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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Fifth Extraordinary Session

ENROLLED

SENATE BILL NO. 5002

(By Senators Lomblin, Mr. President, and
Sprouse, By Request of the Executive)

PASSED September 15, 2001

In Effect from Passage

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Senate Bill No. 5002

(BY SENATORS TOMBLIN, MR. PRESIDENT,
AND SPROUSE, BY REQUEST OF THE EXECUTIVE)

[Passed September 15, 2001; in effect from passage.]

AN ACT to amend and reenact section six, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections five hundred four and one thousand nine hundred one, article twenty-two-b of said chapter, all relating to state lotteries; restoring language which allows coin or token payouts from racetrack video lottery terminals and which was inadvertently and unintentionally deleted when section six, article twenty-two-a, chapter twenty-nine of said code of the racetrack video lottery act was amended and reenacted earlier this year; eliminating prohibition that limited video lottery retailers may not also be licensed under the state lottery act; and eliminating effective date references in section one thousand nine hundred one, article twenty-two-b, chapter twenty-nine of said code of the limited video lottery act.

Be it enacted by the Legislature of West Virginia:

That section six, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that sections five hundred four and one thousand nine hundred one, article twenty-two-b of said chapter be amended and reenacted, all to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-6. Video lottery terminal hardware and software requirements; hardware specifications; software requirements for randomness testing; software requirements for percentage payout; software requirements for continuation of video lottery game after malfunction; software requirements for play transaction records.

1 (a) The commission may approve video lottery terminals
2 and in doing so shall take into account advancements in
3 computer technology, competition from nearby states and
4 the preservation of jobs in the West Virginia pari-mutuel
5 racing industry. In approving video lottery terminals
6 licensed for placement in this state, the commission shall
7 ensure that the terminals meet the following hardware
8 specifications:

9 (1) Electrical and mechanical parts and design principles
10 may not subject a player to physical hazards or injury.

11 (2) A surge protector shall be installed on the electrical
12 power supply line to each video lottery terminal. A
13 battery or equivalent power back-up for the electronic
14 meters shall be capable of maintaining accuracy of all
15 accounting records and terminal status reports for a period
16 of one hundred eighty days after power is disconnected
17 from the terminal. The power back-up device shall be
18 located within the locked logic board compartment of the
19 video lottery terminal.

20 (3) An on/off switch which controls the electrical current
21 used in the operation of the terminal shall be located in an

22 accessible place within the interior of the video lottery
23 terminal.

24 (4) The operation of each video lottery terminal may not
25 be adversely affected by any static discharge or other
26 electromagnetic interference.

27 (5) A minimum of one electronic or mechanical coin
28 acceptor or other means accurately and efficiently to
29 establish credits shall be installed on each video lottery
30 terminal. Each video lottery terminal may also contain
31 bill acceptors for one or more of the following: One dollar
32 bills, five dollar bills, ten dollar bills and twenty dollar
33 bills. All coin and bill acceptors shall be approved by the
34 commission prior to use on any video lottery terminal in
35 this state.

36 (6) Access to the interior of a video lottery terminal shall
37 be controlled through a series of locks and seals.

38 (7) The main logic boards and all erasable programma-
39 ble read-only memory chips (EPROMS) are considered to
40 be owned by the commission and shall be located in a
41 separate locked and sealed area within the video lottery
42 terminal.

43 (8) The cash compartment shall be located in a separate
44 locked area within or attached to the video lottery termi-
45 nal.

46 (9) No hardware switches, jumpers, wire posts or any
47 other means of manipulation may be installed which alter
48 the pay tables or payout percentages in the operation of a
49 game. Hardware switches on a video lottery terminal to
50 control the terminal's graphic routines, speed of play,
51 sound and other purely cosmetic features may be approved
52 by the commission.

53 (10) Each video lottery terminal shall contain a single
54 printing mechanism capable of printing an original ticket
55 and retaining an exact legible copy within the video

56 lottery terminal or other means of capturing and retaining
57 an electronic copy of the ticket data as approved by the
58 commission: *Provided*, That such printing mechanism is
59 optional on any video lottery terminal which is designed
60 and equipped exclusively for coin or token payouts. The
61 following information shall be recorded on the ticket when
62 credits accrued on a video lottery terminal are redeemed
63 for cash:

64 (i) The number of credits accrued;

65 (ii) Value of the credits in dollars and cents displayed in
66 both numeric and written form;

67 (iii) Time of day and date;

68 (iv) Validation number; and

69 (v) Any other information required by the commission.

70 (11) A permanently installed and affixed identification
71 plate shall appear on the exterior of each video lottery
72 terminal and the following information shall be on the
73 plate:

74 (i) Manufacturer of the video lottery terminal;

75 (ii) Serial number of the terminal; and

76 (iii) Model number of the terminal.

77 (12) The rules of play for each game shall be displayed
78 on the video lottery terminal face or screen. The commis-
79 sion may reject any rules of play which are incomplete,
80 confusing, misleading or inconsistent with game rules
81 approved by the commission. For each video lottery game
82 there shall be a display detailing the credits awarded for
83 the occurrence of each possible winning combination of
84 numbers or symbols. A video lottery terminal may allow
85 up to five dollars to be wagered on a single game. All
86 information required by this subdivision shall be displayed
87 under glass or another transparent substance. No stickers

88 or other removable devices shall be placed on the video
89 lottery terminal screen or face without the prior approval
90 of the commission.

91 (13) Communication equipment and devices shall be
92 installed to enable each video lottery terminal to commu-
93 nicate with the commission's central computer system by
94 use of a communications protocol provided by the commis-
95 sion to each permitted manufacturer, which protocol shall
96 include information retrieval and terminal activation and
97 disable programs, and the commission may require each
98 licensed racetrack to pay the cost of a central site com-
99 puter as a part of the licensing requirement.

100 (14) All video lottery terminals shall have a security
101 system which temporarily disables the gaming function of
102 the terminal while opened.

103 (b) Each video lottery terminal shall have a random
104 number generator to determine randomly the occurrence
105 of each specific symbol or number used in video lottery
106 games. A selection process is random if it meets the
107 following statistical criteria:

108 (1) *Chi-square test.* – Each symbol or number shall
109 satisfy the ninety-nine percent confidence level using the
110 standard chi-square statistical analysis of the difference
111 between the expected result and the observed result.

112 (2) *Runs test.* – Each symbol or number may not produce
113 a significant statistic with regard to producing patterns of
114 occurrences. Each symbol or number is random if it meets
115 the ninety-nine percent confidence level with regard to the
116 “runs test” for the existence of recurring patterns within
117 a set of data.

118 (3) *Correlation test.* – Each pair of symbols or numbers
119 is random if it meets the ninety-nine percent confidence
120 level using standard correlation analysis to determine
121 whether each symbol or number is independently chosen

122 without regard to another symbol or number within a
123 single game play.

124 (4) *Serial correlation test.* – Each symbol or number is
125 random if it meets the ninety-nine percent confidence level
126 using standard serial correlation analysis to determine
127 whether each symbol or number is independently chosen
128 without reference to the same symbol or number in a
129 previous game.

130 (c) Each video lottery terminal shall meet the following
131 maximum and minimum theoretical percentage payout
132 during the expected lifetime of the terminal:

133 (1) Video lottery games shall pay out no less than eighty
134 percent and no more than ninety-five percent of the
135 amount wagered. The theoretical payout percentage will
136 be determined using standard methods of probability
137 theory.

138 (2) Manufacturers must file a request and receive
139 approval from the commission prior to manufacturing for
140 placement in this state video lottery terminals pro-
141 grammed for a payout greater than ninety-two percent of
142 the amount wagered. Commission approval shall be
143 obtained prior to applying for testing of the high payout
144 terminals.

145 (3) Each terminal shall have a probability greater than
146 one in seventeen million of obtaining the maximum payout
147 for each play.

148 (d) Each video lottery terminal shall be capable of
149 continuing the current game with all current game fea-
150 tures after a video lottery terminal malfunction is cleared.
151 If a video lottery terminal is rendered totally inoperable
152 during game play, the current wager and all credits
153 appearing on the video lottery terminal screen prior to the
154 malfunction shall be returned to the player.

155 (e) Each video lottery terminal shall at all times main-
156 tain electronic accounting regardless of whether the
157 terminal is being supplied with electrical power. Each
158 meter shall be capable of maintaining a total of no less
159 than eight digits in length for each type of data required.
160 The electronic meters shall record the following informa-
161 tion:

162 (1) Number of coins inserted by players or the coin
163 equivalent if a bill acceptor is being used or tokens or
164 vouchers are used;

165 (2) Number of credits wagered;

166 (3) Number of total credits, coins and tokens won;

167 (4) Number of credits paid out by a printed ticket;

168 (5) Number of coins or tokens won, if applicable;

169 (6) Number of times the logic area was accessed;

170 (7) Number of times the cash door was accessed;

171 (8) Number of credits wagered in the current game;

172 (9) Number of credits won in the last complete video
173 lottery game; and

174 (10) Number of cumulative credits representing money
175 inserted by a player and credits for video lottery games
176 won but not collected.

177 (f) No video lottery terminal may have any mechanism
178 which allows the electronic accounting meters to clear
179 automatically. Electronic accounting meters may not be
180 cleared without the prior approval of the commission.
181 Both before and after any electronic accounting meter is
182 cleared, all meter readings shall be recorded in the pres-
183 ence of a commission employee.

184 (g) The primary responsibility for the control and
185 regulation of any video lottery games and video lottery

186 terminals operated pursuant to this article rests with the
187 commission.

188 (h) The commission shall, directly or through a contract
189 with a third-party vendor other than the video lottery
190 licensee, maintain a central site system of monitoring the
191 lottery terminals utilizing an on-line or dial-up inquiry.
192 The central site system shall be capable of monitoring the
193 operation of each video lottery game or video lottery
194 terminal operating pursuant to this article and, at the
195 direction of the director, immediately disable and cause
196 not to operate any video lottery game and video lottery
197 terminal. As provided in this section, the commission may
198 require the licensed racetrack to pay the cost of a central
199 site computer as part of the licensing requirement.

ARTICLE 22B. LIMITED VIDEO LOTTERY.

**§29-22B-504. Additional qualifications for an applicant for a
limited video lottery retailer's license.**

1 No limited video lottery retailer's license or license
2 renewal may be granted unless the lottery commission has
3 determined that, in addition to the general requirements
4 set forth in section 22B-502, the applicant satisfies all of
5 the following qualifications:

6 (1)(A) If the applicant is an individual, the applicant has
7 been a citizen of the United States and a resident of this
8 state for the four-year period immediately preceding the
9 application;

10 (B) If the applicant is a corporation, partnership or other
11 business entity, the chief executive officer and the major-
12 ity of the officers, directors, members and partners (to the
13 extent each of these groups exists with respect to a partic-
14 ular business organization), both in number and percent-
15 age of ownership interest, have been citizens of the United
16 States and residents of this state for the four-year period
17 immediately preceding the application;

18 (2) The applicant has disclosed to the lottery commission
19 the identity of each person who has control of the appli-
20 cant, as control is described in section 22B-507;

21 (3) The applicant holds either: (A) A valid license issued
22 under article 60-7-1, *et seq.*, of this code to operate a
23 private club; (B) a valid Class A license issued under
24 article 11-16-1, *et seq.*, of this code to operate a business
25 where nonintoxicating beer is sold for consumption on the
26 premises; or (C) both licenses;

27 (4) The applicant has demonstrated the training, educa-
28 tion, business ability and experience necessary to estab-
29 lish, operate and maintain the business for which the
30 license application is made;

31 (5) The applicant has secured any necessary financing
32 for the business for which the license application is made
33 and the financing: (A) Is from a source that meets the
34 qualifications of this section; and (B) is adequate to
35 support the successful performance of the duties and
36 responsibilities of the licensee;

37 (6) The applicant has disclosed all financing or refinanc-
38 ing arrangements for placement on the applicant's pre-
39 mises of video lottery terminals and associated equipment
40 in the degree of detail requested by the lottery commission;

41 (7) The applicant has filed with the lottery commission
42 a copy of any current or proposed agreement between the
43 applicant and a licensed operator for the placement on the
44 applicant's premises of video lottery terminals;

45 (8) The applicant has filed with the lottery commission
46 a copy of any current or proposed agreement between the
47 applicant and a licensed operator or other person for the
48 servicing and maintenance of video lottery terminals by
49 licensed service technicians; and

50 (9) The applicant does not hold any other license under
51 this article, article 19-23-1, *et seq.*, of this code or articles

52 22A or 25 of this chapter except that an applicant may
53 also be licensed as a service technician.

PART XIX. MISCELLANEOUS PROVISIONS.

§29-22B-1901. Effect of this article on certain taxes.

1 (a) Notwithstanding any provision of this code to the
2 contrary, persons who hold a current operator's license or
3 a current limited video lottery retailer's license issued
4 under this article shall be exempt from paying the taxes
5 imposed by articles 11-15-1, *et seq.*, and 11-15A-1, *et seq.*,
6 of this code on their purchases of video lottery terminals
7 and video lottery games.

8 (b) Notwithstanding any provision of this code to the
9 contrary, the consideration paid by a patron of a restricted
10 access adult-only facility to play video lottery games shall
11 be exempt from the tax imposed by article 11-15-1, *et seq.*,
12 of this code.

13 (c) Notwithstanding the provisions of section 8-13-4 of
14 this code to the contrary, municipalities may not impose
15 the license fees imposed by this article on manufacturers,
16 operators, limited video lottery retailers and service
17 technicians. Municipalities may continue to impose any
18 other license fees they are allowed to impose under this
19 code.

20 (d) Notwithstanding any provision of this code to the
21 contrary, municipalities may not impose the municipal
22 business and occupation taxes imposed pursuant to section
23 8-13-5 of this code or an amusement tax imposed pursuant
24 to section 8-13-6 of this code on the income of a permittee
25 of video lottery terminals from income derived directly
26 from activities conducted pursuant to the provisions of
27 this article.

28 (e) Notwithstanding any provision of this code to the
29 contrary, municipalities may not impose the municipal
30 business and occupation taxes imposed pursuant to section

31 8-13-5 of this code on payments a limited video lottery
32 retailer receives from an operator of video lottery termi-
33 nals for activities conducted pursuant to the provisions of
34 this article.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

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

The within *is approved* this the *28th*
Day of *September*, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 9/24/01

Time 4:15