

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Committee Substitute

for

House Bill 2346

BY DELEGATE HOWELL AND HIGGINBOTHAM

[Originating in the Committee on Government

Organization, January 18, 2019.]

1 A BILL to amend and reenact §29-22C-2, §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-13, §29-
2 22C-14, §29-22C-15, §29-22C-16, §29-22C-17, §29-22C-18, §29-22C-19, §29-22C-29,
3 and §29-22C-31 of the Code of West Virginia, 1931, as amended; and to amend and
4 reenact §29-25-2, §29-25-3, §29-25-8, §29-25-12, §29-25-13, §29-25-14, §29-25-15, §29-
5 25-16, §29-25-17, §29-25-18, §29-25-22, §29-25-25, and §29-25-27, all relating to
6 changing the licensing requirement for certain casino employees from a licensure to a
7 registration; and granting emergency rule making authority.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.

§29-22C-2. State authorization of table games at licensed racetrack facilities; legislative findings and declarations.

1 (a) *Operation of West Virginia lottery table games.* — Notwithstanding any provision of
2 law to the contrary, the operation of West Virginia lottery racetrack table games and ancillary
3 activities at a licensed racetrack and the playing of those West Virginia lottery table games at a
4 licensed racetrack are only lawful when conducted in accordance with the provisions of this article
5 and rules of the commission.

6 (b) *Legislative findings:* —

7 (1) The Legislature finds that horse racing and dog racing and breeding play a critical role
8 in the economy of this state, enhance the revenue collected at the racetracks, contribute vital
9 revenues to the counties and municipalities in which the activities are conducted, provide for
10 significant employment and protect and preserve greenspace and; that a substantial state interest
11 exists in protecting these industries. Furthermore, it finds that the breeding and racing of
12 thoroughbred horses is an integral part of West Virginia's agriculture, and that agriculture is a
13 critical ingredient in West Virginia's economy. It further finds that the operation of table games
14 pursuant to this article, at racetracks in this state that hold racetrack video lottery licenses and
15 licenses to conduct horse or dog racing, will protect and preserve the horse racing and dog racing

16 industries and horse and dog breeding industries, will protect and enhance the tourism industry
17 in this state, and indirectly benefit other segments of the economy of this state.

18 (2) The Legislature finds that, pursuant to Section 36, Article VI of the Constitution of the
19 State of West Virginia grants exclusively to the state the right to lawfully own and operate a lottery
20 in this state.

21 (3) The Legislature finds that recognized principals of ownership allow an owner to
22 maintain ownership while operating an enterprise through agents, ~~and licensees,~~ and registrants.

23 (4) The Legislature finds that it is in the best interest of the State of West Virginia for the
24 state to operate a lottery in the form of table games.

25 (5) The Legislature finds that the table games authorized under the provisions of this article
26 are lotteries as each game involves consideration, the possibility of a prize, and their outcome is
27 determined predominantly by chance, which the common law of West Virginia has long held are
28 the three essential elements of a lottery.

29 (6) The Legislature finds that the lottery authorized by the provisions of this article is the
30 exclusive intangible intellectual property of the State of West Virginia as are the other versions of
31 lottery authorized under this chapter.

32 (7) The Legislature finds that the most effective manner in which the state can operate
33 and regulate the forms of lottery authorized by the provisions of this article is to do so through
34 agents, licensees, and registrants, and, further, that effective operation and regulation requires
35 limiting the number of locations at which the lottery and lottery games so authorized are allowed.

36 (8) The Legislature finds that limiting such table games as authorized under this article to
37 facilities authorized by the provisions of §19-23-1 *et seq.* of this code, which are licensed pursuant
38 to the provisions of §29-22A-1 *et seq.* of this code to operate video lottery terminals is the most
39 efficient and effective manner in which to regulate agents, licensees, and registrants.

40 (9) The Legislature finds that the granting of licenses and registrations pursuant to the
41 provisions of this article while maintaining all ownership rights and exercising control through strict

42 regulation of all West Virginia lottery table games authorized by the provisions of this article
43 constitutes an appropriate exercise by the Legislature of the power granted it by the Constitution
44 pursuant to the provisions of Section 36, Article VI of the Constitution of West Virginia.

45 (10) The Legislature finds that the operation of West Virginia lottery table games at
46 racetracks licensed pursuant to the provisions of §29-22A-1 *et seq.* of this code and by the
47 provisions of §19-23-1 *et seq.* of this code serves to protect, preserve, and promote the horse
48 and dog racing and breeding industries of this state and will serve to protect, promote, and
49 enhance the tourism industry of the state as well as the general fiscal well-being of the state and
50 its subdivisions.

§29-22C-3. Definitions.

1 (a) *Applicability of definitions.* — For the purposes of this article, the words or terms
2 defined in this section, and any variation of those words or terms required by the context, have
3 the meanings ascribed to them in this section. These definitions are applicable unless a different
4 meaning clearly appears from the context in which the word or term is used.

5 (b) *Terms defined.* —

6 (1) “Adjusted gross receipts” means gross receipts from West Virginia Lottery table games
7 less winnings paid to patrons wagering on the racetrack’s table games.

8 (2) “Applicant” means any person who on his or her own behalf, or on behalf of another,
9 has applied for permission to engage in any act or activity that is regulated under the provision of
10 this article for which a license or registration is required by this article or rule of the commission.

11 (3) “Application” means any written request for permission to engage in any act or activity
12 that is regulated under the provisions of this article submitted in the form prescribed by the
13 commission.

14 (4) “Background investigation” means a security, criminal, and credit investigation of an
15 applicant who has applied for the issuance or renewal of a license or registration pursuant to this
16 article, or a licensee or registrant who holds a current license or registration.

17 (5) "Commission" or "State Lottery Commission" means the West Virginia Lottery
18 Commission created by §29-22-1 *et seq.* of this code.

19 (6) "Complimentary" means a service or item provided at no cost or at a reduced price.

20 (7) "Compensation" means any money, thing of value, or financial benefit conferred or
21 received by a person in return for services rendered, or to be rendered, whether by that person
22 or another.

23 (8) "Contested case" means a proceeding before the commission, or a hearing examiner
24 designated by the commission to hear the contested case, in which the legal rights, duties,
25 interests, or privileges of specific persons are required by law or Constitutional right to be
26 determined after a commission hearing, but does not include cases in which the commission
27 issues a license, registration, permit, or certificate after an examination to test the knowledge or
28 ability of the applicant where the controversy concerns whether the examination was fair or
29 whether the applicant passed the examination and does not include rule making.

30 (9) "Control" means the authority directly or indirectly to direct the management and
31 policies of an applicant for a license or registration issued under this article or the holder of a
32 license or registration issued under this article.

33 (10) "Designated gaming area" means one or more specific floor areas of a licensed
34 racetrack within which the commission has authorized operation of racetrack video lottery
35 terminals or table games, or the operation of both racetrack video lottery terminals and West
36 Virginia Lottery table games.

37 (11) "Director" means the Director of the West Virginia State Lottery Commission
38 appointed pursuant to §29-22-6 of this code.

39 (12) "Disciplinary action" is an action by the commission suspending or revoking a license
40 or registration, fining, excluding, reprimanding or otherwise penalizing a person for violating this
41 article or rules promulgated by the commission.

42 (13) "Financial interest" or "financially interested" means any interest in investments,
43 awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under
44 consideration for consummation by the commission. A member, employee, or agent of the
45 commission will be considered to have a financial interest in a matter under consideration if any
46 of the following circumstances exist:

47 (A) He or she owns one percent or more of any class of outstanding securities that are
48 issued by a party to the matter under consideration by the commission; or

49 (B) He or she is employed by an independent contractor for a party to the matter under
50 consideration or consummated by the commission.

51 (14) "Gaming equipment" means gaming tables, cards, dice, chips, shufflers, drop boxes
52 or any other mechanical, electronic or other device, mechanism or equipment or related supplies
53 used or consumed in the operation of any West Virginia Lottery table game at a licensed
54 racetrack.

55 (15) "Gross receipts" means the total of all sums including valid or invalid checks, currency,
56 tokens, coupons (excluding match play coupons), vouchers, or instruments of monetary value
57 whether collected or uncollected, received by a racetrack with table games from table gaming
58 operations at a race track, including all entry fees assessed for tournaments or other contests.

59 (16) "Indirect ownership" means an interest a person owns in an entity or in property solely
60 as a result of application of constructive ownership rules without regard to any direct ownership
61 interest (or other beneficial interest) in the entity or property. "Indirect ownership" shall be
62 determined under the same rules applicable to determining whether a gain or loss between
63 related parties is recognized for federal income tax purposes.

64 (17) "Licensed racetrack" means a thoroughbred horse or greyhound dog racing facility
65 licensed under both §29-22A-1 *et seq.* and §19-23-1 *et seq.* of this code.

66 (18) "License" means any license applied for or issued by the commission under this
67 article, including, but not limited to:

68 (A) A license to act as agent of the commission in operating West Virginia Lottery table
69 games at a licensed racetrack;

70 (B) A license to supply a racetrack licensed under this article to operate table games with
71 table gaming equipment or services necessary for the operation of table games; or

72 ~~(C) A license to be employed at a racetrack licensed under this article to operate West~~
73 ~~Virginia Lottery table games when the employee works in a designated gaming area that has~~
74 ~~table games or performs duties in furtherance of or associated with the operation of table games~~
75 ~~at the licensed racetrack; or~~

76 ~~(D)~~ (C) A license to provide management services under a contract to a racetrack licensed
77 under this article to operate table games.

78 (19) "Licensee" means any person who is licensed under any provision of this article.

79 (20) "Lottery" means the public gaming systems or games regulated, controlled, owned
80 and operated by the state Lottery Commission in the manner provided by general law, as provided
81 in this article and in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.* and §29-25-1 *et seq.*
82 of this code.

83 (21) "Member" means a commission member appointed to the West Virginia Lottery
84 Commission under §29-22-1 *et seq.* of this code.

85 (22) "National criminal history background check system" means the criminal history
86 record system maintained by the Federal Bureau of Investigation based on fingerprint
87 identification or any other method of positive identification.

88 (23) "Own" means any beneficial or proprietary interest in any real or personal property,
89 including intellectual property, and also includes, but is not limited to, any direct or indirect
90 beneficial or proprietary interest in any business of an applicant or licensee.

91 (24) "Person" means any natural person, and any corporation, association, partnership,
92 limited liability company, limited liability partnership, trust or other entity, regardless of its form,
93 structure or nature other than a government agency or instrumentality.

94 (25) "Player" or "Patron" means a person who plays a racetrack video lottery game or a
95 West Virginia Lottery table game at a racetrack licensed under this article to have table games.

96 (26) "Player's account" means a financial record established by a licensed racetrack for
97 an individual racetrack patron to which the racetrack may credit winnings and other amounts due
98 to the racetrack patron and from which the patron may withdraw moneys due to the patron for
99 purchase of tokens, chips or electronic media or other purposes.

100 (27) "Racetrack table games license" means authorization granted under this article by
101 the commission to a racetrack that is already licensed under article twenty-two-a of this chapter
102 to operate racetrack video lottery terminals and holds a valid racing license granted by the West
103 Virginia Racing Commission pursuant to §19-23-1 *et seq.* of this code, which permits the racetrack
104 as an agent of the commission for the limited purpose of operation of West Virginia lottery table
105 games in one or more designated gaming areas in one or more buildings owned by the licensed
106 racetrack on the grounds where live pari-mutuel racing is conducted by the licensee.

107 (28) "Racetrack Table Games Fund" means the special fund in the State Treasury created
108 in section twenty-seven of this article.

109 (29) "Registration" means a registration to be employed at a racetrack licensed under this
110 article to operate West Virginia Lottery table games when the employee works in a designated
111 gaming area that has table games or performs duties in furtherance of or associated with the
112 operation of table games at the licensed racetrack. or

113 ~~(29)~~ (30) "Significant influence" means the capacity of a person to affect substantially (but
114 not control) either, or both, of the financial and operating policies of another person.

115 ~~(30)~~ (31) "Supplier" means a person who the commission has identified under legislative
116 rules of the commission as requiring a license to provide a racetrack table games licensee with
117 goods or services to be used in connection with operation of table games.

118 ~~(34)~~ (32) "Wager" means a sum of money or thing of value risked on an uncertain
119 occurrence.

120 ~~(32)~~ (33) "West Virginia Lottery table game" means any game played with cards, dice or
121 any mechanical, electromechanical or electronic device or machine for money, credit or any
122 representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette,
123 wheel of fortune or any variation of these games similar in design or operation and expressly
124 authorized by rule of the commission, including multiplayer electronic table games, machines and
125 devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar tickets,
126 pull tabs or similar games.

127 ~~(33)~~ (34) "Winnings" means the total cash value of all property or sums including currency,
128 tokens, or instruments of monetary value paid to players as a direct result of wagers placed on
129 West Virginia Lottery table games.

§29-22C-4. Commission duties and powers.

1 (a) *Duties.* — In addition to the duties set forth elsewhere in this article or in §29-22-1 *et*
2 *seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code, the commission
3 shall:

4 (1) Establish minimum standards for gaming equipment, including, but not limited to,
5 electronic and mechanical gaming equipment;

6 (2) Enter into licensing agreements with facilities eligible to operate West Virginia Lottery
7 table games for the state, providing criteria and guidelines for preservation of the state's
8 ownership, operation, and control interests as provided by general law herein;

9 (3) Approve, modify, or reject game rules of play proposed by the licensee for West
10 Virginia Lottery table games proposed to be operated at a licensed racetrack;

11 (4) Approve, modify, or reject minimum internal control standards proposed by the
12 licensee governing racetrack table game operations, including the maintenance of financial
13 records;

14 (5) Approve staff considered necessary by the director to oversee, inspect, and monitor
15 the operation of table games at any racetrack licensed under this article and §29-22A-1 *et seq.* of

16 this code, including, but not limited to, inspection of designated gaming areas, gaming equipment,
17 and security equipment used in the operation of table games to assure continuous compliance
18 with the provisions of this article, required license and registration conditions and terms, and
19 applicable rules of the commission;

20 (6) Determine eligibility of a person to hold or continue to hold a license or registration
21 issued under this article;

22 (7) Issue all licenses and registrations;

23 (8) Maintain a record of all licenses and registrations issued;

24 (9) Levy and collect the taxes imposed by this article and the fees, surcharges, and civil
25 penalties authorized, required, or specified in this article or the legislative rules of the commission,
26 and receive, accept, and pay all taxes, fees, surcharges, and civil penalties collected under this
27 article into the Racetrack Table Games Fund, except as otherwise provided under this article; and

28 (10) Keep a public record of all commission actions and proceedings with respect to West
29 Virginia Lottery table games.

30 (b) *Powers.* — In addition to the powers set forth elsewhere in this article or in articles
31 §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code, the
32 commission may:

33 (1) Sue to enforce any provision of this article or any rule of the commission, whether by
34 civil action or petition for injunctive relief;

35 (2) Hold hearings, administer oaths, and issue subpoenas for attendance of witnesses to
36 testify or subpoenas duces tecum for the production of documents or other evidence;

37 (3) Enter a licensed racetrack with West Virginia Lottery table games at any time and
38 without notice to ensure strict compliance with this article and with the rules of the commission;

39 (4) Bar, for cause, any person from:

40 (A) Entering a designated gaming area of a licensed racetrack with table games, or the
41 grounds of a racetrack licensed under this article; or

42 (B) Participating in any capacity in the play of any West Virginia Lottery table game, or in
43 the operation of West Virginia Lottery table games;

44 (5) Promulgate, or propose for promulgation, in accordance with the provision of §29A-3-
45 1 *et seq.* of this code, any legislative, interpretive, and procedural rules the commission considers
46 necessary for the successful implementation, administration, and enforcement of this article, and
47 to amend or revoke any promulgated rule, in accordance with ~~provisions of §29A-3-1 *et seq.* of~~
48 ~~this code, at the discretion of the commission; Any rule proposed by the commission before~~
49 ~~September 1, 2007 may be promulgated as an emergency rule~~

50 (6) Upon the effective date of this article ~~and prior to promulgation of emergency rules~~, the
51 commission may accept applications, evaluate qualifications of applicants, and undertake initial
52 review of licenses for: racetracks under section eight of this article; suppliers under section eleven
53 of this article; ~~racetrack employees under section twelve of this article~~ and providers of
54 management services under section thirteen of this article; and

55 (7) Upon the effective date of this article and prior to promulgation of emergency rules, the
56 commission may accept applications, evaluate qualifications of applicants, review, make final
57 determinations on, and issue licenses or registrations for racetrack employees pursuant to the
58 provisions of §29-22C-1 *et seq.*, and §29-25-1 *et seq.*, of this code; and

59 ~~(7)~~ (8) Exercise any other powers necessary to effectuate the provisions of this article and
60 the rules of the commission.

§29-22C-6. Licenses or registrations required.

1 (a) No person may engage in any activity in connection with a racetrack with West Virginia
2 Lottery table games in this state for which a license or registration is required by this article or
3 rules of the commission unless all necessary licenses or registrations have been obtained in
4 accordance with this article and rules of the commission.

5 (b) Licenses or registrations are required for the following purposes:

6 (1) For any person operating a racetrack West Virginia Lottery table game in the state;

7 (2) For any person supplying a racetrack table games licensee with gaming equipment or
8 gaming equipment services;

9 (3) For any individual employed by a racetrack table games licensee in connection with
10 the operation of West Virginia Lottery table games in the state; and

11 (4) For any person providing management services under a contract to a racetrack table
12 games licensee.

13 (c) The commission may not grant a license or registration to an applicant until the
14 commission determines that each person who has control of the applicant also meets all of the
15 qualifications the applicant must meet to hold the license or registration for which application is
16 made. The following persons are considered to have control of an applicant:

17 (1) Each person associated with a corporate applicant, including any corporate holding
18 company, parent company, or subsidiary company of the applicant, but not including a bank or
19 other licensed lending institution which holds a mortgage or other lien acquired in the ordinary
20 course of business, who has the ability to control the activities of the corporate applicant or elect
21 a majority of the board of directors of that corporation;

22 (2) Each person associated with a noncorporate applicant who directly or indirectly holds
23 any beneficial or proprietary interest in the applicant or who the commission determines to have
24 the ability to control the applicant; and

25 (3) Key personnel of an applicant, including any executive, employee, or agent, having the
26 power to exercise significant influence over decisions concerning any part of the applicant's
27 business operation.

28 (d) Any license or registration required by this article or rules of the commission is in
29 addition to all other licenses, registrations, or permits required by applicable federal, state, or local
30 law.

§29-22C-13. License Registration to be employed in a racetrack with West Virginia Lottery table games.

1 (a) *Licenses Registration*. — The commission shall issue a license registration to be
2 employed in the operation of racetrack table games to a person who meets the requirements of
3 this section.

4 (b) *License Registration qualifications*. — To qualify for a license registration to be
5 employed in the operation of West Virginia Lottery table games, the applicant shall be an
6 individual of good moral character, honesty, and integrity, and have been offered employment by
7 the racetrack table games licensee contingent upon license registration pursuant to the
8 provisions of this section. The commission by rule may establish different specific requirements
9 for each job classification that may be created by the commission to recognize the extent to which
10 a particular job classification has the ability to impact the proper operation of West Virginia Lottery
11 table games.

12 (c) *License Registration application requirements*. — An applicant for a license registration
13 to be employed by a racetrack with West Virginia Lottery table games in a position or to perform
14 duties for which a license registration is required under this article or rules of the commission
15 shall:

16 (1) Submit an application to the commission in the form required by the commission for
17 each job classification including adequate information to serve as a basis for a thorough
18 background check;

19 (2) Submit fingerprints for a national criminal records check by the Criminal Identification
20 Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints
21 shall be furnished by all persons required to be named in the application and shall be
22 accompanied by a signed authorization for the release of information by the Criminal Investigation
23 Bureau and the Federal Bureau of Investigation. The commission may require any applicant
24 seeking the renewal of a license registration or permit to furnish fingerprints for a national criminal

25 records check by the Criminal Identification Bureau of the West Virginia State Police and the
26 Federal Bureau of Investigation; and

27 (3) Pay to the commission a nonrefundable application fee for deposit into the Racetrack
28 Table Games Fund in the amount of \$100. The fee may be paid on behalf of an applicant by the
29 employer.

30 (d) *Authorization.* — A ~~license~~ registration to be employed by a racetrack with West
31 Virginia Lottery table games permits the ~~licensee~~ registrant to be employed in the capacity
32 designated by the commission with respect to the ~~license~~ registration while the ~~license~~ registration
33 is still active.

34 (e) *Renewal fee and form.* — Each ~~licensed~~ registered employee shall pay to the
35 commission an annual ~~license~~ registration fee set by the commission by rule by June 30 of each
36 year. The fee may vary based on the job classification of the applicant, but in no event shall it
37 exceed \$100. The fee may be paid on behalf of the ~~licensed~~ registered employee by the employer.
38 In addition to a renewal fee, each ~~licensed~~ registered employee shall submit a renewal application
39 on the form required by the commission.

§29-22C-14. License to be a provider of management services.

1 (a) *License Registration.* — The commission may issue a ~~license~~ registration to a person
2 providing management services under a management services contract to a racetrack table
3 games licensee when the commission determines that the person meets the requirements of this
4 section and any applicable rules of the commission.

5 (b) *License Registration qualifications.* — Each applicant who is an individual and each
6 individual who controls an applicant, as provided in §29-22C-6(c) of this code, shall be of good
7 moral character, honesty, and integrity and shall have the necessary experience and financial
8 ability to successfully carry out the functions of a management services provider. The commission
9 may adopt rules establishing additional requirements for an authorized management services
10 provider. The commission may accept ~~licensing~~ registration by another jurisdiction, specifically

11 determined by the commission to have similar ~~licensing~~ registration requirements, as evidence
12 the applicant meets authorized management services provider ~~licensing~~ registration
13 requirements.

14 (c) *Management service provider specifications.* — An applicant for a ~~license~~ registration
15 to provide management services to a racetrack table games licensee shall demonstrate that the
16 management services that the applicant plans to offer to the racetrack table games licensee
17 conform or will conform to standards established by rules of the commission and applicable state
18 law. The commission may accept management services provider approval by another jurisdiction,
19 specifically determined by the commission to have management services, as evidence the
20 applicant meets the standards established by the commission and applicable state law.

21 (d) *License Registration application requirements.* — An applicant for a ~~license~~ registration
22 to provide management services to a racetrack table games licensee shall:

23 (1) Submit an application to the commission in the form required by the commission
24 including adequate information to serve as a basis for a thorough background check;

25 (2) Submit fingerprints for a national criminal records check by the Criminal Identification
26 Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints
27 shall be furnished by all persons required to be named in the application and shall be
28 accompanied by a signed authorization for the release of information by the Criminal Investigation
29 Bureau and the Federal Bureau of Investigation. The commission may require any applicant
30 seeking the renewal of a ~~license~~ registration or permit to furnish fingerprints for a national criminal
31 records check by the Criminal Identification Bureau of the West Virginia State Police and the
32 Federal Bureau of Investigation; and

33 (3) Pay to the commission a nonrefundable application and ~~license~~ registration fee for
34 deposit into the Racetrack Table Games Fund in the amount of \$100, which shall be in lieu of the
35 first year's ~~license~~ registration fee provided in subsection (f) of this section.

36 (e) *Authorization.* — A ~~license~~ registration to provide management services to a racetrack
37 table games licensee authorizes the ~~licensee~~ registrant to provide management services to a
38 racetrack with West Virginia Lottery table games while the ~~license~~ registration is active. The
39 commission may by rule establish the conditions which constitute an emergency under which the
40 commission may issue provisional ~~licenses~~ registrations pending completion of final action on an
41 application.

42 (f) *Fees, expiration date, and renewal.* — A ~~licensed~~ registered provider of management
43 services shall pay to the commission an annual ~~license~~ registration fee of \$100 for an initial term
44 beginning prior to the date of the provider's first contract with a racetrack table games licensee
45 and continuing through the end of the 12th month thereafter whenever the ~~licensee~~ registrant has
46 paid the renewal fee and has continued to comply with all applicable statutory and rule
47 requirements. The commission shall renew a ~~license~~ registration to provide management services
48 to a racetrack with West Virginia Lottery table games annually thereafter. A racetrack table games
49 ~~licensee~~ registrant may continue to use the management services provided by the management
50 services provider while that provider was ~~licensed~~ registered, notwithstanding the expiration of
51 the provider's ~~license~~ registration, unless the commission finds the services provided are not
52 conforming to standards established by rule of the commission and applicable state law.

§29-22C-15. License or registration prohibitions.

1 (a) The commission may not grant any license or registration pursuant to the provisions
2 of this article if evidence satisfactory to the commission exists that the applicant:

3 (1) Has knowingly made a false statement of a material fact to the commission;

4 (2) Has been suspended from operating a gambling game, gaming device, or gaming
5 operation, or had a license or registration revoked by any governmental authority of a state of the
6 United States having responsibility for the regulation of gambling or gaming activities; or

7 (3) Has been convicted of a crime of moral turpitude, a gambling-related offense, a theft
8 or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory
9 evidence, a lack of respect for law and order.

10 (b) In the case of an applicant for a license to supply a racetrack with West Virginia Lottery
11 table games, the commission may deny a license to any applicant, reprimand any licensee, or
12 suspend or revoke a license:

13 (1) If the applicant or licensee has not demonstrated to the satisfaction of the commission
14 financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;

15 (2) If the applicant or licensee is not the true owner of the business or is not the sole owner
16 and has not disclosed the existence or identity of other persons who have an ownership interest
17 in the business; or

18 (3) If the applicant or licensee is a corporation which sells more than five percent of a
19 licensee's voting stock, or more than five percent of the voting stock of a corporation which
20 controls the licensee, or sells a licensee's assets, other than those bought and sold in the ordinary
21 course of business, or any interest in the assets, to any person not already determined by the
22 commission to have met the qualifications of a licensee under this article.

23 (c) In the case of an applicant for a racetrack table games license, the commission may
24 deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

25 (1) If the applicant or licensee knowingly employs an individual in a job classification which
26 includes West Virginia Lottery table games management duties who has been convicted of a
27 crime of moral turpitude, a gambling-related offense, or a theft or fraud offense under the laws of
28 this state, another state, the United States or a territory of the United States or knowingly employs
29 any individual in a job classification which includes West Virginia Lottery table games
30 management duties who has had a license relating to the operation of a gaming activity revoked
31 by this state or any other state;

32 (2) If the applicant or licensee is not the true owner of the business or is not the sole owner
33 and has not disclosed the existence or identity of other persons who have an ownership interest
34 in the business; or

35 (3) If the applicant or licensee is a corporation, which sells more than five percent of a
36 licensee's voting stock, or more than five percent of the voting stock of a corporation which
37 controls the licensee or sells a licensee's assets, other than those bought and sold in the ordinary
38 course of business, or any interest in the assets, to any person not already determined by the
39 commission to have met the qualifications of a licensee under this article, unless the sale has
40 been approved in advance by the commission.

§29-22C-16. License or registration denial, revocation, suspension, and reprimand.

1 (a) Notwithstanding any provision of ~~subsection (b), section thirteen of this article~~ §29-
2 22C-13 of this code to the contrary, the commission may deny a license or registration to any
3 applicant, reprimand any licensee or registrant, or suspend or revoke a license or registration if
4 the applicant, ~~or~~ licensee, registrant, or any person having control of the applicant, ~~or~~ licensee, or
5 registrant:

6 (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for
7 the applicant, ~~or~~ licensee, registrant, or another person;

8 (2) Fraudulently or deceptively uses a license or registration;

9 (3) Is convicted of a felony under the laws of this state, another state, the United States,
10 or a territory of the United States; or

11 (4) Is convicted of a misdemeanor under the laws of this state, another state, the United
12 States, or a territory of the United States for gambling or a gambling-related activity.

13 (b) Instead of or in addition to reprimanding a licensee or registrant or suspending or
14 revoking a license or registration, the commission may impose a civil penalty under section thirty-
15 one of this article.

§29-22C-17. Hearing procedures.

1 (a) *Right to a hearing.* — Except as otherwise provided by law, before the commission
2 takes any adverse action involving a licensee or registrant under the provisions of this article, it
3 shall give the persons against whom the action is contemplated an opportunity for a hearing
4 before the commission or a hearing examiner designated by the commission.

5 (b) *Notice of hearing and right to counsel.* — The commission shall give notice and hold
6 the hearing in accordance with §29A-5-1 *et seq.* of this code. The notice shall be sent to the
7 person by certified mail addressed to the last known address of the person at least 30 days before
8 the hearing. The person may be represented at the hearing by legal counsel.

9 (c) *Failure to comply with subpoena.* — If a person fails to comply with a subpoena issued
10 for purposes of this section, on petition of the commission, the circuit court may compel obedience
11 to the subpoena. If after due notice the person against whom the action is contemplated fails or
12 refuses to appear or provide the item or items for which a subpoena duces tecum was issued, the
13 commission or the commission's designated hearing examiner may hear and determine the
14 matter.

15 (d) *Appeal.* — Any person aggrieved by a final order or decision of the commission in a
16 contested case may file a petition for appeal in the circuit court of Kanawha County within 30 days
17 after the person received notice of the final order or decision, as provided in §29A-5-4 of this code.

§29-22C-18. Notice of license or registration expiration and renewal.

1 At least two months before any license or registration issued under this article expires, the
2 commission shall send to the licensee or registrant, by mail addressed to the last known address
3 of the licensee or registrant, a renewal application form and notice that states:

- 4 (1) The date on which the current license or registration expires;
- 5 (2) The date by which the commission must receive the renewal application for the renewal
6 to be issued and mailed before the existing license or registration expires; and
- 7 (3) The amount of the renewal fee.

§29-22C-19. Miscellaneous license or registration provisions.

1 (a) The commission shall include on each license or registration that it issues:

2 (1) The type of license or registration;

3 (2) The identity and address of the licensee or registrant;

4 (3) The effective date of the license or registration;

5 (4) For employee ~~licenses~~ registrations, the picture of the ~~licensee~~ registrant; and

6 (5) Any other information the commission considers appropriate.

7 (b) Each racetrack table games licensee, licensed supplier of a racetrack with West
8 Virginia Lottery table games, or a ~~licensed~~ registered management services provider shall display
9 the license or registration conspicuously in its place of business or have the license or registration
10 readily available for inspection at the request of any agent of the commission or of a state, local,
11 or municipal law-enforcement agency.

12 (c) Each holder of a ~~license~~ registration to be employed by a racetrack with West Virginia
13 Lottery table games shall carry the ~~license~~ registration on his or her person at all times when
14 present in a racetrack with West Virginia Lottery table games and, if required by rules adopted by
15 the commission with respect to the particular capacity in which the ~~licensee~~ registrant is
16 employed, have some indicia of ~~license~~ registration prominently displayed on his or her person
17 in accordance with the rules of the commission.

18 (d) Each person licensed or registered under this article shall give the commission written
19 notice of any change of address or any change of any other information provided in the licensee's
20 or registrant's application for a license or registration or for renewal of a license or registration, as
21 soon as the effective date of the change is known to the licensee or registrant but not later than
22 30 days after the change occurs.

§29-22C-29. Offenses and penalties.

1 (a) A racetrack table games licensee is guilty of unlawful operation when:

2 (1) The licensee operates a West Virginia Lottery table game without authority of the
3 commission to do so;

4 (2) The licensee operates a West Virginia Lottery table game in any location that is not a
5 designated gaming area approved by the commission;

6 (3) The licensee knowingly conducts, carries on, operates or exposes for play or allows to
7 be conducted, carried on, operated or exposed for play any table game or other device, equipment
8 or material that has in any manner been tampered with or placed in a condition or operated in a
9 manner, the result of which is designed to deceive the public;

10 (4) The licensee employs an individual in a position or to perform duties, for which a ~~license~~
11 registration is required by this article or rules of the commission and the employee does not have
12 a ~~license~~ registration issued under the provisions of this article or the licensee continues to employ
13 the individual in a position or to perform duties, for which a ~~license~~ registration is required by this
14 article or rules of the commission, after the employee's ~~license~~ registration expired, was revoked
15 by the commission, or not renewed by the commission;

16 (5) The licensee acts or employs another person to act as if he or she is not an agent or
17 employee of the licensee in order to encourage participation in a West Virginia Lottery table game
18 at the licensed racetrack;

19 (6) The licensee knowingly permits an individual under the age of 21 years of age to enter
20 or remain in a designated gaming area or to play racetrack video lottery terminals or West Virginia
21 Lottery table games at a licensed racetrack authorized under this article to act as the
22 commission's agent in operating the West Virginia Lottery table games; or

23 (7) The licensee exchanges tokens, chips, electronic media, or other forms of credit to be
24 used for wagering at a licensed racetrack authorized under this article to operate West Virginia
25 Lottery table games, for anything of value except in exchange for money or credits to a player's
26 account.

27 (b) A person is guilty of a misdemeanor when:

28 (1) The person knowingly makes a false statement on any application for a license or
29 registration under this article or on an application for renewal of a license or registration issued
30 under this article;

31 (2) The person operates, carries on, or exposes for play a West Virginia Lottery table game
32 prior to obtaining a license or after the person's license has expired and prior to actual renewal of
33 the license or before the West Virginia Lottery table game and the licensee's rules for play of the
34 game are approved or modified and approved by the commission; or

35 (3) The person works or is employed in a position requiring a ~~license~~ registration under
36 the provisions of this article without having the ~~license~~ registration required by this article.

37 (c) A person is guilty of a felony when:

38 (1) The person offers, promises, or gives anything of value or benefit to a person who has
39 an ownership or financial interest in, is employed by, or has a service contract with, a racetrack
40 with West Virginia Lottery table games or to that person's spouse or any dependent child or
41 dependent parent, pursuant to an agreement or arrangement, in fact or implied from the
42 circumstances, with intent that the promise or thing of value or benefit will influence the actions of
43 the person in order to affect or attempt to affect the outcome of a West Virginia Lottery table game,
44 or to influence official action of the commission. For the purposes of this subdivision and
45 subdivision (2) of this subsection, the term "person who is connected with a table games facility"
46 includes, but is not limited to, a person licensed under this article as well as an officer or employee
47 of a licensee;

48 (2) The person solicits or knowingly accepts or receives a promise of anything of value or
49 benefit while the person is connected with a racetrack with West Virginia Lottery table games,
50 pursuant to an understanding or arrangement in fact or implied from the circumstances, with the
51 intent that the promise or thing of value or benefit will influence the actions of the person to affect
52 or attempt to affect the outcome of a West Virginia Lottery table game or to influence official action
53 of the commission; or

54 (3) The person uses or possesses on property owned by the licensed racetrack or on
55 property contiguous to the licensed racetrack, with the intent to use, an electronic, electrical, or
56 mechanical device that is designed, constructed, or programmed to assist the user or another
57 person:

58 (A) In projecting the outcome of a West Virginia Lottery table game;

59 (B) In keeping track of the cards dealt or in play;

60 (C) In analyzing the probability of the occurrence of an event relating to a West Virginia
61 Lottery table game;

62 (D) In analyzing the strategy for playing or betting to be used in a West Virginia Lottery
63 table game, except as permitted in writing by the commission; or

64 (E) In obtaining an advantage at playing any West Virginia Lottery table game at a licensed
65 racetrack authorized under this article to operate West Virginia Lottery table games;

66 (4) The person manufactures, sells, or distributes any card, chip, die, game, or device, by
67 whatever name called, that is intended by that person to be used to violate any provision of this
68 article or the table gaming laws of any other state;

69 (5) The person places a bet after unlawfully acquiring knowledge of the outcome of the
70 West Virginia Lottery table game that is the subject of the bet or aids a person in acquiring that
71 knowledge for the purpose of placing a bet contingent on the outcome of a West Virginia Lottery
72 table game authorized under this article;

73 (6) The person claims, collects, takes, or attempts to claim, collect, or take anything of
74 value into or from a racetrack with West Virginia Lottery table games, with intent to defraud,
75 without having made a wager contingent on winning a West Virginia Lottery table game or
76 knowingly claims, collects, or takes an amount of money or thing of value of greater value than
77 the amount won;

78 (7) The person knowingly uses chips, electronic media, or tokens that are counterfeit to
79 place a wager at a racetrack with West Virginia Lottery table games;

80 (8) The person knowingly uses any medium to place a wager at a racetrack licensed under
81 this article other than tokens, chips, electronic cards, or other electronic media, or other method
82 of credit approved by the commission and issued by the racetrack licensed under this article at
83 which the wager is placed on a West Virginia Lottery table game;

84 (9) The person, not a licensed racetrack under this article or an employee or agent of a
85 racetrack licensed under this article acting in furtherance of the licensee's interest, has in his or
86 her possession on grounds owned by the racetrack licensed under this article or on grounds
87 contiguous to the licensed racetrack, any device, by whatever name called, intended to be used
88 to violate a provision of this article or a rule of the commission implementing or explaining a
89 provision of this article; or

90 (10) The person, not a licensee or employee or agent of a licensee acting in furtherance
91 of the racetrack table games licensee's interests, has in his or her possession any key or device
92 designed for the purpose of opening, entering, or affecting the operation of a West Virginia Lottery
93 table game, drop box, or an electronic or mechanical device connected with or used in connection
94 with a West Virginia Lottery table game in a licensed racetrack or for removing bills, tokens, chips,
95 or other contents therefrom.

96 (d) Any person who violates any provision of subsection (a) or (b) of this section is guilty
97 of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and
98 ~~committed to a state correctional facility~~ confined in jail for not more than six months, except that
99 in the case of a person other than a natural person, the amount of the fine imposed may not be
100 more than \$25,000.

101 (e) Any person who violates any provision of subsection (c) of this section is guilty of a
102 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000
103 and ~~committed to~~ imprisoned in a state correctional facility ~~for a term of imprisonment~~ not less
104 than one year nor more than five years.

105 (f) With regard to subdivision (3), subsection (c) of this section, each racetrack table games
106 licensee shall post notice of this prohibition and the penalties of this section in a manner
107 determined by the commission.

§29-22C-31. Civil penalties.

1 (a) The commission may impose on any person who violates the provisions of this article
2 a civil penalty not to exceed \$50,000 for each violation, whether or not the person is licensed or
3 registered under this article.

4 (b) The provisions of §29A-5-1 *et seq.* of this code apply to any civil penalty imposed
5 pursuant to the provisions of this section.

ARTICLE 25. AUTHORIZED GAMING FACILITY.

§29-25-2. Definitions.

1 As used in this article, unless the context otherwise requires, the following words and
2 phrases have meanings indicated:

3 (a) "Applicant" means any person or entity applying for a license.

4 (b) "Adjusted gross receipts" means the gross receipts of a gaming facility from West
5 Virginia Lottery table games less winnings paid to wagerers in such games.

6 (c) "Annual average gross receipts of the pari-mutuel racetracks with table games
7 licenses" means the amount obtained by adding the adjusted gross receipts of all West Virginia
8 pari-mutuel racetracks with table games licenses and then dividing that calculation by the number
9 of West Virginia pari-mutuel racetracks with table games licenses.

10 (d) "Background investigation" means a security, criminal, and credit investigation of an
11 applicant who has applied for the issuance or renewal or a ~~license~~ registration pursuant to this
12 article or a ~~licensee~~ registrant who holds a current ~~license~~ registration.

13 (e) "Controlling interest" means:

14 (1) For a partnership, an interest as a general or limited partner holding more than five
15 percent interest in the entity;

16 (2) For a corporation, an interest of more than five percent of the stock in the corporation;

17 and

18 (3) For any other entity, an ownership interest of more than five percent in the entity.

19 (f) "Controlling person" means, with respect to another person, any person directly or
20 indirectly owning or holding a controlling interest in that other person.

21 (g) "Commission" means the State Lottery Commission created in §29-22-4 of this code.

22 (h) "Designated gaming area" means one or more specific floor areas of a licensed gaming
23 facility within which the commission has authorized operation of video lottery terminals or West
24 Virginia Lottery table games, or the operation of both video lottery terminals and West Virginia
25 Lottery table games.

26 (i) "Director" means the Director of the State Lottery Commission.

27 (j) "Erasable programmable read-only memory chips" or "EPROM" means the electronic
28 storage medium on which the operation software for all games playable on a video lottery terminal
29 resides and can also be in the form of CD ROM, flash ROM, or other new technology medium
30 that the commission may from time to time approve for use in video lottery terminals. All electronic
31 storage media are considered to be property of the State of West Virginia.

32 (k) "Fringe benefits" means sickness and accident benefits and benefits relating to medical
33 and pension coverage.

34 (l) "Gaming devices and supplies" mean gaming tables for all West Virginia Lottery table
35 games, roulette wheels, wheels of fortune, video lottery terminals, cards, dice, chips, tokens,
36 markers, or any other mechanical, electronic, or other device, mechanism, or equipment, or
37 related supplies utilized in the operation of a West Virginia Lottery table game.

38 (m) "Gaming facility" means a designated area on the premises of an existing historic
39 resort hotel in which West Virginia Lottery table games are conducted by a gaming licensee.

40 (n) "Gaming licensee" means the licensed operator of a gaming facility.

41 (o) "Gross receipts" means the total amount of money exchanged for the purchase of
42 chips, tokens, or electronic cards by patrons of a gaming facility reduced by gross terminal income
43 to the extent gross terminal income is included in the amount of money exchanged.

44 (p) "Gross terminal income", as used in this article and as used in §29-22A-1 *et seq.* of
45 this code, means the total amount of cash, vouchers, or tokens inserted into the video lottery
46 terminals operated by a licensee, minus promotional credits played, and minus the total value of
47 coins and tokens won by a player and game credits which are cleared from the video lottery
48 terminals in exchange for winning redemption tickets.

49 (q) "Historic resort hotel" means a resort hotel registered with the United States
50 Department of the Interior as a national historic landmark in its National Registry of Historic Places
51 having not fewer than 500 guest rooms under common ownership and having substantial
52 recreational guest amenities in addition to the gaming facility.

53 (r) "Historic Resort Hotel Fund" means the special fund in the State Treasury created in
54 §29-22-1 *et seq.* of this code.

55 (s) "Human Resource Benefit Fund" means the special fund in the State Treasury created
56 in §29-22A-1 *et seq.* of this code.

57 (t) "Human Resource Benefit Advisory Board" or "board" means the advisory board
58 created in §29-22A-1 *et seq.* of this code.

59 (u) "License" means a license issued by the commission, including:

60 (1) A license to operate a gaming facility;

61 (2) A license to supply gaming devices and supplies to a gaming facility; or

62 ~~(3) A license to be employed in connection with the operation of a gaming facility; or~~

63 ~~(4)~~ (3) A license to provide management services under a contract to a gaming facility
64 under this article.

65 ~~(v) "Licensed gaming facility employee" means any individual licensed to be employed by~~
66 ~~a gaming licensee in connection with the operation of a gaming facility~~

67 ~~(w)~~ (v) “Licensed gaming facility supplier” means a person who is licensed by the
68 commission to engage in the business of supplying gaming devices and gaming supplies to a
69 gaming facility.

70 ~~(x)~~ (w) “Licensee” means a gaming licensee, a licensed gaming facility supplier or a
71 licensed gaming facility employee.

72 ~~(y)~~ (x) “Manufacturer” means any person holding a license granted by the commission to
73 engage in the business of designing, building, constructing, assembling, or manufacturing video
74 lottery terminals, the electronic computer components of the video lottery terminals, the random
75 number generator of the video lottery terminals, or the cabinet in which it is housed, and whose
76 product is intended for sale, lease or other assignment to a licensed gaming facility in West
77 Virginia and who contracts directly with the licensee for the sale, lease, or other assignment to a
78 licensed gaming facility in West Virginia.

79 ~~(z)~~ (y) “Net terminal income” means gross terminal income minus an amount deducted by
80 the commission to reimburse the commission for its actual cost of administering video lottery at
81 the licensed gaming facility. No deduction for any or all costs and expenses of a licensee related
82 to the operation of video lottery games shall be deducted from gross terminal income.

83 ~~(aa)~~ (z) “Person” means any natural person, corporation, association, partnership, limited
84 partnership, limited liability company, or other entity, regardless of its form, structure, or nature.

85 ~~(bb)~~ (aa) “Premises of an existing historic resort hotel” means the historic resort hotel,
86 attachments of the historic resort hotel, and the traditional, immediate grounds of the historic
87 resort hotel.

88 ~~(cc)~~ (bb) “Promotional credits” means credits given by the licensed gaming facility or
89 licensed racetrack to players allowing limited free play of video lottery terminals in total amounts
90 and under conditions approved in advance by the commission.

91 (cc) “Licensed gaming facility employee” means any individual registered to be employed
92 by a gaming licensee in connection with the operation of a gaming facility.

93 (dd) “Registration” means a registration to be employed in connection with the operation
94 of a gaming facility.

95 ~~(dd)~~ (ee) “Video lottery game”, as used in this article and as used in §29-22A-1 *et seq.* of
96 this code, means a commission-approved, -owned, and -controlled electronically simulated game
97 of chance which is displayed on a video lottery terminal and which:

98 (1) Is connected to the commission’s central control computer by an online or dial-up
99 communication system;

100 (2) Is initiated by a player’s insertion of cash, vouchers, or tokens into a video lottery
101 terminal, which causes game play credits to be displayed on the video lottery terminal and, with
102 respect to which, each game play credits entitles a player to choose one or more symbols or
103 numbers or to cause the video lottery terminal to randomly select symbols or numbers;

104 (3) Allows the player to win additional game play credits, coins, or tokens based upon
105 game rules which establish the random selection of winning combinations of symbols or numbers
106 or both and the number of free play credits, coins, or tokens to be awarded for each winning
107 combination of symbols or numbers or both;

108 (4) Is based upon a computer-generated random selection of winning combinations based
109 totally or predominantly on chance;

110 (5) Allows a player at any time to simultaneously clear all game play credits and print a
111 redemption ticket entitling the player to receive the cash value of the free plays cleared from the
112 video lottery terminal; and

113 ~~(ee)~~ (ff) “Wager” means a sum of money or thing of value risked on an uncertain
114 occurrence.

115 ~~(ff)~~ (gg) “West Virginia Lottery table game” means any game played with cards, dice, or
116 any mechanical, electromechanical, or electronic device or machine for money, credit, or any
117 representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette,
118 wheel of fortune, or any variation of these games similar in design or operation and expressly

119 authorized by rule of the commission, including multiplayer electronic table games, machines,
120 and devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar
121 tickets, pull tabs, or similar games.

§29-25-3. Commission duties and powers.

1 (a) *Duties.* — In addition to the duties set forth elsewhere in this article, the commission
2 shall:

3 (1) Establish minimum standards for gaming devices and supplies, including electronic or
4 mechanical gaming devices;

5 (2) Approve, modify, or reject game rules of play for all West Virginia Lottery table games
6 proposed to be operated by a gaming licensee;

7 (3) Approve, modify, or reject minimum internal control standards proposed by the
8 licensee gaming facility for a West Virginia Lottery table game, including the maintenance of
9 financial books and records;

10 (4) Provide staff to supervise, inspect, and monitor the operation of any gaming facility,
11 including inspection of gaming devices and supplies used in the operation to assure continuous
12 compliance with all rules of the commission and provisions of this article;

13 (5) Establish minimum levels of insurance to be maintained with respect to a gaming
14 facility;

15 (6) Investigate applicants to determine eligibility for any license or registration and, where
16 appropriate, select among competing applicants;

17 (7) Designate appropriate classifications of personnel to be employed in the operation of
18 a gaming facility and establish appropriate ~~licensing~~ registration standards within the
19 classifications;

20 (8) Issue all licenses and registrations;

21 (9) Charge and collect the taxes and fees authorized, required, or specified in this article:

22 (i) Receive, accept, and pay the specified percentage of taxes collected under §29-25-20
23 and §29-25-21 of this code into the Historic Resort Hotel Fund; and

24 (ii) Receive, accept, and pay the specified percentage of taxes collected under §29-25-20
25 *et seq.* and §29-25-21 of this code into the Human Resource Benefit Fund;

26 (10) Maintain a record of all licenses or registrations issued;

27 (11) Keep a public record of all commission actions and proceedings; and

28 (12) File a written annual report to the Governor, the President of the Senate, and the
29 Speaker of the House of Delegates on or before January 30 of each year and any additional
30 reports as the Governor or Legislature may request.

31 (b) *Powers.* — In addition to the powers set forth elsewhere in this article, the commission
32 has the following powers:

33 (1) To sue to enforce any provision of this article by injunction;

34 (2) To hold hearings, administer oaths, and issue subpoenas for the attendance of a
35 witness to testify and to produce evidence;

36 (3) To enter a gaming facility at any time and without notice to ensure strict compliance
37 with the rules of the commission;

38 (4) To bar, for cause, any person from entering or participating in any capacity in the
39 operation of a gaming facility; and

40 (5) To exercise such other powers as may be necessary to effectuate the provisions of
41 this article.

§29-25-8. Licenses or registrations required.

1 (a) No person may engage in any activity in connection with a gaming facility in this state
2 for which a license or registration is required by subsection (b) of this section unless that person
3 has been licensed or registered by the commission in accordance with this article.

4 (b) Licenses are required for the following purposes:

5 (1) For any person engaging in the business of operating a gaming facility in the state;

6 (2) For any person engaging in the business of supplying a gaming facility with gaming
7 devices, gaming supplies or gaming services; and

8 ~~(3) For any individual employed by a gaming licensee in connection with the operation of~~
9 ~~a gaming facility in the state and~~

10 ~~(4)~~ (3) For any person providing management services under a contract to a gaming
11 facility.

12 (c) Registration is required for any individual employed by a gaming licensee in connection
13 with the operation of a gaming facility in the state.

14 ~~(e)~~ (d) Any license or registration required under this article is in addition to all other
15 licenses or permits otherwise required by law.

§29-25-12. License Registration to be employed by operator of gaming facility.

1 (a) ~~Licenses~~ Registrations. — The commission shall issue a license registration to each
2 applicant for a license registration to be employed in the operation of a gaming facility who meets
3 the requirements of this section.

4 (b) License Registration qualifications. — To qualify for a license registration to be
5 employed in a gaming facility, the applicant shall be an individual of good moral character and
6 reputation and have been offered employment by the gaming facility contingent upon licensure
7 registration pursuant to the provisions of this section. The commission, by rule, may specify
8 additional requirements to be met by applicants based on the specific job classification in which
9 the applicant is to be employed.

10 (c) License Registration application requirements. — An applicant for a license registration
11 to be employed in the operation of a gaming facility shall:

12 (1) Submit an application to the commission on the form that the commission requires,
13 including adequate information to serve as a basis for a thorough background check;

14 (2) Submit fingerprints for a national criminal records check by the Criminal Identification
15 Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints

16 shall be furnished by all persons required to be named in the application and shall be
17 accompanied by a signed authorization for the release of information by the Criminal Investigation
18 Bureau and the Federal Bureau of Investigation. The commission may require any applicant
19 seeking the renewal of a license registration or permit to furnish fingerprints for a national criminal
20 records check by the Criminal Identification Bureau of the West Virginia State Police and the
21 Federal Bureau of Investigation; and

22 (3) Pay to the commission a nonrefundable application fee in the amount of \$100 to be
23 retained by the commission as reimbursement for the licensing registration process. This fee may
24 be paid on behalf of the applicant by the employer.

25 (d) *Authorization of licensee registrant.* — A license registration to be employed by a
26 gaming facility authorizes the licensee registrant to be so employed in the capacity designated by
27 the commission with respect to the license registration while the license registration is effective.

28 (e) *Annual license registration renewal fee.* — Each licensed registered employee shall
29 pay to the commission an annual license registration renewal fee set by the commission, which
30 renewal fee may vary based on the capacity designated with respect to the licensee registrant
31 but in no event to exceed \$100. The fee may be paid on behalf of the licensed registered
32 employee by the employer.

**§29-25-13. False statements on applications; other license or registration requirements
and prohibitions.**

1 (a) Any person who knowingly makes a false statement on an application is guilty of a
2 misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in
3 jail for not more than six months except that in the case of a person other than a natural person,
4 the amount of the fine imposed may not be more than \$25,000.

5 (b) The commission may not grant a license or registration pursuant to the provisions of
6 this article if there is substantial evidence that the applicant:

7 (1) Has knowingly made a false statement of a material fact to the commission;

8 (2) Has been suspended from operating a gambling game, gaming device, or gambling
9 operation in another jurisdiction by a board or other governmental authority of that jurisdiction
10 having responsibility for the regulation of gambling or gaming activities;

11 (3) Has been convicted of a felony, an offense of moral turpitude, a gambling offense, a
12 theft or fraud offense, or has otherwise demonstrated, either by a police record or other
13 satisfactory evidence, a lack of respect for law and order;

14 (4) Has failed to meet any monetary obligation in connection with a gaming facility or any
15 other form of gaming; or

16 (5) In the case of an applicant for a license to operate a gaming facility or to supply a
17 gaming facility:

18 (A) Has not demonstrated financial responsibility sufficient to meet adequately the
19 requirements of the enterprise proposed;

20 (B) Is not the true owner of the enterprise or is not the sole owner and has not disclosed
21 the existence or identity of other persons who have an ownership interest in such enterprise; or

22 (C) Is a corporation and five percent or more of the stock of the corporation is subject to a
23 contract or option to purchase at any time during the period for which the license is issued unless
24 the contract or option was disclosed to and approved by the commission.

25 (c) In addition to any other grounds specified in this article, and subject to the hearing
26 provisions of section seventeen of this article, in the case of a license to operate a gaming facility
27 the commission may deny a license to any applicant, reprimand any licensee, or suspend or
28 revoke a license if the applicant or licensee or any controlling person of the applicant or licensee
29 knowingly employs an individual in a senior management position who has been convicted of a
30 felony under the laws of this state, another state, a territory of the United States, or the United
31 States or employs any individual in a senior management position who has had a license relating
32 to the operation of a gaming facility revoked by this state or any other state.

33 (d) Character references may be required of persons licensed or registered, but the
34 character reference may not be obtained from persons in the same or similar occupations or
35 professions in other states.

§29-25-14. Licenses or registrations; availability for inspection; change of address.

1 (a) The commission shall include on each license or registration that the commission
2 issues:

- 3 (1) The type of license or registration;
4 (2) The identity and address of the licensee or registrant;
5 (3) The effective date of the license or registration; and
6 (4) Any other information the commission considers appropriate.

7 (b) Each gaming licensee or licensed supplier of a gaming facility shall display the license
8 conspicuously in its place of business or have the license readily available for inspection at the
9 request of any agent of the commission or of the State Police. Each holder of a ~~license~~ registration
10 to be employed by a gaming facility shall carry the ~~license~~ registration on his or her person at all
11 times when present in a gaming facility and, if required by rules adopted by the commission with
12 respect to the particular capacity in which the ~~licensee~~ registrant is employed, have some indicia
13 of ~~license~~ registration prominently displayed on his or her person.

14 (c) Each licensee or registrant shall give the commission written notice of any change of
15 address and any other relevant information necessary for the maintenance of accurate records
16 by the commission.

§29-25-15. Expiration date and renewal of gaming license.

1 Regarding licenses to operate a gaming facility:

2 (a) A license expires on the fifth anniversary of its effective date, unless the license is
3 renewed for additional five-year terms as provided in this section.

4 (b) At least two months before a license expires, the commission shall send to the
5 licensee, by mail to the last known address, a renewal application form and notice that states:

6 (1) The date on which the current license expires;

7 (2) The date by which the commission must receive the renewal application for the renewal
8 to be issued and mailed before the existing license expires; and

9 (3) The amount of the renewal fee.

10 (c) Before the license expires the licensee may renew it for successive additional five-year
11 terms if the licensee:

12 (1) Otherwise is entitled to be licensed;

13 (2) Pays to the commission the following renewal fee:

14 (A) The sum of \$25,000 for a license to operate a gaming facility;

15 (B) The sum of \$5,000 for a license to supply a gaming facility; and

16 (C) As set by the commission by rule in the case of a license to be employed by an operator
17 of a gaming facility, not to exceed \$300, which renewal fee may be paid on behalf of the licensee
18 by the employer; and

19 (3) Submits to the commission a renewal application in the form that the commission
20 requires accompanied by satisfactory evidence of compliance with any additional requirements
21 set by rules of the commission for license renewal; and

22 (4) Submits to the commission evidence satisfactory to the commission of the gaming
23 facility operator's compliance with the plan described in §29-25-9(b)(4) of this code to create at
24 least 100 full-time equivalent positions with a salary and benefit package commensurate with
25 existing employees at the historic resort hotel. Notwithstanding any provision of subsection (d) of
26 this section, the failure to substantially comply with the plan, as determined by the commission,
27 may constitute grounds for the denial of the renewal of the license.

28 (d) The commission shall renew the license of each licensee who meets the requirements
29 of this section.

§29-25-16. License denial, revocation, and reprimand.

1 (a) The commission may deny a license or registration to any applicant, reprimand any
2 licensee or registrant, or suspend or revoke a license or registration if the applicant, ~~or~~ licensee,
3 registrant, or any controlling person of the applicant, ~~or~~ licensee, or registrant:

4 (1) Fraudulently or deceptively obtains or attempts to obtain a license or registration for
5 the applicant, ~~or~~ licensee, registrant, or for another;

6 (2) Fraudulently or deceptively uses a license or registration;

7 (3) Is convicted of a felony under the laws of this state, another state, a territory of the
8 United States, or the United States;

9 (4) Is convicted of a misdemeanor under the laws of this state, another state, the United
10 States, or a territory of the United States for gambling or a gambling-related activity; or

11 (5) Is not complying with this act, the rules or the minimum internal control standards
12 promulgated by the commission, or the gaming facility.

13 (b) Instead of or in addition to reprimanding a licensee or registrant or suspending or
14 revoking a license or registration, the commission may impose a civil penalty under §29-25-27 of
15 this code.

§29-25-17. Hearing procedures.

1 (a) *Right to a hearing.* — Except as otherwise provided by law, before the commission
2 takes any action involving a licensee or registrant under the provisions of this article, it shall give
3 the persons against whom the action is contemplated an opportunity for a hearing before the
4 commission.

5 (b) *Notice of hearing and right to counsel.* — The commission shall give notice and hold
6 the hearing in accordance with §29A-5-1 *et seq.* of this code. The notice shall be given to the
7 person by certified mail to the last known address of the person at least 30 days before the
8 hearing. The person may be represented at the hearing by counsel.

9 (c) *Failure to comply with subpoena.* — If a person fails to comply with a subpoena issued
10 under this section, on petition of the commission, the circuit court may compel obedience to the
11 subpoena. If after due notice the person against whom the action is contemplated fails or refuses
12 to appear, the commission may hear and determine the matter.

13 (d) *Appeal.* — Any person aggrieved by a final decision of the commission in a contested
14 case may file a petition for appeal in the circuit court of Kanawha County within 30 days after the
15 person received notice of the final order or decision, as provided in §29A-5-4 of this code.

§29-25-18. Inspection and seizure.

1 As a condition of licensure or registration, to inspect or investigate for criminal violations
2 of this article or violations of the rule promulgated by the commission, the commission agents and
3 the West Virginia State Police may each, without notice and without warrant:

4 (1) Inspect and examine all premises of the gaming facility with West Virginia Lottery table
5 games, gaming devices, the premises where gaming equipment is manufactured, sold,
6 distributed, or serviced or any premises in which any records of the activities are prepared or
7 maintained;

8 (2) Inspect any gaming equipment in, about, upon, or around the premises of a gaming
9 facility with West Virginia Lottery table games;

10 (3) Seize summarily and remove from the premises and impound any gaming equipment
11 for the purposes of examination, inspection, or testing;

12 (4) Inspect, examine, and audit all books, records, and documents pertaining to a gaming
13 facility licensee's operation;

14 (5) Summarily seize, impound, or assume physical control of any book, record, ledger,
15 West Virginia Lottery table game, gaming equipment, or device, cash box, and its contents,
16 counting room or its equipment or West Virginia Lottery table game operations; and

17 (6) Inspect the person, and the person's personal effects present on the grounds of a
18 licensed gaming facility with West Virginia Lottery table games, of any holder of a license or

19 registration issued pursuant to this article while that person is present on the grounds of a licensed
20 gaming facility having West Virginia Lottery table games.

**§29-25-22. Historic Resort Hotel Fund; allocation of adjusted gross receipts; disposition of
license or registration fees.**

1 (a) There is hereby created a special fund in the State Treasury which shall be designated
2 and known as the Historic Resort Hotel Fund. Thirty-six percent of the gross terminal income
3 received by the commission under §29-25-20 of this code and 30 percent of the adjusted gross
4 receipts received by the commission under §29-25-21 of this code shall be deposited with the
5 State Treasurer and placed in the Historic Resort Hotel Fund. The fund shall be an interest-
6 bearing account with interest to be credited to and deposited in the Historic Resort Hotel Fund.

7 (b) All expenses of the commission shall be paid from the Historic Resort Hotel Fund,
8 including reimbursement of the State Police for activities performed at the request of the
9 commission in connection with background investigations or enforcement activities pursuant to
10 this article. At no time may the commission's expenses under this article exceed 15 percent of
11 the total of the annual revenue received from the licensee or registrant under this article, including
12 all license or registration fees, taxes, or other amounts required to be deposited in the Historic
13 Resort Hotel Fund.

14 (c) An Historic Resort Hotel Modernization Fund is hereby created within the Historic
15 Resort Hotel Fund. For all fiscal years beginning on or after July 1, 2011, the commission shall
16 deduct two and one-half percent from gross terminal income received by the commission under
17 §29-25-21 of this code for the fiscal year and deposit these amounts into a separate facility
18 modernization account maintained within the Historic Resort Hotel Modernization Fund for each
19 historic resort hotel. For each dollar expended by a historic resort hotel for video lottery or table
20 gaming facility modernization improvements at the historic resort hotel, having a useful life of
21 three or more years and placed in service after April 1, 2011, the historic resort hotel shall receive
22 \$1 in recoupment from its facility modernization account. For purposes of this section, the term

23 “video lottery or table gaming facility modernization improvements” include acquisition of
24 computer hardware and software, communications, and Internet access equipment, security, and
25 surveillance equipment, video lottery terminals, and other electronic equipment, or other
26 equipment designed to modernize the facility.

27 (d) The balance of the Historic Resort Hotel Fund shall become net income and shall be
28 divided as follows:

29 (1) Sixty-four percent of the Historic Resort Hotel Fund net income shall be paid into the
30 General Revenue Fund to be appropriated by the Legislature;

31 (2) Nineteen percent of the Historic Resort Hotel Fund net income shall be paid into the
32 State Debt Reduction Fund established in §29-22C-27 of this code to be appropriated by the
33 Legislature;

34 (3) The Tourism Promotion Fund established in §5B-2-12 of this code shall receive three
35 percent of the Historic Resort Hotel Fund net income;

36 (4) The county where the gaming facility is located shall receive four percent of the Historic
37 Resort Hotel Fund net income;

38 (5) The municipality where the gaming facility is located or the municipality closest to the
39 gaming facility by paved road access as of the effective date of the reenactment of this section
40 by the 2009 regular session of the Legislature shall receive two and one-half percent of the
41 Historic Resort Hotel Fund net income;

42 (6) The municipalities within the county where the gaming facility is located, except for the
43 municipality receiving funds under subdivision (5) of this subsection, shall receive equal shares
44 of two and one-half percent of the Historic Resort Hotel Fund net income;

45 (7) Each county commission in the state that is not eligible to receive a distribution under
46 subdivision (4) of this subsection shall receive equal shares of two and one-half percent of the
47 Historic Resort Hotel Fund net income: *Provided*, That funds transferred to the county commission

48 under this subdivision shall be used only to pay regional jail expenses and the costs of
49 infrastructure improvements and other capital improvements; and

50 (8) The governing body of each municipality in the state that is not eligible to receive a
51 distribution under subdivisions (5) and (6) of this subsection shall receive equal shares of two and
52 one-half percent of the Historic Resort Hotel Fund net income: *Provided*, That funds transferred
53 to municipalities under this subdivision shall be used only to pay for debt reduction in municipal
54 police and fire pension funds and the costs of infrastructure improvements and other capital
55 improvements.

56 (e) Notwithstanding any provision of this article to the contrary, all limited gaming facility
57 license fees and license renewal fees received by the commission pursuant to §29-25-9 of this
58 code shall be deposited into the Community-Based Service Fund created in §29-22C-27 of this
59 code.

60 (f) With the exception of the license fees and license renewal fees received by the
61 commission pursuant to §29-25-9 of this code, all revenues received from licensees or registrants
62 and license or registration applicants under this article shall be retained by the commission as
63 reimbursement for the licensing or registration process.

§29-25-25. Offenses and penalties.

1 (a) A gaming licensee is guilty of unlawful operation of a West Virginia Lottery table game
2 when:

3 (1) The licensee operates a West Virginia Lottery table game or places a video lottery
4 game or video lottery terminal in any location that is not a designated gaming area approved by
5 the commission;

6 (2) The licensee acts or employs another person to act as if he or she is not an agent or
7 employee of the licensee in order to encourage participation in a West Virginia Lottery table game
8 in a gaming facility;

9 (3) The licensee knowingly permits an individual under the age of 21 years of age to enter
10 or remain in a designated gaming area or to play video lottery terminals or West Virginia Lottery
11 table game at a licensed gaming facility;

12 (4) The licensee exchanges tokens, chips, or other forms of credit to be used for wagering
13 in a gaming facility for anything of value except in exchange for money or credits to a player's
14 account;

15 (5) The licensee operates a West Virginia Lottery table game or places a video lottery
16 game or video lottery terminal into play without authority of the commission to do so;

17 (6) The licensee knowingly conducts, carries on, operates, or exposes for play or allows
18 to be conducted, carried on, operated, or exposed for play any West Virginia Lottery table game,
19 video lottery game, video lottery terminal or other device, equipment or material that has in any
20 manner been tampered with or placed in a condition or operated in a manner, the result of which
21 is designed to deceive the public; or

22 (7) The licensee employs an individual in a position or to perform duties for which a ~~license~~
23 registration is required by this article or rules of the commission and the employee does not have
24 a ~~license~~ registration issued under the provisions of this article or the licensee continues to employ
25 the individual in a position or to perform duties for which a ~~license~~ registration is required by this
26 article or rules of the commission after the employee's ~~license~~ registration expired, was revoked
27 by the commission, or not renewed by the commission.

28 (b) A person is guilty of a misdemeanor when:

29 (1) The person operates, carries on, or exposes for play a West Virginia Lottery table game
30 prior to obtaining a license or after the person's license has expired and prior to actual renewal of
31 the license or before the West Virginia Lottery table game and the licensee's rules for play for the
32 game are approved or modified and approved by the commission;

33 (2) The person works or is employed in a position requiring a ~~license~~ registration under
34 the provisions of this article without having the ~~license~~ registration required by this article;

35 (3) A licensee who possesses any video lottery terminal or other device, equipment, or
36 material which the person knows has been manufactured, distributed, sold, tampered with, or
37 serviced in violation of the provisions of this article; or

38 (4) A licensee who knowingly conducts, carries on, operates or exposes for play, or allows
39 to be conducted, carried on, operated, or exposed for play any video lottery game, video lottery
40 terminal, or other device, equipment, or material which has in any manner been tampered with,
41 or placed in a condition, or operated in a manner, the result of which tends to deceive the public
42 or tends to alter the normal random selection of characteristics or the normal random selection of
43 characteristics or the normal chance of the video lottery game.

44 (c) A person is guilty of a felony when:

45 (1) The person offers, promises, or gives anything of value or benefit to a person who has
46 an ownership or financial interest in, is employed by or has a service contract with a gaming facility
47 or to that person's spouse or any dependent child or dependent parent, pursuant to an agreement
48 or arrangement, in fact or implied from the circumstances, with intent that the promise or thing of
49 value or benefit will influence the actions of the person in order to affect or attempt to affect the
50 outcome of a West Virginia Lottery table game or to influence official action of the commission.
51 For the purposes of this subdivision and subdivision (2) of this subsection, the term "person who
52 is connected with a gaming facility" includes, but is not limited to, a person licensed under this
53 article as well as an officer or employee of a licensee;

54 (2) The person solicits or knowingly accepts or receives a promise of anything of value or
55 benefit while the person is connected with a gaming facility, pursuant to an understanding or
56 arrangement or with the intent that the promise or thing of value or benefit will influence the actions
57 of the person to affect or attempt to affect the outcome of a West Virginia Lottery table game or
58 to influence official action of the commission;

59 (3) The person uses or possesses on property owned by the licensed gaming facility or
60 on property contiguous to the gaming facility, with the intent to use, an electronic, electrical, or

61 mechanical device that is designed, constructed, or programmed to assist the user or another
62 person:

63 (A) In projecting the outcome of a West Virginia Lottery table game;

64 (B) In keeping track of cards dealt or in play;

65 (C) In analyzing the probability of the occurrence of an event relating to a West Virginia
66 Lottery table game;

67 (D) In analyzing the strategy for playing or betting to be used in a West Virginia Lottery
68 table game, except as permitted in writing by the commission; or

69 (E) In obtaining an advantage at playing any West Virginia Lottery table game at a licensed
70 gaming facility authorized under this article to operate a West Virginia Lottery table game;

71 (4) The person cheats at a West Virginia Lottery table game in a gaming facility;

72 (5) The person manufactures, sells, or distributed any cards, chips, dice, game, or device
73 which is intended to be used to violate any provision of this article or the table gaming laws of any
74 other state;

75 (6) The person instructs a person in cheating or in the use of a device for that purpose
76 with the knowledge or intent that the information or use conveyed may be employed to violate any
77 provision of the article;

78 (7) The person places a bet after acquiring knowledge, not available to all players, of the
79 outcome of the West Virginia Lottery table game which is the subject of the bet or aids a person
80 in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;

81 (8) The person claims, collects, takes, or attempts to claim, collect, or take money or
82 anything of value into or from a gaming facility, with intent to defraud, without having made a
83 wager contingent on winning a West Virginia Lottery table game, or claims, collects, or takes an
84 amount of money or thing of value or greater value than the amount won;

85 (9) The person knowingly uses chips, electronic media, or tokens that are counterfeit to
86 place a wager in a gaming facility;

87 (10) The person knowingly uses any medium other than chips, tokens, or other methods
88 of credit approved by the commission to place a wager in a gaming facility;

89 (11) The person, not a gaming licensee or employee or agent of a gaming facility licensed
90 under this article acting in furtherance of the gaming licensee's interests, has in his or her
91 possession on grounds owned by the gaming facility licensed under this article, or on grounds
92 contiguous to the gaming facility, any device, by whatever name called, intended to be used to
93 violate a provision of this article or a rule of the commission implementing or explaining a provision
94 of this article; or

95 (12) The person, not a gaming licensee or agent of a gaming licensee acting in furtherance
96 of the gaming licensee's interests, has in his or her possession any key or device designed for
97 the purpose of opening, entering or affecting the operation of a West Virginia Lottery table game,
98 drop box, or an electronic or mechanical device connected with or used in connection with a West
99 Virginia Lottery table game in a gaming facility or for removing coins, tokens, chips, or other
100 contents therefrom.

101 (d) Any person who violates the provisions of subsection (a) or (b) of this section is guilty
102 of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined
103 in jail for not more than six months, except that in the case of a person other than a natural person,
104 the amount of the fine imposed may not be more than \$25,000.

105 (e) Any person who violates the provisions of subsection (c) of this section is guilty of a
106 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000
107 and imprisoned in a state correctional facility ~~for a term of imprisonment of~~ not less than one year
108 nor more than five years.

109 (f) With regard to subdivision (3), subsection (c) of this section, the gaming facility licensee
110 shall post notice of this prohibition and the penalties of this section in a manner determined by
111 the commission.

§29-25-27. Civil penalties.

1 The commission may impose on a person who violates the provisions of this article a civil
2 penalty not to exceed \$10,000 for each violation, whether or not the person is licensed or
3 registered under this article.

4 The provisions of §29A-5-1 *et seq.* of this code shall apply to any civil penalty imposed
5 pursuant to the provisions of this section.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.