

CHARLES POTTER, JR.
STATE REPRESENTATIVE
1ST District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
Gaming & Pari Mutuels, Chair
Capital Infrastructure
Education
Judiciary
Revenue & Finance

Chair Potter called the meeting to order at 12:05. Members present included Vice Chair Keeley, as well as Reps. J. Johnson, Q. Johnson, Ramone, and Dukes. Rep. Hudson was also present.

Chair Potter introduced **HB340, AN ACT TO AMEND TITLE 29 AND TITLE 30 OF THE DELAWARE CODE RELATING TO INTERACTIVE FANTASY SPORTS CONTESTS**. Chair Potter, the prime sponsor of the bill, had House Attorney Ross Karsnitz come forward to discuss the bill. Mr. Karsnitz stated the bill would make several updates and clarifications to previous interactive fantasy sports legislation that was passed last year. He stated that it addresses the assignment of regulating power between the Division of Tax Enforcement and the Division of Revenue. It also requires operators seeking to register in Delaware to complete criminal background checks, and establishes administrative penalties for operators who fail to follow the law.

Rep. J. Johnson requested more information about what prompted this legislation and if there had been any issues in the implementation of the previous legislation relating to sports betting last summer. Rep. Potter responded that HB340 is intended to address issues in enforcement by mandating criminal background checks for sports betting operators.

Rep. Dukes asked if there have been extensive issues with criminal background checks with sports betting operators.

Chair Potter stated that there have been no specific issues of criminality among sports betting operators under the current law.

Chair Potter opened the floor for public comment. Sarah Koch, the assistant director of government affairs with Draft Kings, stated that her organization reviewed HB340 and had no objections to the criminal background check provisions included in the legislation. However, she expressed a concern that the sunset provisions in the taxes and fees section of HB340 appeared to change the intent of the law starting in 2019 and that Draft Kings was concerned that the \$50,000 registration fee would act as a barrier to entry for smaller sports betting operators in the Delaware market. Finally, Draft Kings was also concerned about the definition of prohibited players, feeling it was too broad because it classified all athletes, employees, and minors as the same and prohibited them from participating in sports betting leagues.

Rebecca Goldsmith, Deputy Secretary of the Delaware Department of Finance stated the agency supported the bill because the department liked the provisions in this legislation that stipulated a \$50,000 fee to be added to the tax section of the Delaware code, so all sports betting operators would have the same rights to appeal.

Sal DiMario, Executive Director of the Delaware Standardbred Owner's Association, requested more information about whether in-state and out-of-state players would be treated the same way under this legislation. With the permission of the Chair, Lt. Robert Wallace, Deputy Director of the Division of Gaming Enforcement stated that the legislation should create an exemption for people who play with their families and friends.

Chair Potter requested a motion. A motion was made by Rep. J. Johnson and seconded by Vice Chair Keeley to release HB 340 from committee; the motion carried. Yes=6 (Chair Potter, Vice Chair Keeley, Reps. Dukes, J. Johnson, Q. Johnson, Ramone); No=0; Absent=3 (Bolden, Short, Mitchell). HB 340 was released from committee with an F=1, M=5 U=0 vote.

Rep. Potter called upon Vernon Kirk, the Director of the Delaware State Lottery Office, to present information to the committee about a pilot program that would install electronic lottery ticket kiosks in 43 Wawa stores across Delaware. Director Kirk provided the committee members with a picture of the electronic lottery ticket kiosks and a handout with the four main points of his presentation.

Director Kirk began the presentation with an overview of the \$46.4 million in sales Delaware made from sports betting that took place during the 2017-2018 NFL seasons. The State's share of the total \$17 million profit was \$8.6 million, vendor fees comprised \$3.7 million, commissions were \$3.5 million, and the Horse purse increased by \$1.2 million. Furthermore, Kirk stated the pending Supreme Court decision, in *New Jersey vs. NCAA* could overturn the 1992 Professional & Amateur Sports Protection Act and make sports betting legal in all states including Delaware. He stated that the Delaware Lottery hopes to offer all forms of sports betting promptly if the court reaches a decision to overturn. Director Kirk stated that the legislation to regulate this new market is already in place because it was created in 2009, but the 3rd Circuit Court of Appeals restricted sports betting laws in Delaware to parlay betting under PASPA.

Director Kirk updated the committee that the Lottery has undergone a full scale state-of-the art system conversion to Scientific Games' Advanced Entertainment Gaming and Information System (AEGIS). Director Kirk then stated that the Delaware Lottery has negotiated an agreement with WAWA convenience stores to install self-service lottery kiosks in 43 WAWA stores in order to encourage them to rejoin the state lottery network. He provided an estimate that the program would bring a yearly net profit of \$6.3 million to the state.

Chair Potter asked if there were any vendors in Delaware currently using the self-service kiosks, and Director Kirk responded that these machines have not been installed in Delaware casinos or stores yet, however they are being used to sell lottery tickets in WAWA stores in Pennsylvania.

Rep. J. Johnson questioned whether reports would be created to monitor crime at WAWA similarly to reports created to monitor crime around casinos and other gambling facilities. In response, Director Kirk stated that there were no plans as of yet for the Delaware Lottery to create criminal reports focusing on crime related to lottery ticket sales at WAWA. Rep. J. Johnson expressed caution in implementing this program because these stores can be crowded and attract vagrants.

Chair Potter expressed concern over how WAWA would prevent illegal lottery ticket sales to minors and asked if all lottery vendors would have equal access to installing the kiosks, as well as how the new machines will impact criminal activity at WAWA stores. He asked Director Kirk if other vendors were considered for the kiosks before WAWA, and Director Kirk explained that WAWA was specifically chosen because they are not currently selling lottery tickets and this program would bring them into the Delaware Lottery network.

Rep. Ramone asked if the kiosk program would bring in \$6.3 million of new revenue dollars for Delaware. Director Kirk stated that similar programs in Maryland and Pennsylvania WAWA stores have brought in new revenue for those states, and also mentioned that the leasing agreement with WAWA includes a cost of 4.1 percent paid by the state to install the lottery machines. Rep. Ramone was concerned that current lottery vendors were not given an opportunity to participate in this pilot program before an exclusive agreement with WAWA was reached. He did not agree that the estimated new revenue would be enough to justify damaging the existing business relationships with current lottery and recommended surveying current vendors for their willingness to participate in this program. Director Kirk reiterated that WAWA was the focus point of the agreement because this agreement would bring all 43 Delaware WAWA stores back into the lottery

market. Rep. Ramone disagreed that the inclusion of WAWA into the market would not devastate small scale local lottery vendors in alcohol and tobacco stores.

Vice Chair Keeley stated that she discussed this kiosk program with the Lottery Committee of the National Conference Council of Legislators from Gaming States, and she said that research from other states that have implemented similar programs showed that it did not impact the revenues of smaller stores and the program targets a different clientele than delis, tobacco, and alcohol stores.

Rep. Ramone stated that his main concern with the proposal was how WAWA could monitor the kiosk machines to prevent minors from illegally purchasing lottery tickets. He repeated his discomfort with the idea that WAWA could have an unfair competitive advantage because of this agreement. Director Kirk added that WAWA has improved administrative and technical capabilities to implement this program in comparison to smaller local stores.

Chair Potter stated that he requested this presentation from the State Lottery Office be given during this committee meeting because the Committee still has the power to exercise oversight. He also mentioned that he was concerned about this proposal after hearing from local constituents and vendors that were upset by the proposed program.

Dhrupal Pater, a representative of the Delaware Asian-American Business Association, stated that his organization was concerned about the Delaware Lottery's proposal and explained that the Delaware Lottery is not the same as lottery systems in surrounding states due to differences in demographics, and therefore the revenue would differ greatly between states. He also believed that this proposal would have the biggest impact on small vendors. Mr. Patel felt existing lottery vendors were discriminated against because they were not even approached to install these lottery machines.

Pat Singh spoke on behalf of the Delaware Convenience and Tobacco Store Association, and stated his concerns that existing lottery vendors were not approached to participate before WAWA and that it would cost state money to set up the lottery machines.

Vice Chair Keeley then stated that in light of the upcoming Supreme Court decision, the Governor's administration should start preparing legislation focused on protecting the integrity of the bet in the event that sports' betting is officially legalized. Chair Potter commended the Delaware State Lottery Office for providing the committee with a presentation on the proposed lottery kiosk program and requested that more research should be done to determine the long term effects on small lottery vendors.

Chair Potter adjourned the meeting at 12:52 PM.

Respectfully Submitted by:

Nicole Jacoby

Attendance:

1. Robert Wallace- Division of Gaming Enforcement
2. Bill Fasby- Delaware Park
3. Rebecca Goldsmith- Department of Finance
4. Sarah Koch- Draft Kings/Fan Duel
5. Dhrupal Patel- DAABA
6. Pat Singh- DCTSA
7. Sal DiMario – Delaware Standard Bred Owner's Association
8. Robert Walsh- Division of Game Enforcement