

Summary of Ohio Sports Gaming Law

Dec. 30, 2021

On Dec. 22, 2021, Governor Mike DeWine signed into law House Bill 29 (the “**Law**”), which legalizes and regulates retail and online/mobile sports gaming in Ohio. Below is an overview of the substantive terms of the Law.

- **Licensing and Regulatory Oversight.** The Law grants licensing and regulatory authority over all sports gaming in the state to the Ohio Casino Control Commission (the “**Commission**”).
- **Sports Gaming Licenses Authorized.** The Law authorizes three types of sports gaming proprietor licenses – Type A, Type B, and Type C.
 - **Type A Sports Gaming Proprietor License (Type A License)**
 - A Type A License allows its holder to offer sports gaming via a computer website or mobile application.
 - Initially, the Commission may issue **up to 25 Type A Licenses**. After issuance of 25 Type A Licenses, the Commission may issue additional Type A Licenses to eligible applicants who can demonstrate a market need for additional Type A License holders.
 - To qualify for a Type A License, an applicant must either:
 - Hold a Type B Sports Gaming Proprietor License; or
 - Maintain an operational place of business in Ohio with multiple employees.
 - **Type B Sports Gaming Proprietor License (Type B License)**
 - A Type B License allows its holder to offer sports gaming at the licensee’s qualified sports gaming facility (i.e. retail or in-person wagering).
 - The Commission may issue **up to 40 Type B Licenses**.
 - To qualify for a Type B License, an applicant must conduct “significant economic activity in the county in which the sports gaming facility is to be located.”
 - Each Type B License allows for sports gaming at **one** facility specified in the license.
 - Type B sports gaming facilities are subject to the following location restrictions:

County Population*	Number of Sports Gaming Facilities Permitted
< 100,000	No sports gaming facility may be located in the county except if the Commission determines that such county had at least 5,000,000 tourist visitors during the most recent documented calendar year. If so, then such county may have one sports gaming facility.
≥100,000 but < 400,000	Not more than one sports gaming facility may be located in the county, except that there may be two sports gaming facilities in the county if a video lottery sales agent (i.e. a racino) operates in the county.
≥ 400,000 but < 800,000	Not more than three sports gaming facilities may be located in the county.
≥ 800,000	Not more than five sports gaming facilities may be located in the county.
* based on 2010 federal decennial census	

- **Type C Sports Gaming Proprietor License (Type C License)**
 - A Type C License allows its holder to offer sports gaming through self-service or clerk-operated gaming terminals at one or more licensed type C sports gaming host facilities. Such facility is known as a host facility.
 - The Commission may issue **at least two and not more than 20 Type C Licenses**; provided, if only one eligible person applies, the Commission shall issue only one Type C License.
 - A Type C Licensee shall contract with the Ohio Lottery Commission to operate sports gaming on its behalf in exchange for a portion of the state's proceeds from the sports gaming.
 - A Type C Licensee may only offer the following types of wagers on sporting events as approved by the Commission:
 - Spread wagers;
 - Over-under wagers;
 - Moneyline wagers; and
 - Parlay wagers based on not more than four component wagers.
 - Host facilities must hold a D-1, D-2, or D-5 liquor permit and a Type C sports gaming host facility license (a "**Host Facility License**"). The Commission shall issue a Host Facility License to any eligible Host Facility License applicant recommended by the Ohio Lottery Commission.
 - A Type C licensee may install up to two kiosks at a single licensed host facility, with potential for additional kiosks at the Commission's discretion.
 - Each kiosk is limited to accepting no more than \$700 in a calendar week from any individual player.
 - A Type C licensee and host facility may enter into a written agreement specifying the terms of their relationship, including the sharing of the sports gaming proceeds. There is no statutorily mandated split.

- **License Preferences.** In issuing Type A and Type B Licenses, a preference will be given to applicants that are professional sports organizations, casino operators, and video lottery sales agents (i.e. racinos).¹ Professional sports organizations include Ohio's sports teams operating in the NFL, NHL, MLB, NBA, and MLS,² as well as Muirfield Village Golf Club and the Mid-Ohio Sports Car Course.

- **Other Licenses.**
 - **Mobile Management Services Provider License.** A Type A licensee may enter into a contract with a licensed mobile management services provider to provide online sports gaming services on behalf of the Type A licensee.
 - **Management Services Provider License.** A Type B licensee may enter into a contract with a licensed management services provider to provide retail sports gaming services at Type B licensee's sports gaming facility.
 - **Other (Mobile) Management Services Provider Requirements.**
 - Type A and Type B licensees are generally authorized to contract with one licensed (mobile) management services provider, as applicable, to offer sports gaming on the licensee's behalf.
 - A mobile management services provider or management services provider license must be licensed by the Commission before it may enter into a contract with a Type A licensee or Type B licensee, as applicable.
 - The Commission must approve any contract between a (mobile) management services provider and Type A licensee or Type B licensee, as applicable.

¹ Currently, four casino operators and 11 video lottery sales agents (racinos) operate in the State of Ohio.

² Currently, eight professional sports organizations are in the state - Cincinnati Bengals (NFL), Cleveland Browns (NFL), Cincinnati Reds (MLB), Cleveland Indians (MLB), Columbus Blue Jackets (NHL), Columbus Crew (MLS), FC Cincinnati (MLS), and Cleveland Cavaliers (NBA).

- A Type A licensee may contract **with two mobile management services providers** if the Type A licensee: (1) is a professional sports organization, casino operator, or video lottery sales agent (i.e. racino); and (2) demonstrates that the second contract would generate an incremental economic benefit to the state without preventing another Type A proprietor from securing a contract with a mobile management services provider. [Note: This suggests that preferred Type A licensees could be permitted to operate up to two ‘skins.’]
 - Each mobile management services provider license and management services provider license entitles the holder to contract with one Type A licensee or Type B licensee, respectively.
 - The Law requires the Commission to adopt a rule setting a maximum number of mobile management services provider licenses and management services provider licenses a person may hold at any one time.
 - Type C licensees are not permitted to contract with a mobile management services provider or a management services provider to offer sports gaming on behalf of such Type C licensee.
- **Licensing Standards.** All Type A, B, and C licensees, mobile management services provider licensees, and management services providers licensees and all persons that control such licensees must submit fingerprints to the Commission for the purposes of conducting a criminal records check and be fully vetted by the Commission. Host Facility License applicants are not required to undergo a criminal background check or licensure suitability investigation by the Commission.
- **Sports Gaming.** To participate in sports gaming in Ohio, patrons must be 21 years of age or older. Bets may be placed on “sporting events” which include any professional sport or athletic event, any collegiate sport or athletic event, any Olympic or international sports competition event, any motor race event, any esports event, or any other special event authorized by the Commission for sports gaming, the individual performance statistics of athletes or participants in such an event or a combination of those. No bets may be placed on any event for primary or secondary school students or the individual performance statistics of athletes or participants in such an event.
- **Online/Mobile Sports Gaming.** Patrons must establish an account to engage in online/mobile sports gaming, which can be done at a licensed facility or over the internet – there is no in-person registration requirement. Accounts may only be opened by individuals. Servers responsible for accepting online wagers must be located within the State of Ohio.
- **Fees, Terms of License, and Renewal Fees.**
 - **Type A, B and C Licenses.**
 - Applicants for Type A, B, or C Licenses must pay an application fee to be prescribed by the Commission by Rule.
 - Upon issuance of such license and at specified intervals thereafter, the licensee must pay certain nonrefundable license fees, as set forth on **Exhibit A**.
 - Type A, B, and C Licenses are valid for a term of five years.
 - Upon the expiration of the license, the licensee may apply to renew the license in the same manner as for an initial license.
 - **(Mobile) Management Services Provider Licenses**
 - Applicants for a (mobile) management services provider license must pay an application fee to be prescribed by the Commission by Rule.
 - After issuance of a (mobile) management services provider license and at annual intervals thereafter, the licensee must pay certain nonrefundable license fees, as set forth on **Exhibit B**.
 - A (mobile) management services provider license shall be valid for a term of five years.
 - To renew a (mobile) management services provider license, the licensee shall apply to the Commission for a renewed license in the same manner as for an initial license.

- **Host Facility License**
 - Upon receiving an initial or renewed Host Facility License, the applicant is required to pay a nonrefundable license fee of \$1,000. Host Facility Licenses are valid for a term of three years.
- **Tax Rate.** The Law taxes net revenues from sports gaming at 10%, setting aside 98% of the funds it collects for public and private schools. The remaining 2% is earmarked to fund problem gambling programs.
- **Launch Date.** The Law requires the Executive Director of the Commission (director) to designate a universal start date for sports gaming that is **not later than Jan. 1, 2023**. No person is permitted to offer sports gaming in Ohio before the universal start date. The director is also required to establish deadlines by which applicants must submit application materials in order to begin operating under the licenses on the universal start date.
- **Official League Data.** The Law does not impose requirements for use of official league data.
- **Disparity Study.** The director must engage an independent consultant to conduct a study to determine whether qualified persons experience discrimination or disadvantage in the sports gaming industry on the basis of their membership in a racial minority group, their color or ethnicity, their gender, or their disability. The director shall provide the results of the study to the Commission and shall inform the Commission whether, in the director's opinion, the results of the study warrant action by the Commission to establish goals to ensure that sports gaming licenses are issued on an equitable basis and shall disseminate information about the Commission's licensing goals through targeted media.

For further information, contact a member of Taft's **Gaming Industry Group**.

Exhibit A

Sports Gaming Proprietor License Fees

Type A Sports Gaming Proprietor License

	Upon Issuance	One Year After Issuance	Two Years After Issuance	Three Years After Issuance	Four Years After Issuance	Total Fee
Initial/renewed – Type A proprietor that is a professional sports organization and is not contracting with more than one mobile management service provider.	\$500,000	\$125,000	\$125,000	\$125,000	\$125,000	\$1,000,000
Initial/renewed – any other Type A proprietor that is not contracting with more than one mobile management service provider.	\$750,000	\$187,500	\$187,500	\$187,500	\$187,500	\$1,500,000
Initial – Type A proprietor that is a professional sports organization and is contracting with two mobile management service providers.	\$1,666,667	\$416,667	\$416,667	\$416,667	\$416,667	\$3,333,335
Initial – any other Type A proprietor that is contracting with two mobile management service providers.	\$2,500,000	\$625,000	\$625,000	\$625,000	\$625,000	\$5,000,000
Renewed – Type A proprietor that is a professional sports organization and is contracting with two mobile management service providers.	\$500,000	\$125,000	\$125,000	\$125,000	\$125,000	\$1,000,000
Renewed – any other Type A proprietor that is contracting with two mobile management service providers	\$750,000	\$187,500	\$187,500	\$187,500	\$187,500	\$1,500,000

Type B Sports Gaming Proprietor License

	Upon Issuance	One Year After Issuance	Two Years After Issuance	Three Years After Issuance	Four Years After Issuance	Total Fee
Type B proprietor that is also a Type A proprietor.	\$100,000	\$10,000	\$10,000	\$10,000	\$10,000	\$140,000
Type B proprietor that is not a Type A proprietor.	\$50,000	\$10,000	\$10,000	\$10,000	\$10,000	\$90,000

Type C Sports Gaming Proprietor License

	Upon Issuance	Renewal Fee
Type C Proprietor License.	\$100,000	\$25,000

Exhibit B

Management Services Provider License Fees

Mobile Management Services Provider License

	Upon Issuance	One Year After Issuance	Two Years After Issuance	Three Years After Issuance	Four Years After Issuance	Total Fee
Initial/renewed – designated first mobile management services provider for a Type A proprietor that is a professional sports organization.	\$1,000,000	\$250,000	\$250,000	\$250,000	\$250,000	\$2,000,000
Initial/renewed – designated first mobile management services provider for any other Type A gaming proprietor.	\$750,000	\$833,333	\$833,333	\$833,333	\$833,333	\$1,500,000
Initial – designated second mobile management services provider for a Type A proprietor that is a professional sports organization.	\$3,333,333	\$416,667	\$416,667	\$416,667	\$416,667	\$6,666,665
Initial – designated second mobile management services provider for any other Type A proprietor.	\$2,500,000	\$625,000	\$625,000	\$625,000	\$625,000	\$5,000,000
Renewed – designated second mobile management services provider for a Type A proprietor that is a professional sports organization.	\$1,000,000	\$250,000	\$250,000	\$250,000	\$250,000	\$2,000,000
Renewed – designated second mobile management services provider for any other Type A proprietor.	\$750,000	\$187,500	\$187,500	\$187,500	\$187,500	\$1,500,000

Management Services Provider License

	Upon Issuance	One Year After Issuance	Two Years After Issuance	Three Years After Issuance	Four Years After Issuance	Total Fee
Management service provider that is contracting with a Type B proprietor that is also a Type A proprietor.	\$100,000	\$10,000	\$10,000	\$10,000	\$10,000	\$140,000
Any other management services provider.	\$50,000	\$10,000	\$10,000	\$10,000	\$10,000	\$90,000