate, which only included GambetDC revenue numbers without a change to the FanDuel platform. On the other hand, the Bill is estimated to provide \$26.88 million through the same four year period. That is \$15.32 million less than the projection for the FanDuel platform. Although there may be a slight incremental increase in overall mobile and online handle with the addition of Class A and Class C operators, overall sports wagering revenue for the District will decline if the tax rates remain as proposed in the Bill. The amount of additional handle and increased license fees generated by Class A and Class C operators will not be enough to make up for the reduction from 40% share of GGR to the lower 20% and 30% tax rates. The cannibalization of the 40% share of GGR

will be too significant to make up the difference. In addition, without minimum guarantees, the District now has its sports wagering revenue at risk because it will be dependent on each operators ability to be profitable, which has proven to be inconsistent in the past as some Class A operators have had months without any tax provided because they had zero to negative GGR for that month.

The addition of an exclusivity zone for Class B operators should be reviewed. Due to the small size of each Class B location, additional geofencing technology will need to be implemented at each location to ensure that other mobile/online signals are not available and to make sure that the Class B geofencing does not restrict any players or residents that reside in units located directly above the Class B locations as the standard geofencing technology will restrict all areas that are above the Class B facility. Furthermore, the geolocation restrictions District players currently face with the Class A two-block radius and the federal enclave exclusionary zones are already complicated for players and businesses to understand and manage. Adding additional exclusionary zones for Class B locations may lead to further confusion and frustration for players.

The Bill provides no protection for District-operated sports wagering retail locations and prioritizes large Class A and Class C businesses over other small businesses in the District that elected to offer sports wagering through OLG. Given the lower 20% and 30% tax rates, when compared to the 40% share of GGR in the

OLG contract, it is likely that District-operated sports wagering operated by OLG will no longer be an attractive option for popular mobile and online sports wagering operators. Therefore, District-operated sports wagering would likely cease for both retail and mobile/online. This would have a detrimental impact on 63 local and small businesses that are currently licensed by OLG to offer sports wagering at their retail locations. OLG asks that the Committee consider a solution that will ensure that these businesses can maintain their sports wagering revenue stream.

In closing Chairman McDuffie, I would like to thank the Committee for its continued support of the Office of Lottery and Gaming and for this opportunity today. This concludes my testimony, and I am happy to answer any questions the Committee may have.

Suggested Amendments

Amend Section 2(a) to delete new § 36-621.02(e).

~~“(e) Consistent with the intent of the United States Congress as articulated in the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. § 5361 et seq.), the intermediate routing of electronic data relating sports wagering authorized under this subchapter shall not determine the location or locations in which such wagers are initiated and received.”~~

Amend Section 2(b)(2) to delete new 36-621.05(h).

~~“(h) A license issued under this section shall not be transferred or assigned, except as provided under Section 36-621.06. A licensee that is an entity shall apply for a new license no later than 3 days after its acquisition, merger, or other change of control (as defined in regulation), in which case the applicant may temporarily operate under the prior license until the approval or denial of the application for a new license.”~~

Amend Section 2(c)(3), new D.C. Official Code § 36-621.06 (c-1)(3)(A), to read as follows:

“(c-1)(3)(A) If an eligible sports team applicant is a team that is a member of a league, association, or organization that prevents the sports team from being subject to the regulatory control of the Office or from otherwise operating a sports wagering operation, the team may contractually appoint a designee licensed by the Office to be the Class C licensee.”

~~“(c-1)(3)(A) A Class C operator license may be assigned, delegated, or subcontracted to a commercial partner that provides sports wagering through a mobile or online application upon the approval of the Office.”~~

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Amend Section 2(e), D.C. Official Code § 36-621.10(a), to read as follows:

“(a) All persons employed to be engaged in activities related to sports wagering shall be required to be licensed by the Office and, when employed, shall maintain a valid occupational license and be employed in the capacity reported to the Office.”

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