

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 574
PROPOSED HOUSE COMMITTEE SUBSTITUTE S574-PCS35333-BHf-27

Short Title: Gaming Commission.

(Public)

Sponsors:

Referred to:

April 4, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA GAMING COMMISSION.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** Recodification; Name Change; Technical and Conforming
5 Changes. – The Revisor of Statutes shall recodify Part 2 of Article 37 of Chapter 14 of the General
6 Statutes, Bingo and Raffles, Article 68 of Chapter 143 of the General Statutes, Regulation of
7 Boxing, and Chapter 18C of the General Statutes, North Carolina State Lottery, into a new
8 Chapter 18E of the General Statutes to be entitled "Gaming," as enacted by Section 2 of this act.
9 The Revisor may also recodify into the new Chapter 18E of the General Statutes other existing
10 statutory laws relating to gaming that are located elsewhere in the General Statutes as the Revisor
11 deems appropriate. The new Chapter 18E of the General Statutes shall have the following
12 structure:

13 SUBCHAPTER I. GENERAL PROVISIONS.

14 Article 1. Gaming Commission.

15 Article 2. Commission Employees.

16 SUBCHAPTER II. LOTTERY.

17 Article 5. General Provisions and Definitions.

18 Article 6. Operation of Lottery.

19 Article 7. Lottery Game Retailers.

20 Article 8. Lottery Contractors.

21 Article 9. North Carolina State Lottery Fund.

22 Article 10. Miscellaneous.

23 SUBCHAPTER III. BINGO AND RAFFLES.

24 Article 15. Bingo.

25 Article 16. Raffles.

26 SUBCHAPTER IV. REGULATION OF BOXING.

27 Article 20. General Provisions and Definitions.

28 Article 21. Boxing Advisory Commission.

29 Article 22. Regulation of Boxing.

30 **SECTION 1.(b)** When recodifying pursuant to this section, the Revisor is authorized
31 to change all references to the North Carolina State Lottery Commission, State Bureau of
32 Investigation, and Alcohol Law Enforcement Branch of the Department of Public Safety, as
33 appropriate, to instead be references to the North Carolina Gaming Commission. The Revisor
34 may separate subsections of existing statutory sections into new sections and, when necessary to
35 organize relevant law into its proper place in Chapter 18E of the General Statutes, as amended
36 by this act, may rearrange sentences that currently appear within subsections. The Revisor may



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1 modify statutory citations throughout the General Statutes, as appropriate, and may modify any
2 references to statutory divisions, such as "Chapter," "Subchapter," "Article," "Part," "section,"
3 and "subsection"; adjust the order of lists of multiple statutes to maintain statutory order; correct
4 terms and conform names and titles changed by this act; eliminate duplicative references to the
5 Lottery Commission, State Bureau of Investigation, or Alcohol Law Enforcement Branch of the
6 Department of Public Safety that result from the changes authorized by this section; and make
7 conforming changes to catch lines and references to catch lines. The Revisor may also adjust
8 subject and verb agreement and the placement of conjunctions. The Revisor shall consult with
9 the North Carolina State Lottery Commission, State Bureau of Investigation, and Alcohol Law
10 Enforcement Branch of the Department of Public Safety on this recodification.

11 **SECTION 2.** The General Statutes are amended by adding a new Chapter to read:

12 **"Chapter 18E.**

13 **"Gaming.**

14 **"Article 1.**

15 **"Gaming Commission.**

16 **"§ 18E-100. Gaming Commission established.**

17 There is created the North Carolina Gaming Commission to establish and oversee the
18 operation of gaming in this State. The Commission shall be located in the Department of
19 Commerce for budgetary purposes only; otherwise, the Commission shall be an independent,
20 self-supporting, and revenue-raising agency of the State. The Commission shall reimburse other
21 governmental entities that provide services to the Commission.

22 **"§ 18E-101.** Reserved.

23 **"§ 18E-102. Definitions.**

24 As used in this Chapter, unless the context requires otherwise:

25 (1) "Commission" means the North Carolina Gaming Commission.

26 (2) "Commissioner" means a member of the Commission.

27 (3) "Director" means the person selected by the Commission to be the chief
28 administrator of the North Carolina Gaming Commission.

29 (4) "Person" means any natural person or corporation, limited liability company,
30 trust, association, partnership, joint venture, subsidiary, or other business
31 entity.

32 **"§§ 18E-103 through 18E-111.** Reserved.

33 **"§ 18E-112. Commission membership; appointment; selection of chair; vacancies;**
34 **removal; meetings; compensation.**

35 (a) The Commission shall consist of nine members, five of whom shall be appointed by
36 the Governor, two of whom shall be appointed by the General Assembly upon the
37 recommendation of the President Pro Tempore of the Senate, and two of whom shall be appointed
38 by the General Assembly upon the recommendation of the Speaker of the House of
39 Representatives. Commissioners may be removed by the appointing authority for cause.

40 (b) The Governor shall select the chair of the Commission from among its membership,
41 who shall serve at the pleasure of the Governor.

42 (c) Of the initial appointees of the Governor, two members shall serve a term of one year,
43 two members shall serve a term of two years, and one member shall serve a term of three years.
44 All succeeding appointments shall be for terms of four years. Members shall not serve for more
45 than two successive terms.

46 (d) Vacancies shall be filled by the appointing authority for the unexpired portion of the
47 term in which that vacancy occurs.

48 (e) The Commission shall meet at least quarterly upon the call of the chair. A majority of
49 the total membership of the Commission shall constitute a quorum.

50 (f) Members of the Commission shall receive per diem, subsistence, and travel as
51 provided in G.S. 138-5 and G.S. 138-6.

"§ 18A-113. Qualifications of Commissioners.

(a) Of the members of the Commission, the appointing authorities shall ensure that:

(1) At least one member shall have a minimum of five years' experience in law enforcement. Notwithstanding subsection (c) of this section, a member serving in this slot may be an elected law enforcement official.

(2) At least one member shall be a certified public accountant.

(3) At least one member shall have retail lottery sales experience as an owner or manager.

(4) At least one member shall have experience in treating gambling addiction.

(5) At least one member shall be an advocate for players.

(b) In making appointments to the Commission, the composition of the State with regard to geographic representation and gender, ethnic, racial, and age composition shall be considered.

(c) A member of the Commission may not hold an elective office or be a candidate for an elective office. If any Commissioner takes any of the following actions, that Commissioner vacates office as a member of the Commission and the vacancy shall be filled as provided by G.S. 18E-112:

(1) Files a notice of candidacy under G.S. 163A-972 through G.S. 163A-978 or a petition under G.S. 163A-980.

(2) Is nominated to fill a vacancy among party nominees under G.S. 163A-987 or G.S. 163A-988.

(3) Files a petition as an unaffiliated candidate under G.S. 163A-1005.

(4) Files a declaration of intent as a write-in candidate under G.S. 163A-1006.

(5) Is nominated by party convention under G.S. 163A-953.

(d) No legislator, as defined in G.S. 163A-152 and G.S. 163A-254, or former legislator may serve on the Commission while in office or within 12 months after leaving office.

"§ 18E-114. Reserved.

"§ 18E-115. Meetings; records.

(a) Meetings of the Commission shall be subject to Article 33C of Chapter 143 of the General Statutes. A majority of the total membership of the Commission shall constitute a quorum. No action may be taken except by a majority vote at a meeting at which a quorum is present.

(b) Records. – Except as provided in this Chapter, records of the Commission shall be open and available to the public in accordance with Chapter 132 of the General Statutes. Personnel records of the Commission are subject to Article 7 of Chapter 126 of the General Statutes.

"§ 18E-116. Reserved.

"§ 18E-117. Powers and duties of the Commission.

(a) The Commission shall have the following powers and duties:

(1) To regulate and oversee gaming, as authorized by the General Assembly.

(2) To prescribe the nature of gaming advertising which shall comply with the following:

a. All advertising shall include resources for responsible gaming information.

b. No advertising may intentionally target specific groups or economic classes.

c. No advertising may be misleading, deceptive, or present any lottery game as a means of relieving any person's financial or personal difficulties.

d. No advertising may have the primary purpose of inducing persons to participate in any gaming.

- 1 (3) To conduct a background investigation, including a criminal history record
2 check, of applicants for the Director of the Commission, which may include a
3 search of the State and National Repositories of Criminal Histories based on
4 the fingerprints of applicants.
- 5 (4) To charge a fee, not to exceed the cost of the criminal record check, of the
6 licensees and contractors.
- 7 (5) To specify the authority, compensation, and role of the Director, and to specify
8 the authority, selection, and role of the other employees of the Commission,
9 in accordance with Article 3 of this Chapter.
- 10 (6) To approve and authorize the Director to enter into agreements with other
11 states to operate and promote multistate gaming operations consistent with the
12 purposes set forth in this Chapter.
- 13 (7) To specify the number and value of prizes for winning tickets or shares in
14 lottery games, including cash prizes, merchandise prizes, prizes consisting of
15 deferred payments or annuities, and prizes of tickets or shares in the same
16 lottery game or other lottery games.
- 17 (8) To adopt rules necessary to carry out the provisions of this Chapter in
18 accordance with Chapter 150B of the General Statutes.
- 19 (9) Any other powers necessary for the Commission to carry out its
20 responsibilities under this Chapter.
- 21 (10) To study the feasibility of authorizing new gaming activities that the
22 Commission deems appropriate.

23 (b) Article 15 of Chapter 143B of the General Statutes shall not apply to the Commission.

24 (c) The Commission shall have no authority to regulate or oversee any gaming conducted
25 pursuant to a compact entered into between the State and a federally recognized Indian tribe.

26 "**§ 18E-118.** Reserved.

27 "**§ 18E-119. Reports.**

28 The Commission shall send quarterly and annual reports on the operations of the Commission
29 to the Governor, the State Treasurer, and the General Assembly. The reports shall include
30 complete statements of revenues, prize disbursements, expenses, net revenues, and all other
31 financial transactions involving funds collected or disbursed under this Chapter, including the
32 occurrence of any audit.

33 "**§ 18E-120.** Reserved.

34 "**§ 18E-121. Audits.**

35 (a) The State Auditor shall conduct annual audits of all accounts and transactions of the
36 Commission and any other special postaudits the State Auditor considers to be necessary.

37 (b) Biennially, at the beginning of the calendar year, the Commission shall engage an
38 independent firm experienced in security procedures, including computer security and systems
39 security, to conduct a comprehensive study and evaluation of all aspects of security in the
40 operation of the Commission. At a minimum, such a security assessment should include a review
41 of network vulnerability, application vulnerability, application code review, wireless security,
42 security policy and processes, security/privacy program management, technology infrastructure
43 and security controls, security organization and governance, and operational effectiveness.

44 (c) The portion of the security audit report containing the overall evaluation of the
45 Commission and of lottery games in terms of each aspect of security shall be presented to the
46 Commission, to the Governor, and to the General Assembly.

47 (d) The portion of the security audit report containing specific recommendations shall be
48 confidential, shall be presented only to the Director and to the Commission, and shall be exempt
49 from Chapter 132 of the General Statutes. The Commission may hear the report of such an audit,
50 discuss, and take action on any recommendations to address that audit under
51 G.S. 143-318.11(a)(1).

1 (e) Biennially, at the end of the fiscal year, in addition to the audits required by this
2 section, the Commission shall engage an independent auditing firm that has experience in
3 evaluating the operation of lotteries to perform an audit of the lottery as operated under
4 Subchapter II of this Chapter. The results shall be presented to the Commission, to the Governor,
5 and to the General Assembly.

6 (f) In addition to the other audits required by this section, the Commission may engage
7 an independent auditing firm that has experience in evaluating the operation of various gaming
8 activities to perform an audit of various games under this Chapter.

9 "§§ 18E-122 through 18E-124. Reserved.

10 "§ 18E-125. Enforcement.

11 (a) The Commission may apply to the superior court for an injunction to restrain any
12 person from violating the provisions of this Chapter or its rules. Actions under this section may
13 be brought in Wake County or the county where the licensee maintains its principal place of
14 business or the county where the alleged acts occurred.

15 (b) Whenever the Commission has reasonable cause to believe that a violation of any of
16 the provisions of this Chapter may have occurred, the Commission may, upon its own motion or
17 upon complaint of any person, investigate to determine whether a violation has occurred.

18 (c) At any time during normal business hours, the Commission or the Department of
19 Public Safety, Alcohol Law Enforcement Branch, may inspect an establishment of a licensee.
20 The inspection may include the examination of records, equipment, and proceeds related to the
21 operation.

22 "Article 2.

23 "North Carolina Gaming Commission Employees.

24 "§ 18E-201. Selection of the Director; powers and duties.

25 (a) The Commission shall select a Director to operate and administer the functions of the
26 Commission and to serve as the Secretary of the Commission. Except as to the provisions of
27 Article 6 and Article 7 of Chapter 126 of the General Statutes, the Director shall be exempt from
28 the North Carolina Human Resources Act.

29 (b) The Director shall have the following powers and duties, under the supervision of the
30 Commission:

31 (1) To provide for the reporting of payment of prizes to State and federal tax
32 authorities and for the withholding of State and federal income taxes from
33 lottery game prizes as provided in State and federal law.

34 (2) To conduct a background investigation, including a criminal history record
35 check, of applicants for employment with the Commission, licensees, and
36 contractors, which may include a search of the State and National Repositories
37 of Criminal Histories based on the fingerprints of applicants.

38 (3) To set the salaries of all Commission employees, subject to the approval of
39 the Commission. Except for the provisions of Article 6 and Article 7 of
40 Chapter 126 of the General Statutes, all employees of the Commission shall
41 be exempt from the North Carolina Human Resources Act.

42 (4) To enter into contracts upon approval by the Commission.

43 (5) To provide for the security and accuracy in the operation and administration
44 of the Commission, including examining the background of all prospective
45 employees, licensees, and contractors.

46 (6) To coordinate and collaborate with the appropriate law enforcement
47 authorities regarding investigations of violations of the laws relating to the
48 functions of the Commission and make reports to the Commission regarding
49 those investigations.

50 (7) To confer with the Commission on the operation and administration of the
51 lottery under Subchapter II of this Chapter and make available for inspection

1 by the Commission all books, records, files, documents, and other information
2 of the lottery.

3 (8) To enter into agreements with other states to operate and promote multistate
4 lotteries consistent with the purposes set forth in Subchapter II of this Chapter
5 and upon the approval of the Commission.

6 (9) To study the functions of the Commission, and gaming, and to collect
7 demographic and other information concerning those matters and make
8 recommendations to improve operations and administration to the
9 Commission, to the Governor, and to the General Assembly.

10 (10) To provide monthly financial reports to the Commission.

11 "**§ 18E-202.** Reserved.

12 "**§ 18E-203. Employees of the Commission.**

13 All of the following apply to the Director and all other employees of the Commission:

14 (1) No employee of the Commission may have a financial interest in any licensee
15 or contractor, other than an interest as part of a mutual fund.

16 (2) No employee of the Commission with decision-making authority shall
17 participate in any decision involving the licensee or contractor with whom the
18 employee has a financial interest.

19 (3) No employee of the Commission who leaves the employment of the
20 Commission may represent any licensee or contractor before the Commission
21 for a period of one year following termination of employment with the
22 Commission.

23 (4) No employee of the Commission who leaves the employment of the
24 Commission may represent any lottery contractor, potential contractor, or
25 retailer, as defined in Subchapter II of this Chapter, before the Commission
26 for a period of one year following termination of employment with the
27 Commission.

28 (5) A background investigation shall be conducted on each applicant for
29 employment with the Commission.

30 (6) The Commission shall bond all employees with access to Commission funds
31 or revenue or security.

32 "**§ 18E-204.** Reserved.

33 "**§ 18E-205. Gifts.**

34 (a) No Commissioner, the Director, any employee of the Commission, or a member of
35 the immediate family residing in the same household as any of these individuals may accept any
36 economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service,
37 excluding food and beverages having an aggregate value not exceeding one hundred dollars
38 (\$100.00) in any calendar year from any person regulated by this Chapter.

39 (b) This section shall be supplemental to Subchapter II of Chapter 163A of the General
40 Statutes."

41 **SECTION 3.(a)** G.S. 18C-110 is repealed.

42 **SECTION 3.(b)** G.S. 18C-111 is repealed.

43 **SECTION 3.(c)** G.S. 18C-112 is repealed.

44 **SECTION 3.(d)** G.S. 18C-113(a), (b), and (c) are repealed.

45 **SECTION 3.(e)** G.S. 18C-115(a) is repealed.

46 **SECTION 3.(f)** G.S. 18C-114 is repealed.

47 **SECTION 3.(g)** G.S. 18C-120 is repealed.

48 **SECTION 3.(h)** G.S. 18C-122 is repealed.

49 **SECTION 4.** G.S. 18B-500(b) reads as rewritten:

50 "(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
51 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and

1 enforcement actions for any criminal offense. The primary responsibility of an agent shall be
2 enforcement of the ~~ABC-ABC, gaming,~~ and lottery laws."

3 **SECTION 5.(a)** The North Carolina Gaming Commission shall study the feasibility
4 of authorizing sports betting and steeplechases for operation in this State. As part of its study, the
5 North Carolina Gaming Commission shall address all of the following:

- 6 (1) Examine any restrictions on such activities in this State.
- 7 (2) Examine the effects of authorizing such activities on existing tribal games in
8 this State, if any.
- 9 (3) Investigate the positive and negative impacts of authorizing such activities in
10 this State, including whether any additional resources may be needed for
11 assistance to those with gambling addictions.
- 12 (4) Examination of potential revenues and expenditures for the State, if such
13 activities are authorized.
- 14 (5) Recommendations of types of regulation of such activities, including any to
15 protect players.
- 16 (6) Examine whether gambling losses should be eligible for deduction on State
17 income tax filings.
- 18 (7) Any other matters the North Carolina Gaming Commission deems relevant.

19 **SECTION 5.(b)** The North Carolina Gaming Commission shall report its findings,
20 together with any proposed legislation, to the Joint Legislative Oversight Committee on the State
21 Lottery on or before February 15, 2020.

22 **SECTION 6.** Except as otherwise specifically provided in this act, each enumerated
23 commission, board, or other function of State government transferred to the North Carolina
24 Gaming Commission, as created in this act, is a continuation of the former entity for purposes of
25 succession to all the rights, powers, duties, and obligations of the former. Where the former
26 entities are referred to by law, contract, or other document in their former name, the North
27 Carolina Gaming Commission, as created in this act, is charged with exercising the functions of
28 the former named entity.

29 **SECTION 7.** No action or proceeding pending on August 31, 2019, brought by or
30 against the North Carolina Lottery Commission, the State Bureau of Investigation, the Alcohol
31 Law Enforcement Branch of the Department of Public Safety, or the Boxing Advisory
32 Commission shall be affected by any provision of this act, but the same may be prosecuted or
33 defended in the name of the North Carolina Gaming Commission, as created in this act. In these
34 actions and proceedings, the North Carolina Gaming Commission or its Executive Director, as
35 appropriate, shall be substituted as a party upon proper application to the courts or other
36 administrative or quasi-judicial bodies.

37 Any business or other matter undertaken or commanded by any State program or
38 office or contract transferred by this act to the North Carolina Gaming Commission pertaining to
39 or connected with the functions, powers, obligations, and duties set forth herein, which is pending
40 on August 31, 2019, may be conducted and completed by the North Carolina Gaming
41 Commission in the same manner and under the same terms and conditions and with the same
42 effect as if conducted and completed by the original program, office, or commissioners or
43 directors thereof.

44 **SECTION 8.** The consolidation provided for under this act shall not affect any
45 ongoing investigation or audit. Prosecutions for offenses or violations committed before August
46 31, 2019, are not abated or affected by this act, and the statutes that would be applicable but for
47 this act remain applicable to those prosecutions.

48 **SECTION 9.** Rules, forms, policies, procedures, and guidance adopted by the North
49 Carolina Lottery Commission, the State Bureau of Investigation, the Alcohol Law Enforcement
50 Branch of the Department of Public Safety, or the Boxing Advisory Commission shall remain in
51 effect until amended or repealed by the North Carolina Gaming Commission.

1 **SECTION 10.** The authority, powers, duties and functions, records, personnel,
2 property, and unexpended balances of appropriations, allocations, or other funds, including the
3 functions of budgeting and purchasing, of the North Carolina Lottery Commission are transferred
4 to the North Carolina Gaming Commission, as created in this act. The authority, powers, duties
5 and functions, records, personnel, property, and unexpended balances of appropriations,
6 allocations, or other funds, including the functions of budgeting and purchasing, of the bingo and
7 raffle functions of the State Bureau of Investigation are transferred to the North Carolina Gaming
8 Commission, as created in this act. The authority, powers, duties and functions, records,
9 personnel, property, and unexpended balances of appropriations, allocations, or other funds,
10 including the functions of budgeting and purchasing, of the boxing regulatory functions of the
11 Alcohol Law Enforcement Branch of the Department of Public Safety and the Boxing Advisory
12 Commission are transferred to the North Carolina Gaming Commission, as created in this act.
13 The Director of the Budget shall resolve any disputes arising out of this transfer.

14 **SECTION 11.** The appropriations and resources of the North Carolina Lottery
15 Commission, including any office space, are transferred to the North Carolina Gaming
16 Commission, and the transfer shall have all the elements of a Type I transfer under G.S. 143A-6.

17 **SECTION 12.** The members of the North Carolina Lottery Commission, as
18 appointed pursuant to G.S. 18C-111, shall operate as the North Carolina Gaming Commission
19 until the Governor and the General Assembly have appointed the membership of the North
20 Carolina Gaming Commission as provided in this act.

21 **SECTION 13.** The appropriations and resources of the bingo and raffle functions of
22 the State Bureau of Investigation are transferred to the North Carolina Gaming Commission, and
23 the transfer shall have all the elements of a Type I transfer under G.S. 143A-6.

24 **SECTION 14.** The appropriations and resources of the boxing regulatory functions
25 of the Alcohol Law Enforcement Branch of the Department of Public Safety and the Boxing
26 Advisory Commission are transferred to the North Carolina Gaming Commission, and the
27 transfers shall have all the elements of a Type I transfer under G.S. 143A-6.

28 **SECTION 15.** The North Carolina Gaming Commission shall report to the Joint
29 Legislative Commission on Governmental Operations and the Joint Legislative Lottery
30 Oversight Committee on or before April 1, 2020, and again on or before March 1, 2021, as to
31 recommendations for statutory changes necessary to further implement this consolidation.

32 **SECTION 16.** This act becomes effective September 1, 2019.