

## **BILL ANALYSIS**

H.B. 1942  
By: Leach  
State Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

In its 2018 decision in *Murphy v. National Collegiate Athletic Association*, the U.S. Supreme Court struck down a federal law that prohibited states from legalizing sports betting. Since then, as reported by the American Gaming Association, more than 30 states, as well as Washington, D.C., and Puerto Rico, have enacted legislation to authorize sports betting, including Louisiana, Florida, Tennessee, Arkansas, and Arizona. Meanwhile, Texans are currently still unable to legally place mobile sports bets. H.B. 1942, contingent on the approval of a constitutional amendment legalizing sports wagering in Texas, establishes the statutory framework for the operation of mobile sports wagering in Texas, including a strict permitting and regulatory process operated through the Texas Lottery Commission.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Lottery Commission and the comptroller of public accounts in SECTION 2 of this bill.

### **ANALYSIS**

#### **Texas Sports and Entertainment Recovery Act**

H.B. 1942 amends the Occupations Code to enact the Texas Sports and Entertainment Recovery Act, which legalizes and regulates interactive sports wagering in Texas through or by means of the Internet, a mobile device, or any other telecommunications service with respect to the following sporting events:

- a professional, college, or amateur sports or athletic event;
- a motor race event;
- an electronic sports event;
- a competitive video game event; or
- any other event approved by the Texas Lottery Commission.

"Sports wagering," as authorized by the act, means a bet placed on applicable sporting events or portions of those events, or on the individual performance statistics of athletes in an event or a combination of events, including single-game wagers, teaser wagers, parlays, over-unders, moneylines, pools, exchange wagering, in-game wagering, in-play wagers, proposition wagers, and straight wagers. The term does not include, and the act expressly does not apply to, fantasy sports contests, as defined by the bill, or horse racing or greyhound racing regulated under the Texas Racing Act.

H.B. 1942 requires the lottery commission to establish by rule an interactive sports wagering program and issue permits to operate interactive sports wagering on qualifying sporting events as authorized by the act and lottery commission rule.

H.B. 1942 prohibits the lottery commission from authorizing wagering involving youth sports, which means an athletic or sporting event in which the majority of participants are under the age of 18 or are competing on behalf of or under the sponsorship of one or more public or private preschools or public or private elementary, middle or junior high, or high schools. The bill also prohibits a person from placing or accepting a wager on youth sports. These prohibitions do not apply to professional sports or events that occur under the sponsorship or oversight of national or international athletic bodies that are not educational institutions and that include participants both over and under the age of 18.

## Permits

### *Interactive Sports Wagering Permit*

H.B. 1942 makes the following sports entities, or a designee of the entity, eligible for an interactive sports wagering permit:

- a professional sports franchise located in Texas that leases, subleases, or exclusively or jointly operates an applicable Texas sports facility, that existed on January 1, 2023, and that is a participant in any of the following leagues:
  - Major League Baseball;
  - the National Basketball Association;
  - the Women's National Basketball Association;
  - the National Football League;
  - Major League Soccer; or
  - the National Hockey League;
- a sports organization that holds, and has held before January 1, 2023, sanctioned annual professional golf tournaments in Texas as part of a national tour of professional golfers; and
- a class 1 racetrack that was in existence on January 1, 2023, including an entity operating the racetrack.

The bill requires the lottery commission to issue a permit to an authorized entity that submits a completed application to the lottery commission and pays a permitting fee in an amount equal to \$500,000, which the lottery commission must refund if the application is denied after deducting the expenses incurred in considering the application. The bill caps at one the number of permits each authorized entity may be issued and the number of designees that a sports entity may designate to receive a permit on the entity's behalf. A designee must be based in the United States to qualify for a permit. The bill requires the lottery commission to prescribe a permit application form that each applicant must use and sets out the information that an applicant must submit, including certain information about their business plan and brand, measures and controls they will implement, their history of preventing problem gambling, information security, and key persons. "Key person" means an officer or director of an interactive sports wagering operator who is directly involved in the operation, management, or control of the conduct of sports wagering or who exercises substantial influence or control over the operator's wagering activities.

H.B. 1942 requires the lottery commission to grant or deny a completed application not later than the 90th day after the date of receipt. This decision is final and not appealable, except as otherwise required under state law. The bill authorizes the lottery commission to accept a license, permit, or any other authorization to operate sports wagering issued by another jurisdiction that the lottery commission specifically determines has similar permitting requirements as evidence that the applicant meets the applicable permitting requirements. The lottery commission may accept another jurisdiction's or an approved third party's testing of an

interactive sports wagering platform as evidence that the platform meets any requirements mandated by lottery commission rule.

For purposes of the act, "interactive sports wagering operator" means a holder of this permit.

#### *Service Provider Permit*

H.B. 1942 provides for the issuance of a service provider permit, which authorizes the permit holder to provide any service that involves the operation, management, or control of authorized sports wagers, including the development or operation of sports wagering platforms and the provision of sports wagering odds and line information and sports wagering risk management information. The covered services authorized under the permit do not include any of the following:

- payment processing and similar financial services;
- customer identity, age verification, and geolocation services;
- streaming or other video and data that do not include sports wagering odds or line information;
- telecommunications, Internet service providers, and other similar services not specifically designed for use in connection with sports wagering;
- other goods or services designed to support the operation, management, or control of a sports wagering platform; and
- other goods or services not specifically designed for use in connection with sports wagering.

H.B. 1942 requires an applicant for a service provider permit to submit an application to the lottery commission, on a form prescribed by the lottery commission, that contains all requisite information and pay a \$25,000 application fee. The bill sets out the information that the application must contain, including certain information about the applicant's background and experience, information security, and key persons. The bill requires the lottery commission to conduct a background check on each applicant, including any key persons of the applicant, as required by lottery commission rule. The background check must include a credit history check, a tax record check, and a criminal history record information check.

H.B. 1942 requires the lottery commission to grant or deny a completed application not later than the 90th day after the date of receipt. This decision is final and not appealable, except as otherwise required under state law. The bill requires the lottery commission to grant the permit unless any of the following grounds for denial exist:

- the lottery commission reasonably believes:
  - the applicant will be unable to satisfy their duties;
  - the applicant or a key person of the applicant is not of good character, honesty, or integrity; or
  - the applicant's or a key person of the applicant's prior activities, criminal record, reputation, or associations are likely to pose a threat to the public interest, impede the regulation of sports wagering, or promote unfair or illegal activities in the conduct of sports wagering;
- the applicant or a key person of the applicant knowingly fails to comply with the act or a corresponding lottery commission rule;
- the applicant or a key person of the applicant has been previously convicted of a felony, a crime of moral turpitude, or any criminal offense involving dishonesty or breach of trust in the 10 years preceding the application's submission date;
- the applicant's or a key person of the applicant's license, registration, or permit to conduct sports wagering, other forms of gambling activity, or an applicable covered service issued by another state has been revoked; or
- the applicant defaults in payment of any obligation or debt due to the state.

### *Initial Permit Application Period*

H.B. 1942 sets out a timeline for the initial issuance of permits as follows:

- not later than the 90th day after the bill's effective date, the lottery commission must post the application forms on its website and adopt rules allowing for the submission of applications for interactive sports wagering permits and service provider permits;
- not later than the 45th day after the date the application forms are posted and rules are adopted, the lottery commission must open an initial application period for issuance of the permits;
- not later than the 30th day after the date the initial application period commences, the lottery commission must complete the review of all applications received and award interactive sports wagering permits in accordance with the act; and
- following the close of the initial application period, the lottery commission must issue additional available permits on a rolling basis.

### *Confidentiality*

H.B. 1942 makes all information submitted as part of a permit application confidential and exempt from public disclosure.

### *Permit Renewal*

H.B. 1942 sets a permit to expire on the third anniversary of the date it was issued, except that if the application is submitted by a designee of a sports entity or the entity's affiliate, the permit expires on the earlier of the third anniversary of the date of issuance or the expiration date of any contract between the sports entity or affiliate and the designee authorizing the designee to manage and operate the entity's or affiliate's sports wagering activities.

H.B. 1942 authorizes a permit holder to renew a permit at least 60 days before its expiration by submitting a renewal application on a form prescribed by the lottery commission and a renewal fee in an amount equal to \$100,000 for an interactive sports wagering permit or \$10,000 for a service provider permit. The bill authorizes the lottery commission to deny a renewal application on finding grounds for denial for the issuance of the original permit, as applicable.

### *Excess Fee Revenue*

H.B. 1942 requires any sports wagering-related fee revenue collected by the lottery commission in excess of the amount needed to administer the act to be remitted to the comptroller of public accounts.

### Voluntary Exclusion Program

H.B. 1942 requires the lottery commission by rule to establish, implement, and administer a program through which individuals may voluntarily exclude themselves from sports wagering. The rules must require the following:

- the lottery commission to establish and administer a statewide self-exclusion list that allows an individual to register on the lottery commission's website for self-exclusion for the period specified in the exclusion registration agreement and requires the lottery commission to regularly distribute the list to each interactive sports wagering operator;
- each operator to provide information on the procedures for individuals to request to be added to the list and for operators to bar individuals on the list from any further participation in sports wagering for the period the individuals are included on the list;
- except as otherwise provided by lottery commission rule, a program participant to agree to refrain from participating in sports wagering for the period specified in the exclusion registration agreement and not to petition for removal from the program for that period; and

- a permit holder to make all commercially reasonable attempts and cause its sales agents and others operating on its behalf to make reasonable efforts to cease all direct marketing efforts to program participants.

An individual's registration under the program does not prevent a permit holder and its agents and others operating on their behalf from seeking payment of a debt accrued by the individual before entering the program.

### Interactive Sports Wagering Operators

H.B. 1942 authorizes an interactive sports wagering operator or a service provider on the operator's behalf to conduct statewide interactive sports wagering. The bill requires an operator and its service provider to implement reasonable measures to do the following:

- ensure that only individuals physically located in Texas or as otherwise authorized by lottery commission rule may place a wager through its sports wagering platform;
- protect the confidential information of players using its platform;
- prevent wagering on prohibited events, as provided by the act or lottery commission rule;
- prevent individuals from placing wagers as agents or proxies for other individuals;
- allow individuals to restrict themselves from placing wagers through its platform under the voluntary exclusion program;
- establish procedures to detect suspicious or illegal wagering activity, including measures to report such activity to the lottery commission; and
- provide for the withholding or reporting of income tax of players as required by applicable state or federal law.

H.B. 1942 requires an interactive sports wagering operator to maintain until the third anniversary of the date of a sporting event records of all sports wagers placed on the event, including specified data, and records of suspicious or illegal wagering activity. The bill requires the operator to disclose the records to the lottery commission on request. If a sports governing body notifies the lottery commission that real-time information sharing for wagers placed on its sporting events is necessary and desirable, operators must share with that governing body or its designee in real time the following information, at the account level:

- anonymized information regarding an individual who places a wager;
- the amount and type of wager;
- the time the wager was placed;
- the location of the wager, including the IP address if applicable;
- the outcome of the wager; and
- records of abnormal wagering activity.

The governing body may use the information solely for sports wagering integrity purposes. For purposes of these provisions, "real-time information sharing" means the sharing of information at a commercially reasonable periodic interval of not less than once every 72 hours.

H.B. 1942 requires an interactive sports wagering operator, in advertising its sports wagering platform, to ensure that its advertisements:

- are not targeted to individuals under the age of 21;
- disclose the identity of the operator's brand;
- are not misleading to a reasonable individual; and
- provide information about or links to resources related to problem gambling and prevention, including a toll-free crisis help telephone number approved by the lottery commission.

An operator may hold out its sports wagering platform to the public under only one sports wagering brand.

H.B. 1942 authorizes an interactive sports wagering operator, subject to lottery commission approval, to assign the operator's interactive sports wagering operations to a third-party designee to manage and operate the operator's sports wagering activities. The designee must submit to

the lottery commission the information required for a permit applicant in accordance with procedures prescribed by lottery commission rule.

H.B. 1942 authorizes an interactive sports wagering operator to offer fantasy sports contests to the extent those contests are authorized by law.

#### Interactive Sports Wagering Accounts

H.B. 1942 makes an interactive sports wagering operator responsible for verifying the identity of a sports wagering player and ensuring that the player is at least 21 years of age and authorizes an operator to remotely verify a player's identity in order to establish an interactive sports wagering account for the player. The bill prohibits a player from establishing more than one account with any given operator and prohibits the following individuals from placing sports wagers:

- any individual under 21 years of age;
- any individual who has requested and has not revoked exclusion from sports wagering under the voluntary exclusion program or who otherwise has been adjudicated by law as prohibited from engaging in sports wagering;
- any member, officer, or employee of the lottery commission;
- any employee or key person of a permit holder for that permit holder's sports wagering platform;
- any participant, including an athlete, coach, trainer, referee, or other official, and any employee or other staff of a participant, in a competition that is the subject of the wagering for the league with which the participant is affiliated; and
- any employee or other staff of a sports governing body or authorizing league or similar sponsoring organization for a competition subject to sports wagering for the governing body, league, or organization with which the individual is employed or otherwise affiliated.

The bill prohibits an operator and, as applicable, its service providers from accepting a sports wager from a relevant participant or any employee or staff of a relevant participant, governing body, league, or sponsoring organization if the operator or, as applicable, service provider has notice or actual knowledge that the individual is prohibited from placing a sports wager.

H.B. 1942 requires that an interactive sports wagering account be established in the name or on behalf of a player who is a natural person and either through the operator's sports wagering platform or a specialized website or other interface established for that purpose or by any other means approved by the lottery commission. The bill prohibits the account from being established in the name of any beneficiary, custodian, joint trust, corporation, partnership, or any other entity and requires that an account include terms that do the following:

- prohibit the transfer or sale of an account or account balance to another registered player;
- prohibit the use of any virtual private network or other technology that may obscure or falsify the player's physical location;
- prohibit any form of collusion, cheating, or other unlawful activity;
- affirm that the player meets all eligibility requirements for registration; and
- authorize the provision of notices and other required communications either through a designated mobile or other interface or to a designated email address.

H.B. 1942 authorizes an interactive sports wagering operator to allow for the establishment, verification, and funding of an account remotely, provided the operator has in place measures sufficient to remotely verify the player's age and identity. An operator may suspend or terminate an account under the following circumstances:

- if the operator determines the player has provided any false or misleading information in connection with the opening of the account or has engaged in cheating or other unlawful conduct;
- if the player is or has been barred from placing sports wagers in Texas;

- if the player is or otherwise becomes ineligible under the act;
- if the operator determines it lacks sufficient information to verify the player's age and eligibility; or
- for any other reason at the operator's sole discretion, provided that reason is not based on a player's actual or believed sex, gender identity, race, religion, national origin, sexual orientation, or other lawfully protected characteristic.

On termination for any reason other than the player providing false or misleading information in connection with the opening of the account or engaging in cheating or other unlawful conduct, the operator must provide the player sufficient time and access to withdraw any funds remaining in the account.

## Wagering

### *Wagering Tiers*

H.B. 1942 divides sports wagers into two tiers based on the time the wager was placed; tier two wagers are those placed after an applicable sporting event begins and tier one wagers include all other wagers.

### *Risk Management*

H.B. 1942 requires the lottery commission to adopt rules allowing interactive sports wagering operators and their service providers to use systems that offset loss or manage risk in the operation of sports wagering, including through liquidity pools, exchanges, or similar mechanisms in other approved jurisdictions in which the operator, service provider, affiliate of either, or other third party also holds an equivalent permit or license. These rules must require that adequate protections be maintained at all times to ensure sufficient funds are available to pay all sports wagering players. The bill also authorizes an operator to engage in risk management measures, commonly known as layoff wagering, in the ordinary course of business.

### *Determination of Wager Results; Data Sources*

H.B. 1942 establishes that an interactive sports wagering operator is not required when determining the result of a tier one wager to use official league data that is obtained under an agreement between the operator and the relevant sports governing body or an entity expressly authorized by the governing body to provide the data. With respect to a tier two wager, the bill authorizes a sports governing body to notify the lottery commission in accordance with forms and procedures prescribed by the lottery commission of the governing body's determination that an interactive sports wagering operator must use official league data obtained under such an agreement to settle these wagers. If a sports governing body does not notify the lottery commission of its determination to provide official league data, an operator is not required to use such data in determining the result of a tier two sports wager on a professional sports event of the league governed by the governing body.

H.B. 1942 requires the lottery commission, not later than the fifth day after it receives such a notification from a sports governing body, to notify each interactive sports wagering operator of that notification. Not later than the 60th day after the date the lottery commission notifies each operator, a permit holder may only use official league data to determine the results of tier two wagers on professional sports events of the league governed by the applicable governing body, unless either of the following are true:

- the governing body or its applicable designee is unable to provide a feed, on commercially reasonable terms, of official league data to determine the wager results, in which case an operator is not required to use official league data in determining the results until the data feed becomes available on commercially reasonable terms; or

- an operator demonstrates to the lottery commission that the governing body has not provided or offered to provide a feed of official league data to the operator on commercially reasonable terms.

The bill sets out a list of nonexclusive factors that the lottery commission may consider in evaluating whether the governing body has provided or offered to provide a feed of official league data on commercially reasonable terms, including the availability of a sports governing body's official league data for tier two sports wagers from more than one authorized source, market information, the nature and quantity of the data, and the extent to which sports governing bodies or their designees have made data used to settle tier two sports wagers available to sports wagering operators and any terms and conditions relating to the use of that data. The bill establishes that an operator is not required to use official league data in determining the results of any tier two sports wagers during any period in which the lottery commission is making such a determination. The bill requires the lottery commission to make its determination not later than the 60th day after the date an operator notifies the lottery commission that it desires to demonstrate that the governing body has not provided or offered to provide a feed of official league data to the operator on commercially reasonable terms. If the lottery commission determines that the requesting operator is likely to fail in successfully making the demonstration, the lottery commission may provisionally deny the request until making a final determination.

### *Revenue Sharing*

H.B. 1942 authorizes any sports governing body to enter into a commercial agreement with an interactive sports wagering operator under which the governing body may share in the amounts wagered or revenues derived from sports wagering on its sporting events. A sports governing body is not required to obtain a permit or other approval from the lottery commission to lawfully accept its share of these amounts or revenues.

### Integrity of Sporting Events

#### *Limitations on and Suspension of Wagering*

H.B. 1942 authorizes a sports governing body that believes that the type, form, or category of sports wagering on its sporting events has the potential to undermine the integrity or perceived integrity of the governing body or its sporting events to submit to the lottery commission a written request to restrict, limit, or exclude a certain type, form, or category of sports wagering for the events. The governing body must provide the request in the form and manner prescribed by lottery commission rule, and the lottery commission must request comment from interactive sports wagering operators on each request before granting the request. After giving due consideration to all comments received, the lottery commission must grant the request on a demonstration of good cause from the requestor that the type, form, or category of sports wagering is likely to undermine the perceived integrity or the integrity of the sports governing body or its sporting events.

H.B. 1942 requires the lottery commission, if feasible, to respond to a request concerning a particular event before the event begins or, if that is not feasible, to respond not later than the seventh day after the date the request is submitted. If the lottery commission determines a requestor is likely to prevail in successfully demonstrating good cause for its request, the lottery commission may provisionally grant the request until issuing a final determination on whether the requestor has demonstrated good cause. Absent a provisional grant by the lottery commission, an interactive sports wagering operator may continue to offer sports wagering on sporting events that are the subject of the request during the consideration of the request.

In addition to authorizing the lottery commission to suspend wagering for good cause on the request of a sports governing body, H.B. 1942 authorizes the lottery commission to otherwise suspend wagering on any competition, category or type of competition, or other aspect of a competition as necessary to protect the integrity of a competition or its participants. The bill



requires the lottery commission by rule to adopt and administer a monitoring program that is sufficient to protect the integrity of all sports wagering and that provides for the sharing of suspicious activities on wagering with operators and regulators in other states.

#### *Investigations; Reporting Requirement*

H.B. 1942 requires the lottery commission and interactive sports wagering operators to cooperate with investigations conducted by sports governing bodies or law enforcement agencies, including by providing or facilitating the provision of account-level wagering information and audio or video files relating to individuals placing wagers.

H.B. 1942 requires an interactive sports wagering operator to promptly report to the lottery commission any information relating to the following:

- criminal or disciplinary proceedings commenced against the operator in connection with its operations;
- abnormal wagering activity or patterns that may indicate a concern with the integrity of a sporting event;
- any potential breach of the relevant sports governing body's internal rules and codes of conduct pertaining to sports wagering, to the extent the operator has actual knowledge of the potential breach;
- any other conduct that corrupts a wagering outcome of a sporting event for purposes of financial gain, including match fixing; and
- suspicious or illegal wagering activities, including the use of funds derived from illegal activity, the placement of wagers to conceal or launder funds derived from illegal activity, the use of agents to place wagers, and the use of false identification in placing wagers.

The bill requires the operator also to promptly report to the relevant sports governing body the specified information regarding abnormal wagering activity, concerning patterns, breaches of internal rules and codes of conduct, or conduct corrupting a wagering outcome. The bill establishes confidentiality protections for such information, information provided by a sports governing body to an operator, and information provided by an operator to the lottery commission for compliance purposes. However, the bill authorizes the lottery commission and an interactive sports wagering operator to disclose confidential information to another operator, a sports governing body, a sports wagering regulating entity, a law enforcement entity, or other party for the purpose of preventing or investigating conduct that corrupts or could corrupt the outcome of a sporting event, including match fixing.

#### Prohibited Sports Wagering Establishments

H.B. 1942 prohibits the lottery commission from authorizing or allowing a person to do the following:

- operate or allow the operation of a place of public accommodation, a club, or a similar establishment in which computer terminals or similar access devices are intended or are made available for the primary use of accessing a sports wagering platform; or
- otherwise advertise to the general public that the place of public accommodation, club, or similar establishment is available to engage in sports wagering.

#### Wagering Revenue Tax

H.B. 1942 imposes a 10 percent tax on an interactive sports wagering operator's adjusted gross wagering revenue for a reporting period. The tax is due and payable to the comptroller on or before the 20th day of the month following the month in which the revenue on which the tax is based is received. The bill provides for the manner in which adjusted gross wagering revenue is computed and further provides for the carryover of revenue losses. The bill requires a person subject to the tax to file a tax report with the comptroller on a form prescribed by the comptroller, sets out the required contents of the report, and establishes that the report is due on the date the

tax is due. The bill requires the person to keep a record of the amounts the person reports and any other information the comptroller requires.

H.B. 1942 requires the comptroller to administer, collect, and enforce the tax in the manner the comptroller administers, collects, and enforces other state taxes, except as otherwise provided. The bill requires the comptroller to adopt rules providing for the manner in which a person required to pay the tax may file an amended tax report for a reporting period or otherwise account for errors or omissions in a tax report and authorizes the comptroller to adopt other rules as necessary to implement the tax.

H.B. 1942 establishes the problem gambling and addiction grant fund as an account in the general revenue fund. The bill requires the comptroller to deposit the net revenue from the tax and any excess fee revenue remitted by the lottery commission as follows:

- two percent to this new fund; and
- the remainder to the general revenue fund to be appropriated to the Texas Education Agency for use in providing property tax relief through the reduction of the state compression percentage.

The bill provides that an expenditure from the problem gambling and addiction grant fund must be made in accordance with the General Appropriations Act. From these appropriated funds, the lottery commission must administer a grant program to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and other addictive behaviors and funding for research regarding the impact of gambling on Texas residents. These research grants may include grants for determining the effectiveness of education and prevention efforts on the prevalence of pathological gambling in Texas.

H.B. 1942 exempts an interactive sports wagering operator from all excise taxes, license taxes, permit taxes, privilege taxes, amusement taxes, and occupation taxes imposed by the state or any political subdivision other than the sports wagering revenue tax.

#### Certification of Wagering Revenue and Expenses

H.B. 1942 requires the lottery commission to certify to the comptroller each month in the form and manner required by the comptroller a full and complete statement of sports wagering revenue and expenses for the preceding month. The lottery commission must also provide to the comptroller not later than September 30 of each year a full and complete statement of such revenue and expenses for the preceding state fiscal year and any recommendations for amendments to the act that may be warranted and prudent to protect the public interest.

#### Audits

H.B. 1942 grants to the lottery commission and the comptroller, for purposes of ensuring a proper accounting of all revenue due to the state, the right to each independently audit the books and records of interactive sports wagering operators and service providers that are related to authorized sports wagering activities. The lottery commission and comptroller must coordinate to ensure audits are not duplicative or overly burdensome on the operators or providers. The bill also authorizes the comptroller to conduct an audit of any taxes or fees imposed under the act in the same manner the comptroller conducts an audit of other state taxes under the Tax Code.

#### Criminal and Civil Penalties

H.B. 1942 creates a Class B misdemeanor offense for a person who knowingly offers or engages in sports wagering in violation of the act. The bill creates state jail felony offenses for a person who engages in the following conduct:

- knowingly attempting to suborn, collude, or otherwise conspire to impermissibly influence the outcome of any competition or aspect of any competition that is the subject of sports wagering under the act; or

- knowingly or wilfully falsifying, concealing, or misrepresenting a material fact or knowingly or wilfully making a false, fictitious, or fraudulent statement or representation in an application submitted under the act.

If conduct constituting any of these offenses also constitutes a gambling offense under the Penal Code, the actor may be prosecuted for either or both offenses.

H.B. 1942 authorizes the lottery commission, after determining that a permit holder has intentionally violated any material provision of the act or a corresponding lottery commission rule and providing at least 15 days' notice and a hearing, to suspend or revoke the permit and impose a monetary penalty not to exceed \$10,000 for each violation.

### General Provisions

H.B. 1942 requires the lottery commission's executive director to administer and enforce the act under direction of the lottery commission. The bill requires the lottery commission to adopt all necessary rules to administer the act and regulate sports wagering in Texas. The bill subjects any lottery commission action under the act to review under the Administrative Procedure Act.

H.B. 1942 establishes that all sports wagering authorized under the act must be initiated, received, and otherwise placed within the boundaries of Texas unless otherwise authorized by lottery commission rule adopted in accordance with applicable federal and state laws. The intermediate routing of electronic data relating to authorized Internet sports wagering, including routing across state lines, expressly does not determine the location in which wagers are initiated, received, or otherwise placed, consistent with the federal Unlawful Internet Gambling Enforcement Act of 2006.

### **Penal Code Gambling Offenses**

H.B. 1942 amends the Penal Code to establish as a defense to prosecution for the offense of gambling that the actor reasonably believed that their conduct was permitted under the Texas Sports and Entertainment Recovery Act and to establish as a defense to prosecution for any gambling-related offense that the conduct was actually authorized under that act. For purposes of these gambling-related offenses, the bill excludes an offer of a prize, award, or compensation to the participants in a fantasy sports contest from the agreements classified as a bet and clarifies that the existing exclusion for a prize, award, or compensation offered in a bona fide contest for the determination of skill, speed, strength, or endurance applies with respect to participants in such a contest as well as contestants. These provisions apply only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

### **Legislative Findings**

H.B. 1942 sets out the following legislative findings:

- consistent with a 2018 U.S. Supreme Court decision authorizing states to exercise their lawful prerogative to license and regulate sports wagering activity, it is in the interest of the state to authorize a strict regulatory model for sports wagering;
- a legal, regulated sports wagering market will help to deter unlawful sports wagering and provide for more regulatory and law enforcement oversight over sports wagering, while generating state revenue;
- any sports wagering enforcement and regulatory structure must begin from the bedrock premise that participation in a lawful and licensed sports wagering industry is a privilege and not a right and that strict regulatory oversight is intended to safeguard the integrity of wagering on sporting events and to ensure accountability and the public trust;
- the most expeditious way to legalize sports wagering in Texas and to strictly regulate this activity is to utilize the resources of the lottery commission; and

- sports wagering within Texas will be vested in operators acting under authority of state law and will promote trust and integrity in all sports wagering operations.

**EFFECTIVE DATE**

January 1, 2024, if the constitutional amendment authorizing the legislature to legalize wagering in Texas on certain sporting events is approved by the voters.