

**FILED**  
APR 18 1997

IN THE OFFICE OF  
SECRETARY OF STATE  
WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



**ENROLLED**  
*Committee Substitute for*  
**SENATE BILL NO. 332**

(By Senator OLIVERIO, ET AL)



**PASSED APRIL 3, 1997**  
**In Effect JULY 1, 1997 Passage**

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COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 332**

(SENATORS OLIVERIO, BUCKALEW, CRAIGO, BALL, SPROUSE,  
FANNING, BOWMAN, PLYMALE, ROSS, SHARPE AND ANDERSON,  
*original sponsors*)

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[Passed April 3, 1997; to take effect July 1, 1997.]

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AN ACT to amend and reenact sections ten and sixteen, article twenty-two, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to lottery sales agents; providing for an increase in lottery sales agent commissions; and providing for payment of the increased commissions from unclaimed prize funds.

*Be it enacted by the Legislature of West Virginia:*

That sections ten and sixteen, article twenty-two, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 22. STATE LOTTERY ACT.**

**§29-22-10. Licensed lottery sales agents; restrictions; annual license and fee; factors; application; bond; age; nonassignable license; organizations qualified; commissions; display of license; geographic distribution; monopoly prohibited; lottery retailers; preprinted instant type lottery tickets; fee; certificate of authority; security; bond.**

1 (a) The commission shall propose rules for legislative  
2 approval in accordance with the provisions of article  
3 three, chapter twenty-nine-a of this code, for the licensing  
4 of lottery sales agents for the sale and dispensing of  
5 lottery tickets, materials and lottery games, and the  
6 operations of electronic computer terminals therefor,  
7 subject to the following:

8 (1) The commission shall issue its annual license to the  
9 lottery sales agents for each lottery outlet and for such fee  
10 as is established by the commission to cover its costs  
11 thereof, but not to exceed one thousand dollars. Applica-  
12 tion for licensing as a lottery sales agent shall be on forms  
13 to be prescribed and furnished by the director.

14 (2) No licensee may engage in business exclusively as a  
15 lottery sales agent.

16 (3) The commission shall ensure geographic distribution  
17 of lottery sales agents throughout the state.

18 (4) Before issuance of a license to an applicant, the  
19 commission shall consider factors such as the financial  
20 responsibility, security, background, accessibility of the  
21 place of business or activity to the public, public conve-  
22 nience and the volume of expected sales.

23 (5) No person under the age of twenty-one may be  
24 licensed as an agent. No licensed agent may employ any  
25 person under the age of eighteen for sales or dispensing of  
26 lottery tickets or materials or operation of a lottery  
27 terminal.

28 (6) A license is valid only for the premises stated  
29 thereon.

30 (7) The director may issue a temporary license when  
31 determined necessary.

32 (8) A license is not assignable or transferable.

33 (9) Before a license is issued, an agent shall be bonded  
34 for an amount and in the form and manner to be deter-  
35 mined by the director, or shall provide such other security,  
36 in an amount, form and manner determined by the  
37 director, as will ensure the performance of the agent's  
38 duties and responsibilities as a licensed lottery agent or  
39 the indemnification of the commission.

40 (10) The commission may issue licenses to any legitimate  
41 business, organization, person or entity, including, but not  
42 limited to, civic or fraternal organizations; parks and  
43 recreation commissions or similar authorities; senior  
44 citizen centers, state-owned stores, persons lawfully  
45 engaged in nongovernmental business on state property,  
46 persons lawfully engaged in the sale of alcoholic bever-  
47 ages; political subdivisions or their agencies or depart-  
48 ments, state agencies, commission-operated agencies;  
49 persons licensed under the provisions of article twenty-  
50 three, chapter nineteen of this code, and religious, charita-  
51 ble or seasonal businesses.

52 (11) Licensed lottery sales agents shall receive six and  
53 one quarter percent of gross sales as commission for the  
54 performance of their duties: *Provided*, That a portion of  
55 the commission not to exceed one and one quarter percent  
56 of gross sales may be paid from unclaimed prize moneys  
57 accumulated under section sixteen of this article. In  
58 addition, the commission may promulgate a bonus-  
59 incentive plan as additional compensation not to exceed  
60 one percent of annual gross sales. The method and time of  
61 payment shall be determined by the commission.

62 (12) Licensed lottery sales agents shall prominently  
63 display the license on the premises where lottery sales are  
64 made.

65 (13) No person or entity or subsidiary, agent or subcon-  
66 tractor thereof may receive or hold more than twenty-five  
67 percent of the licenses to act as licensed lottery sales agent  
68 in any one county or municipality nor more than five

69 percent of the licenses issued throughout this state:  
70 *Provided*, That the limitations of twenty-five percent and  
71 five percent in this subdivision do not apply if it is deter-  
72 mined by the commission that there are not a sufficient  
73 number of qualified applicants for licenses to comply with  
74 these requirements.

75 (b) The commission shall propose rules for legislative  
76 approval in accordance with the provisions of article  
77 three, chapter twenty-nine-a of this code, specifying the  
78 terms and conditions for contracting with lottery retailers  
79 for sale of preprinted instant type lottery tickets and may  
80 provide for the dispensing of such tickets through ma-  
81 chines and devices. Tickets may be sold or dispensed in  
82 any public or private store, operation or organization,  
83 without limitation. The commission may establish an  
84 annual fee not to exceed fifty dollars for such persons, per  
85 location or site, and shall issue a certificate of authority to  
86 act as a lottery retailer to such persons. The commission  
87 shall establish procedures to ensure the security, honesty  
88 and integrity of the lottery and distribution system. The  
89 commission shall establish the method of payment,  
90 commission structure, methods of payment of winners,  
91 including payment in merchandise and tickets, and may  
92 require prepayment by lottery retailers, require bond or  
93 security for payment and require deposit of receipts in  
94 accounts established therefor. Retailers shall prominently  
95 display the certificate of authority issued by the commis-  
96 sion on the premises where lottery sales are made.

**§29-22-16. Disposition of unclaimed prize money.**

1 Unclaimed prize money for the prize on a winning ticket  
2 shall be retained by the director for the person entitled  
3 thereto for one hundred eighty days after the drawing in  
4 which the prize was won or for one hundred eighty days  
5 after the announced end of a game. If no claim is made for  
6 said money within one hundred eighty days, the prize  
7 money reverts to the state lottery fund for the purposes of  
8 paying a portion of the sales commission to lottery sales  
9 agents pursuant to section ten of this article or for award-  
10 ing additional prizes. The commission shall promulgate  
11 rules for the awarding of additional prizes.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Kenneth Schoonover*  
.....  
Chairman Senate Committee

*Nick Fantasia*  
.....  
Chairman House Committee

Originated in the Senate.

To take affect July 1, 1997.

*Barrett White*  
.....  
Clerk of the Senate

*Bryson W. Bond*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *18th*  
day of *April*, 1997.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

4/12/97

Time

4:02pm