

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3025

BY DELEGATES WESTFALL, MAYNARD, GRAVES, PUSHKIN,

CANESTRARO AND MILLER

[Introduced February 12, 2019; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §19-23-6, §19-23-7, and §19-23-12b of the Code of West Virginia,
 2 1931, as amended; to amend and reenact §29-22A-3, §29-22A-7, §29-22A-8, §29-22A-9,
 3 and §29-22A-12 of said code; to amend and reenact §29-22C-7, §29-22C-8, and §29-
 4 22C-10 of said code; and to amend and reenact §60-7-12 of said code, all relating to
 5 providing for the Racing Commission to approve number of racing days requested by
 6 racing association; eliminating racing day requirement to maintain video lottery license;
 7 eliminating prohibition of ATM's on casino floors; eliminating recall elections for video
 8 lottery and racetrack table games; and allowing video lottery licensees to serve alcoholic
 9 beverages during hours of operation.

Be it enacted by the Legislature of West Virginia:

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE AND DOG RACING.

§19-23-6. Powers and authority of Racing Commission.

1 The Racing Commission has full jurisdiction over and shall supervise all horse race
 2 meetings, all dog race meetings and all persons involved in the holding or conducting of horse or
 3 dog race meetings and, in this regard, it has plenary power and authority:

4 (1) To investigate applicants and determine the eligibility of the applicants for a license or
 5 permit or construction permit under the provisions of this article;

6 (2) To fix, from time to time, the annual fee to be paid to the Racing Commission for any
 7 permit required under the provisions of §19-23-2 of this code;

8 (3) To promulgate reasonable rules implementing and making effective the provisions of
 9 this article and the powers and authority conferred and the duties imposed upon the Racing
 10 Commission under the provisions of this article, including, but not limited to, reasonable rules
 11 under which all horse races, dog races, horse race meetings and dog race meetings shall be held
 12 and conducted, all of which reasonable rules shall be promulgated in accordance with the

13 provisions of §29A-3-1 *et seq.* of this code except that the Racing Commission shall promulgate
14 separate rules, in accordance with §29A-3-1 *et seq.* of this code, pertaining to the kinds of legal
15 combination wagers which may be placed in connection with the pari-mutuel system of wagering
16 authorized by this article;

17 (4) To register colors and assumed names and to fix, from time to time, the annual fee to
18 be paid to the Racing Commission for any such registration;

19 (5) To fix and regulate the minimum purse to be offered during any horse or dog race
20 meeting;

21 (6) To ~~fix~~ approve the number, if any, of live racing dates requested by a licensee for any
22 racing season and to fix a minimum and a maximum number, if any, of horse races or dog races
23 to be held on any respective racing day;

24 (7) To enter the office, horse racetrack, dog racetrack, kennel, facilities and other places
25 of business of any licensee to determine whether the provisions of this article and its reasonable
26 rules are being complied with, and for this purpose, the Racing Commission, its executive director,
27 representatives and employees may visit, investigate and have free access to any such office,
28 horse racetrack, dog racetrack, kennel, facilities and other places of business;

29 (8) To investigate alleged violations of the provisions of this article, its reasonable rules,
30 orders and final decisions and to take appropriate disciplinary action against any licensee or
31 permit holder or construction permit holder for a violation or institute appropriate legal action for
32 enforcement or take disciplinary action and institute legal action;

33 (9) By reasonable rules, to authorize stewards, starters and other racing officials to impose
34 reasonable fines or other sanctions upon a person connected with or involved in any horse or dog
35 racing or any horse or dog race meeting and to authorize stewards to rule off the grounds of any
36 horse or dog racetrack any tout, bookmaker or other undesirable individual determined inimical
37 to the best interests of horse and dog racing or the pari-mutuel system of wagering in connection
38 therewith;

39 (10) To require at any time the removal of any racing official or racing employee of any
40 licensee for the violation of any provision of this article, any reasonable rule of the Racing
41 Commission or for any fraudulent practice;

42 (11) To acquire, establish, maintain and operate, or to provide by contract for the
43 maintenance and operation of, a testing laboratory and related facilities for the purpose of
44 conducting saliva, urine and other tests on the horse or dog or horses or dogs run or to be run in
45 any horse or dog race meeting and to purchase all equipment and supplies considered necessary
46 or desirable in connection with the acquisition, establishment, maintenance and operation of any
47 testing laboratory and related facilities and all such tests;

48 (12) To hold up, in any disputed horse or dog race, the payment of any purse pending a
49 final determination of the results thereof;

50 (13) To require each licensee to file an annual balance sheet and profit and loss statement
51 pertaining to the licensee's horse or dog racing activities in this state together with a list of each
52 licensee's stockholders or other persons having any beneficial interest in the horse or dog racing
53 activities of the licensee;

54 (14) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for
55 the production of any books, records and other pertinent documents and to administer oaths and
56 affirmations to such witnesses, whenever, in the judgment of the Racing Commission, it is
57 necessary to do so for the effective discharge of its duties under the provisions of this article;

58 (15) To keep accurate and complete records of its proceedings and to certify the same as
59 may be appropriate;

60 (16) To take any other action that may be reasonable or appropriate to effectuate the
61 provisions of this article and its reasonable rules;

62 (17) To provide breeders' awards, purse supplements and moneys for capital
63 improvements at racetracks in compliance with §19-23-13b of this code; and

64 (18) To mediate on site, upon request of a party, all disputes existing between the

65 racetrack licensees located in this state and representatives of a majority of the horse owners and
66 trainers licensed at the track which threaten to disrupt any scheduled racing event or events. The
67 Racing Commission shall, upon the request of a party, mediate on site all disputes existing
68 between racetrack licensees and representatives of pari-mutuel clerks which threaten to disrupt
69 any scheduled racing event or events. When a request for mediation is made, the commission
70 shall designate from among its members one person to act as mediator in each dispute that
71 arises. Each opposing party involved in any dispute shall negotiate in good faith with the goal of
72 reaching a fair and mutual resolution. The mediator may issue recommendations designed to
73 assist each side toward reaching a fair compromise. No owner or operator or any horse owner or
74 trainer or any pari-mutuel clerk licensed at the track is required to abide by any recommendation
75 made by any mediator acting pursuant to this subsection.

76 The Racing Commission shall not interfere in the internal business or internal affairs of
77 any licensee.

**§19-23-7. Application for license; forms; time for filing; disclosure required; verification;
bond; application for permit.**

1 (a) Any racing association desiring to hold or conduct a horse or dog race meeting, where
2 the pari-mutuel system of wagering is permitted and conducted, during any calendar year, shall
3 file with the Racing Commission an application for a license to hold or conduct such horse or dog
4 race meeting. A separate application shall be filed for each separate license sought for each horse
5 or dog race meeting which such applicant proposes to hold or conduct. Any racing association,
6 which was licensed prior to January 1, 1994, to hold horse or dog race meetings, desiring to
7 conduct simulcast racing without conducting horse or dog racing, shall file a separate application
8 to conduct simulcast racing. The Racing Commission shall prescribe blank forms to be used in
9 making such application. Such application shall be filed on or before a day to be fixed by the
10 Racing Commission and shall disclose, but not be limited to, the following:

11 (1) If the applicant be an individual, the full name and address of the applicant;

12 (2) If the applicant be a partnership, firm or association, the full name and address of each
13 partner or member thereof, the name of the partnership, firm or association and its post-office
14 address;

15 (3) If the applicant be a corporation, its name, the state of its incorporation, its post-office
16 address, the full name and address of each officer and director thereof, and if a foreign
17 corporation, whether it is qualified to do business in this state;

18 (4) The dates, ~~totaling not less than two hundred~~ if any, such applicant intends to hold or
19 conduct such horse or dog race meeting and the dates, if any, such applicant intends to conduct
20 simulcast racing (which may be on any day including Sundays);

21 (5) The location of the horse or dog racetrack, place or enclosure where such applicant
22 proposes to hold or conduct such horse or dog race meeting;

23 (6) Whether the applicant, any partner, member, officer or director has previously applied
24 for a license under the provisions of this article or for a similar license in this or any other state,
25 and if so, whether such license was issued or refused, and, if issued, whether it was ever
26 suspended or revoked; and

27 (7) Such other information as the Racing Commission may reasonably require which may
28 include information relating to any criminal record of the applicant, if an individual, or of each
29 partner or member, if a partnership, firm or association, or of each officer and director, if a
30 corporation.

31 (b) Such application shall be verified by the oath or affirmation of the applicant for such
32 license, if an individual, or if the applicant is a partnership, firm, association or corporation, by a
33 partner, member or officer thereof, as the case may be. When required by the Racing
34 Commission, an applicant for a license shall also furnish evidence satisfactory to the Racing
35 Commission of such applicant's ability to pay all taxes due the state, purses, salaries of officials
36 and other expenses incident to the horse or dog race meeting for which a license is sought. In the
37 event the applicant is not able to furnish such satisfactory evidence of such applicant's ability to

38 pay such expenses and fees, the Racing Commission may require bond or other adequate
39 security before the requested license is issued.

40 (c) Any person desiring to obtain a permit, as required by the provisions of §19-23-2 of
41 this code, shall make application therefor on a form prescribed by the Racing Commission. The
42 application for any such permit shall be accompanied by the fee prescribed therefor by the Racing
43 Commission. Each applicant for a permit shall set forth in the application such information as the
44 Racing Commission shall reasonably require.

§19-23-12b. Televised racing days; merging of pari-mutuel wagering pools.

1 (a) For the purposes of this section:

2 (1) "Televised racing day" means a calendar day, assigned by the commission, at a
3 licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at other
4 racetracks in this state or at racetracks outside of this state which are broadcast by television at
5 a licensed racetrack and which day or days have had the prior written approval of the
6 representative of the majority of the owners and trainers who hold permits required by §19-23-2
7 of this code; and

8 (2) "Host racing association" means any person who, pursuant to a license or other
9 permission granted by the host governmental entity, conducts the horse or dog race upon which
10 wagers are placed.

11 (b) A licensee ~~conducting not less than two hundred twenty live racing dates for each~~
12 ~~horse or dog race meeting~~ may, with the prior approval of the state Racing Commission, contract
13 with any legal wagering entity in this state or in any other governmental jurisdiction to receive
14 telecasts and accept wagers on races conducted by the legal wagering entity. ~~Provided, That at~~
15 ~~those thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less~~
16 ~~than two hundred ten live racing dates for each horse race meeting: Provided, however, That at~~
17 ~~those thoroughbred racetracks that have participated in the West Virginia thoroughbred~~
18 ~~development fund for a period of more than four consecutive calendar years prior to December~~

19 ~~31, 1992, the licensee may apply for not less than one hundred fifty-nine live racing dates during~~
20 ~~the calendar year 1997. If, thereafter, for reasons beyond the licensee's control, related to adverse~~
21 ~~weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses~~
22 ~~eligible to compete for purses, the licensee concludes that this number of racing days cannot be~~
23 ~~attained, the licensee may file a request with the Racing Commission to reduce the authorized~~
24 ~~live racing days. Upon receipt of the request the Racing Commission shall within seventy-two~~
25 ~~hours of the receipt of the request notify the licensee and the representative of a majority of the~~
26 ~~owners and trainers at the requesting track and the representative of the majority of the mutual~~
27 ~~clerks at the requesting track that such request has been received and that if no objection to the~~
28 ~~request is received within ten days of the notification the request will be approved: *Provided*~~
29 ~~*further,* That the commission shall give consideration to whether there existed available~~
30 ~~unscheduled potential live racing dates following the adverse weather or casualty and prior to the~~
31 ~~end of the race meeting which could be used as new live racing dates in order to maintain the full~~
32 ~~live racing schedule previously approved by the Racing Commission. If an objection is received~~
33 ~~by the commission within the time limits, the commission shall, within thirty days of receipt of such~~
34 ~~objection, set a hearing on the question of reducing racing days, which hearing shall be conducted~~
35 ~~at a convenient place in the county in which the requesting racetrack is located. The commission~~
36 ~~shall hear from all parties concerned and, based upon testimony and documentary evidence~~
37 ~~presented at the hearing, shall determine the required number of live racing days: *And provided*~~
38 ~~*further,* That the commission shall not reduce the number of live racing days below one hundred~~
39 ~~eighty-five days for a horse race meeting unless the licensee requesting such reduction has: (i)~~
40 ~~Filed with the commission a current financial statement, which shall be subject to independent~~
41 ~~audit; and (ii) met the burden of proving that just cause exists for such requested reduction in live~~
42 ~~racing days~~ The telecasts may be received and wagers accepted at any location authorized by
43 the provisions of §19-23-12a of this code. The contract must receive the approval of the
44 representative of the majority of the owners and trainers who hold permits required by §19-23-2

45 of this code at the receiving thoroughbred racetrack.

46 (c) The commission may allow the licensee to commingle its wagering pools with the
47 wagering pools of the host racing association. If the pools are commingled, the wagering at the
48 licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and
49 be electronically linked with the equipment at the sending racetrack. Subject to the approval of
50 the commission, the types of betting, licensee commissions and distribution of winnings on pari-
51 mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack.
52 Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with
53 the law or rules governing the sending racetrack and must be distributed in a manner agreed to
54 between the licensee and the sending racetrack. For the televised racing services it provides, the
55 host racing association shall receive a fee to be paid by the receiving licensee racetrack which
56 shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing
57 association.

58 (d) The commission may assign televised racing days at any time. When a televised racing
59 day is assigned, the commission shall assign either a steward or an Auditor to preside over the
60 televised races at the licensee racetrack.

61 (e) (1) From the licensee commissions authorized by subsection (c) of this section, the
62 licensee shall pay one tenth of one percent of each commission into the General Fund of the
63 county, in which the racetrack is located and at which the wagering occurred and there is imposed
64 and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool
65 exceeds \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel
66 pools tax required by §19-23-10 of this code; or (ii) a daily license tax of \$1,250. For each televised
67 racing day on which the total pari-mutuel pool is \$100,000, the licensee shall pay a daily license
68 tax of \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof, that the pari-
69 mutuel pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the total pari-
70 mutuel pool for purposes of this subsection shall include only one half of all wagers placed at a

71 licensed racetrack in this state on televised races conducted at another licensed racetrack within
72 this state. Payments of the tax imposed by this section are subject to the requirements of §19-23-
73 10(e) of this code.

74 (2) From the licensee commissions authorized by subsection (c) of this section, after
75 payments are made in accordance with the provisions of subdivision (1) of this subsection, the
76 licensee shall pay, for each televised racing day, one fourth of one percent of the total pari-mutuel
77 pools for and on behalf of all employees of the licensed racing association by making a deposit
78 into a special fund to be established by the Racing Commission and to be used for payments into
79 the pension plan for all employees of the licensed racing association.

80 (3) From the licensee commissions authorized by subsection (c) of this section, after
81 payments are made in accordance with the provisions of subdivisions (1) and (2) of this
82 subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for
83 each televised racing day on or after July 1, 1997, an additional five and one-half percent of net
84 simulcast income into the West Virginia thoroughbred development fund established by the
85 Racing Commission according to §19-23-13b of this code: *Provided*, That no licensee qualifying
86 for the alternate tax provisions of §19-23-10(b) of this code shall be required to make the
87 payments unless the licensee has participated in the West Virginia thoroughbred development
88 fund for a period of more than four consecutive calendar years prior to December 31, 1992. For
89 the purposes of this section, the term "net simulcast income" means the total commission
90 deducted each day by the licensee from the pari-mutuel pools on simulcast horse or dog races,
91 less direct simulcast expenses, including, but not limited to, the cost of simulcast signals,
92 telecommunication costs and decoder costs.

93 (f) After deducting the tax and other payments required by subsection (e) of this section,
94 the amount required to be paid under the terms of the contract with the host racing association
95 and the cost of transmission, the horse racing association shall make a deposit equal to fifty
96 percent of the remainder into the purse fund established under the provisions of §19-23-9(b)(1)

97 of this code. After deducting the tax and other payments required by subsection (e) of this section,
98 dog racetracks shall pay an amount equal to two tenths of one percent of the daily simulcast pari-
99 mutuel pool to the "West Virginia Racing Commission Special Account-West Virginia Greyhound
100 Breeding Development Fund".

101 (g) The provisions of the "Federal Interstate Horseracing Act of 1978", also known as
102 Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in
103 determining the intent of this section.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-3. Definitions.

1 As used in this article:

2 (a) "Applicant" means any person applying for any video lottery license or permit.

3 (b) "Associated equipment" means any hardware located on a licensed racetrack's
4 premises which is connected to the video lottery system for the purpose of performing
5 communication, validation or other functions, but not including the video lottery terminals or the
6 communication facilities of a regulated public utility.

7 (c) "Background investigation" means a security, criminal and credit investigation of a
8 person, as defined in this section, who has applied for a video lottery license or permit, or who
9 has been granted a video lottery license or permit.

10 (d) "Central computer," "central control computer" or "central site system" means any
11 central site computer provided to and controlled by the commission to which video lottery
12 terminals communicate for purposes of information retrieval and terminal activation and to disable
13 programs.

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

16 (f) "Control" means the authority to direct the management and policies of an applicant or
17 a license or permit holder.

18 (g) "Costs" means the expenses incurred by the commission in the testing and
19 examination of video lottery terminals and the performance of background investigations and
20 other related activities which are charged to and collected from applicants or license or permit
21 holders.

22 (h) "Director" means the individual appointed by the Governor to provide management and
23 administration necessary to direct the State Lottery Office.

24 (i) "Disable" or "terminal disable" means the process of executing a shutdown command
25 from the central control computer which causes video lottery terminals to cease functioning.

26 (j) "Display" means the visual presentation of video lottery game features on a video lottery
27 terminal in the form of video images, actual symbols or both.

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

33 (l) "Floor attendant" means a person, employed by a licensed racetrack, who holds a
34 permit issued by the commission and who corrects paper jams and bill jams in video lottery
35 terminals and also provides courtesy services for video lottery players.

36 (m) "Gross terminal income" means the total amount of cash, vouchers or tokens inserted
37 into the video lottery terminals operated by a licensee, minus the total value of coins and tokens
38 won by a player and game credits which are cleared from the video lottery terminals in exchange
39 for winning redemption tickets.

40 (n) "License" or "video lottery license" means authorization granted by the commission to
41 a racetrack which is licensed by the West Virginia Racing Commission to conduct thoroughbred

42 or greyhound racing meetings pursuant to §19-23-1 *et seq.* of this code permitting the racetrack
43 to operate video lottery terminals authorized by the commission.

44 (o) "Lottery" means the public gaming systems or games established and operated by the
45 State Lottery Commission.

46 (p) "Manufacturer" means any person holding a permit granted by the commission to
47 engage in the business of designing, building, constructing, assembling or manufacturing video
48 lottery terminals, the electronic computer components of the video lottery terminals, the random
49 number generator of the video lottery terminals, or the cabinet in which it is housed, and whose
50 product is intended for sale, lease or other assignment to a licensed racetrack in West Virginia,
51 and who contracts directly with the licensee for the sale, lease or other assignment to a licensed
52 racetrack in West Virginia.

53 (q) "Net terminal income" means gross terminal income minus an amount deducted by the
54 commission to reimburse the commission for its actual costs of administering racetrack video
55 lottery at the licensed racetrack. No deduction for any or all costs and expenses of a licensee
56 related to the operation of video lottery games shall be deducted from gross terminal income.

57 (r) "Noncash prize" means merchandise which a video lottery player may be given the
58 option to receive in lieu of cash in exchange for a winning redemption ticket and which shall be
59 assigned a redemption value equal to the actual cost of the merchandise to the licensed racetrack.

60 (s) "Own" means any beneficial or proprietary interest in any property or business of an
61 applicant or licensed racetrack.

62 (t) "Pari-mutuel racing facility," "licensed racetrack," "racetrack" or "track" means a facility
63 where horse or dog race meetings are held and the pari-mutuel system of wagering is authorized
64 pursuant to the provisions of §19-23-1 *et seq.* of this code: *Provided, That, for the purposes of*
65 ~~this article~~ effective for periods on or after July 1, 2019, "pari-mutuel racing facility," "licensed
66 racetrack," "racetrack" or "track" includes only a facility which was licensed prior to January 1,
67 1994, to hold horse or dog race meetings. ~~and which conducts not less than two hundred twenty~~

68 ~~live racing dates for each horse or dog race meeting or such other number of live racing dates as~~
69 ~~may be approved by the Racing Commission in accordance with the provisions of section twelve-~~
70 ~~b, article twenty three, chapter nineteen of this code~~

71 (u) "Permit" means authorization granted by the commission to a person to function as
72 either a video lottery manufacturer, service technician or validation manager.

73 (v) "Person" means any natural person, corporation, association, partnership, limited
74 partnership, or other entity, regardless of its form, structure or nature.

75 (w) "Player" means a person who plays a video lottery game on a video lottery terminal at
76 a racetrack licensed by the commission to conduct video lottery games.

77 (x) "Service technician" means a person, employed by a licensed racetrack, who holds a
78 permit issued by the commission and who performs service, maintenance and repair on licensed
79 video lottery terminals in this state.

80 (y) "Video lottery game" means a commission approved, owned and controlled
81 electronically simulated game of chance which is displayed on a video lottery terminal and which:

82 (1) Is connected to the commission's central control computer by an on-line or dial-up
83 communication system;

84 (2) Is initiated by a player's insertion of coins, currency, vouchers or tokens into a video
85 lottery terminal, which causes game play credits to be displayed on the video lottery terminal and,
86 with respect to which, each game play credit entitles a player to choose one or more symbols or
87 numbers or to cause the video lottery terminal to randomly select symbols or numbers;

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

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

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

97 (z) "Validation manager" means a person who holds a permit issued by the commission
98 and who performs video lottery ticket redemption services.

99 (aa) "Video lottery" means a lottery which allows a game to be played utilizing an electronic
100 computer and an interactive computer terminal device, equipped with a video screen and keys, a
101 keyboard or other equipment allowing input by an individual player, into which the player inserts
102 coins, currency, vouchers or tokens as consideration in order for play to be available, and through
103 which terminal device the player may receive free games, coins, tokens or credit that can be
104 redeemed for cash, annuitized payments over time, a noncash prize or nothing, as may be
105 determined wholly or predominantly by chance. "Video lottery" does not include a lottery game
106 which merely utilizes an electronic computer and a video screen to operate a lottery game and
107 communicate the results of the game, such as the game "Travel," and which does not utilize an
108 interactive electronic terminal device allowing input by an individual player.

109 (bb) "Video lottery terminal" means a commission-approved interactive electronic terminal
110 device which is connected with the commission's central computer system, and which is used for
111 the purpose of playing video lottery games authorized by the commission. A video lottery terminal
112 may simulate the play of one or more video lottery games.

113 (cc) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

§29-22A-7. License and permit qualifications; individual qualifications; applicant required to furnish information; waiver of liability; oath or affirmation; duty to provide accurate and material information.

1 (a) No video lottery license or permit may be granted unless the commission has
2 determined that the applicant satisfies all of the following qualifications:

3 (1) An applicant for a video lottery license or its predecessor in interest must, ~~hold~~ prior to

4 January 1, 1994, have held a valid racing license granted by the West Virginia racing commission
5 under provisions of §19-23-1 *et seq.* of this code: Provided, That, an applicant may not be required
6 to hold a current racing license to renew its video lottery license.

7 (2) An applicant must be a person of good character and integrity.

8 (3) An applicant must be a person whose background, including criminal record, reputation
9 and associations, does not pose a threat to the security and integrity of the lottery or to the public
10 interest of the state. All new applicants for licenses and permits issued by the commission shall
11 furnish fingerprints for a national criminal records check by the criminal identification Bureau of
12 the West Virginia State Police and the federal bureau of investigation. The fingerprints shall be
13 furnished by all persons required to be named in the application and shall be accompanied by a
14 signed authorization for the release of information by the criminal investigation bureau and the
15 federal bureau of investigation. The commission may require any applicant seeking the renewal
16 of a license or permit to furnish fingerprints for a national criminal records check by the criminal
17 identification bureau of the West Virginia state police and the federal bureau of investigation. A
18 person who has been convicted of any violation of §29-22-1 *et seq.* of this code or of this article
19 or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible for any
20 license or permit. The commission shall revoke the license or permit of any person who is
21 convicted of any such crime after a license or permit is granted.

22 (4) An applicant must be a person who demonstrates the business ability and experience
23 necessary to establish, operate and maintain the business for which a video lottery license or
24 permit application is made.

25 (5) An applicant must be a person who has secured adequate financing for the business
26 for which a video lottery license or permit application is made. The commission shall determine
27 whether financing is from a source which meets the qualifications of this section and is adequate
28 to support the successful performance of the duties and responsibilities of the licensed racetrack
29 or permit holder. An applicant for a video lottery license shall disclose all financing or refinancing

30 arrangements for the purchase, lease or other acquisition of video lottery terminals and
31 associated equipment in the degree of detail requested by the commission. A licensed racetrack
32 shall request commission approval of any change in financing or lease arrangements at least
33 thirty days before the effective date of the change.

34 (6) A racetrack applying for a video lottery license or a license renewal must present to
35 the commission evidence of the existence of an agreement, regarding the proceeds from video
36 lottery terminals, between the applicant and the representative of a majority of the horse owners
37 and trainers, the representative of a majority of the pari-mutuel clerks and the representative of a
38 majority of the breeders or the representative of a majority of the kennel owners for the applicable
39 racetrack who hold permits required by §19-23-2 of this code of this code.

40 (7) A racetrack applying for a video lottery license or a license renewal must file with the
41 commission a copy of any current or proposed agreement between the applicant and any
42 manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals,
43 the electronic computer components of the terminals, the random number generator of the
44 terminals, or the cabinet in which it is housed. Once filed with the commission, the agreement is
45 a public document subject to the provisions of §29B-1-1 *et seq.* of this code.

46 (b) No video lottery license or permit may be granted to an applicant until the commission
47 determines that each person who has control of the applicant meets all applicable qualifications
48 of subsection (a) of this section. The following persons are considered to have control of an
49 applicant:

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

55 (2) Each person associated with a noncorporate applicant who directly or indirectly holds

56 any beneficial or proprietary interest in the applicant or who the commission determines to have
57 the ability to control the applicant.

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

61 (c) Applicants must furnish all information, including financial data and documents,
62 certifications, consents, waivers, individual history forms and other materials requested by the
63 commission for purposes of determining qualifications for a license or permit. No video lottery
64 license or permit may be granted to an applicant who fails to provide information and
65 documentation requested by the commission. The burden of proving qualification for any video
66 lottery license or permit is on the applicant.

67 (d) Each applicant bears all risks of adverse public notice, embarrassment, criticism,
68 damages or financial loss which may result from any disclosure or publication of any material or
69 information obtained by the commission pursuant to action on an application. The applicant shall,
70 as a part of its application, expressly waive any and all claims against the commission, the State
71 of West Virginia and the employees of either for damages as a result of any background
72 investigation, disclosure or publication relating to an application for a video lottery license or
73 permit.

74 (e) All application, registration and disclosure forms and other documents submitted to the
75 commission by or on behalf of the applicant for purposes of determining qualification for a video
76 lottery license or permit shall be sworn to or affirmed before an officer qualified to administer
77 oaths.

78 (f) An applicant who knowingly fails to reveal any fact material to qualification or who
79 knowingly submits false or misleading material information is ineligible for a video lottery license
80 or permit.

§29-22A-8. Form of application; local option elections; issuance of license; notice of

incomplete application; notice of license or permit denial, suspension or revocation; procedure for review of license or permit denial, suspension or revocation; fees, renewal fees and renewal dates; bonding; renewal of licenses and permits; notice of change affecting license or permit; license or permit not transferrable or assignable.

1 (a) The commission shall determine the form of applications to be used and shall not
 2 consider incomplete applications. The commission may consider an application when the
 3 applicant has completed and executed all forms and documents required by the commission and
 4 all application fees and costs have been paid.

5 (b) The question of whether video lottery games shall be permitted at pari-mutuel
 6 racetracks shall be determined by local option election in each county in which a pari-mutuel
 7 racetrack is located. The local option election on this question may be placed on the ballot in each
 8 county at any general election. The county commission of the county in which the racetrack is
 9 located shall give notice to the public of the election by publication of the notice as a Class II-0
 10 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the
 11 publication area for the publication shall be the county in which the election is to be held. The date
 12 of the last publication of the notice shall fall on a date within the period of the fourteen consecutive
 13 days next preceding the election.

14 On the local option election ballot shall be printed the following:

15 Shall West Virginia Lottery Commission video lottery games be permitted within an area
 16 at the [name of racetrack] in which pari-mutuel betting is authorized by law?

17 Yes No

18 (Place a cross mark in the square opposite your choice.)

19 The ballots shall be counted, returns made and canvassed as in general elections, and
 20 the results certified by the commissioners of election to the county commission. The county
 21 commission shall, without delay, certify the result of the election to the commission.

22 (c) Upon receipt of the results of the election from the county commission, and if a majority
 23 has voted “yes”, the commission shall issue the requested license if the applicant is otherwise
 24 qualified for the license. If a majority has voted “no”, the commission shall notify the applicant of
 25 the results, the application shall be denied, and another election on the issue shall not be held for
 26 a period of two years: *Provided*, That for purposes of this section, the term “two years” means the
 27 interval between a general election and the next general election, and in no event shall it mean
 28 or encompass a period of time in excess of 104 weeks. ~~If a majority has voted “yes”, another local
 29 option election on the issue shall not be held for a period of five years. A local option election may
 30 thereafter be held if a written petition of qualified voters residing within the county equal to at least
 31 five percent of the number of persons who were registered to vote in the next preceding general
 32 election is received by the county commission of the county in which the horse or dog racetrack
 33 is located. The petition may be in any number of counterparts.~~

34 The petition shall be in the following form:

35 ~~Petition For Local Option Election~~

36 ~~We, the undersigned legally qualified voters, resident within the county of~~
 37 ~~_____~~, do hereby petition that a special election be held within the county of
 38 ~~_____~~ upon the following question: Shall West Virginia Lottery Commission video
 39 lottery games be permitted within an area at the [name of racetrack] in which pari-mutuel betting
 40 is authorized by law?

41 Name _____ Address _____ Date _____
 42 (Post office or street address)

43 (d) The commission may not issue any license or permit until background investigations
 44 are concluded. The commission shall make an affirmative determination that the applicant is
 45 qualified and the applicable license or permit fees have been paid prior to issuing any license or
 46 permit.

47 (e) The commission shall notify the applicant if an application is incomplete and the

48 notification shall state the deficiencies in the application.

49 (f) The commission shall notify applicants in writing of the denial, suspension or revocation
50 of a permit or license and the reasons for the denial, suspension or revocation in accordance with
51 the provisions of §29-22A-15 of this code.

52 (g) An applicant may request a hearing to review a license or permit denial, suspension
53 or revocation in accordance with §29-22A-15 of this code.

54 (h) The following license or permit fees shall be paid annually by each licensed racetrack,
55 or permitted manufacturer, service technician, floor attendant or validation manager:

- 56 (1) Racetrack:..... \$1,000
- 57 (2) Manufacturer\$10,000
- 58 (3) Service technician\$100
- 59 (4) Validation manager: \$50
- 60 (5) Floor attendant:\$50

61 The fees shall be paid to the commission at the time of license or permit application and
62 on or before July 1, of each year thereafter, at which time the license or permit may be renewed.

63 (i) An applicant for a video lottery license shall, prior to the issuance of the license, post a
64 bond or irrevocable letter of credit in a manner and in an amount established by the commission.
65 The bond shall be issued by a surety company authorized to transact business in West Virginia
66 and the company shall be approved by the Insurance Commissioner of this state as to solvency
67 and responsibility.

68 (j) The commission shall renew video lottery licenses and permits annually as of July 1, of
69 each year, if each person seeking license or permit renewal submits the applicable renewal fee,
70 completes all renewal forms provided by the commission, and continues to meet all qualifications
71 for a license or permit.

72 (k) License and permit holders shall notify the commission of any proposed change of
73 ownership or control of the license or permit holder and of all other transactions or occurrences

74 relevant to license or permit qualification. In order for a license or permit to remain in effect,
75 commission approval is required prior to completion of any proposed change of ownership or
76 control of a license or permit holder.

77 (l) A license or permit is a privilege personal to the license or permit holder and is not a
78 legal right. A license or permit granted or renewed pursuant to this article may not be transferred
79 or assigned to another person, nor may a license or a permit be pledged as collateral. The
80 purchaser or successor of any license or permit holder shall independently qualify for a license or
81 permit. The sale of more than five percent of a license or permit holder's voting stock, or more
82 than five percent of the voting stock of a corporation which controls the license or permit holder
83 or the sale of a license or permit holder's assets, other than those bought and sold in the ordinary
84 course of business, or any interest therein, to any person not already determined to have met the
85 qualifications of §29-22A-7 of this code voids the license unless the sale has been approved in
86 advance by the commission.

§29-22A-9. General duties of all video lottery license and permit holders; duties of permitted manufacturers; duties of permitted service technicians; duties of permitted validation managers; duties of floor attendants; duties of licensed racetracks.

1 (a) All video lottery license and permit holders shall:

2 (1) Promptly report to the commission any facts or circumstances related to video lottery
3 operations which constitute a violation of state or federal law;

4 (2) Conduct all video lottery activities and functions in a manner which does not pose a
5 threat to the public health, safety or welfare of the citizens of this state, and which does not
6 adversely affect the security or integrity of the lottery;

7 (3) Hold the commission and this state harmless from and defend and pay for the defense
8 of any and all claims which may be asserted against a license or permit holder, the commission,
9 the state or the employees thereof, arising from the license or permit holder's participation in the

10 video lottery system authorized by this article;

11 (4) Assist the commission in maximizing video lottery revenues;

12 (5) Maintain all records required by the commission;

13 (6) Upon request by the commission, provide the commission access to all records and

14 the physical premises of the business or businesses where the license or permit holder's video

15 lottery activities occur, for the purpose of monitoring or inspecting the license or permit holder's

16 activities and the video lottery games, video lottery terminals and associated equipment; and

17 (7) Keep current in all payments and obligations to the commission.

18 (b) Manufacturers shall:

19 (1) Manufacture terminals and associated equipment for placement in this state in

20 accordance with the specifications and procedures specified in §29-22A-5 and §29-22A-6 of this

21 code;

22 (2) Manufacture terminals and associated equipment to ensure timely delivery to licensed

23 racetracks;

24 (3) Maintain and provide an inventory of spare parts to assure the timely repair and

25 continuous operation of licensed video lottery terminals intended for placement in this state;

26 (4) Provide to licensed racetracks and permitted service technicians technical assistance

27 and training in the service and repair of video lottery terminals and associated equipment so as

28 to assure the continuous authorized operation and play of the video lottery terminals; and

29 (5) Obtain certification of compliance under the provisions of part 15 of the federal

30 communication commission rules for all video lottery terminals placed in this state.

31 (c) Service technicians shall:

32 (1) Maintain all skills necessary for the timely repair and service of licensed video lottery

33 terminals and associated equipment so as to ensure the continued, approved operation of those

34 terminals;

35 (2) Attend all commission mandated meetings, seminars and training sessions concerning

36 the repair and maintenance of licensed video lottery terminals and associated equipment; and

37 (3) Promptly notify the commission of any electronic or mechanical video lottery terminal
38 malfunctions.

39 (d) Validation managers shall:

40 (1) Attend all commission mandated meetings, seminars and training sessions concerning
41 the validation and redemption of video lottery winning tickets and the operation of all ticket
42 validation terminals and equipment;

43 (2) Maintain all skills necessary for the accurate validation of video lottery tickets; and

44 (3) Supervise video lottery ticket validation procedures at the applicable licensed
45 racetrack.

46 (e) Floor attendants shall:

47 (1) Provide change and assistance to persons playing video lottery games in a licensed
48 racetrack video lottery gaming area;

49 (2) Open video lottery terminal access doors to clear ticket paper jams and to insert new
50 paper ticket tapes into the video lottery terminals; and

51 (3) Open video lottery terminal access doors to clear bill jams from the bill acceptors in
52 video lottery terminals.

53 (f) The specific duties required of all licensed racetracks are as follows:

54 (1) Acquire video lottery terminals by purchase, lease or other assignment and provide a
55 secure location for the placement, operation and play of the video lottery terminals;

56 (2) Pay for the installation and operation of commission approved telephone lines to
57 provide direct dial-up or on-line communication between each video lottery terminal and the
58 commission's central control computer;

59 (3) Permit no person to tamper with or interfere with the operation of any video lottery
60 terminal;

61 (4) Ensure that telephone lines from the commission's central control computer to the

62 video lottery terminals located at the licensed racetrack are at all times connected and prevent
63 any person from tampering or interfering with the operation of the telephone lines;

64 (5) Ensure that video lottery terminals are within the sight and control of designated
65 employees of the licensed racetrack;

66 (6) Ensure that video lottery terminals are placed and remain placed in the specific
67 locations within the licensed racetrack which have been approved by the commission. No video
68 lottery terminal or terminals at a racetrack shall be relocated without the prior approval of the
69 commission;

70 (7) Monitor video lottery terminals to prevent access to or play by persons who are under
71 the age of eighteen years or who are visibly intoxicated;

72 (8) Maintain at all times sufficient change and cash in the denominations accepted by the
73 video lottery terminals;

74 ~~(9) Provide no access by a player to an automated teller machine (ATM) in the area of the~~
75 ~~racetrack where video lottery games are played, accept no credit card or debit card from a player~~
76 ~~for the exchange or purchase of video lottery game credits or for an advance of coins or currency~~
77 ~~to be utilized by a player to play video lottery games, and extend no credit, in any manner, to a~~
78 ~~player so as to enable the player to play a video lottery game~~

79 ~~(10)~~ (9) Pay for all credits won upon presentment of a valid winning video lottery ticket;

80 ~~(11)~~ (10) Report promptly to the manufacturer and the commission all video lottery terminal
81 malfunctions and notify the commission of the failure of a manufacturer or service technician to
82 provide prompt service and repair of such terminals and associated equipment;

83 ~~(12)~~ (11) Conduct no video lottery advertising and promotional activities without the prior
84 written approval of the director;

85 ~~(13)~~ (12) Install, post and display prominently at locations within or about the licensed
86 racetrack, signs, redemption information and other promotional material as required by the
87 commission;

88 ~~(44)~~ (13) Permit video lottery to be played only during those hours established and
89 approved by the commission;

90 ~~(45)~~ (14) Maintain general liability insurance coverage for all video lottery terminals in an
91 amount of at least \$2 million per claim;

92 ~~(46)~~ (15) Promptly notify the commission in writing of any breaks or tears to any logic unit
93 seals;

94 ~~(47)~~ (16) Assume liability for lost or stolen money from any video lottery terminal; and

95 ~~(48)~~ (17) Submit an audited financial statement, which has been approved by the
96 commission, to the commission when applying for a license or permit and annually thereafter prior
97 to the time a license or permit may be renewed.

§29-22A-12. Number and location of video lottery terminals security.

1 (a) A racetrack which has been licensed to conduct video lottery games has the right to
2 install and operate up to 400 video lottery terminals at a licensed racetrack. A licensed racetrack
3 may apply to the commission for authorization to install and operate more than 400 video lottery
4 terminals. If the commission determines that the installation of additional machines is in the best
5 interest of the licensed racetrack, the Lottery Commission and the citizens of this state, the
6 commission may grant permission to install and operate additional machines.

7 (b) All video lottery terminals in licensed racetracks shall be physically located as follows:

8 (1) The video lottery location shall be continuously monitored through the use of a closed
9 circuit television system capable of recording activity for a continuous 24-hour period. All video
10 tapes shall be retained for a period of at least 30 days;

11 (2) Access to video lottery terminal locations shall be restricted to persons legally entitled
12 by age to play video lottery games;

13 (3) The licensed racetrack shall submit for commission approval a floor plan of the area
14 or areas where video lottery terminals are to be operated showing terminal locations and security
15 camera mount locations;

16 (4) No video lottery terminal may be relocated without prior approval from the commission;
 17 and

18 (5) Operational video lottery terminals may only be located in the building or structure in
 19 which the grandstand area of the racetrack is located and in the area of the building or structure
 20 where pari-mutuel wagering is permitted under the provisions of §19-23-1 *et seq.* of this code:
 21 *Provided*, That if the commission, before November 1, 1993, has authorized any racetrack to
 22 operate video lottery terminals and offer video lottery games in a location which would not conform
 23 to the requirements of this subdivision, the racetrack may continue to use video lottery terminals
 24 registered with and approved by the commission at that nonconforming location and to offer the
 25 games and any variations or composites of the games as may be approved by the commission.

26 ~~(c) A licensee shall allow video lottery games to be played only on days when live racing~~
 27 ~~is being conducted at the racetrack and/or on televised racing days: *Provided*, That this restriction~~
 28 ~~shall not apply to any racetrack authorized by the commissioner prior to November 1, 1993, to~~
 29 ~~operate video lottery terminals and conduct video lottery games~~

30 ~~(d)~~ (c) Security personnel shall be present during all hours of operation at each video
 31 lottery terminal location. Each license holder shall employ the number of security personnel the
 32 commission determines is necessary to provide for safe and approved operation of the video
 33 lottery facilities and the safety and well-being of the players.

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

§29-22C-7. Local option election.

1 (a) No racetrack may be licensed under this article to operate West Virginia Lottery table
 2 games until a local option election is held in the county in which pari-mutuel wagers are received
 3 at a racetrack licensed under §19-23-1 *et seq.* of this code and the voters of that county voting on
 4 the question approve having West Virginia Lottery table games at the racetrack.

5 (b) The county commission shall place the question on the ballot upon the receipt of a
 6 written notice from a licensed racetrack located within that county requesting that the question be

7 placed on the ballot.

8 (c) The county commission of the county in which table games would be located shall give
9 notice to the public of the election by publication of the notice as a Class II-0 legal advertisement
10 in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the
11 publication shall be the county in which the election is to be held. The date of the last publication
12 of the notice shall fall on a date at least 30 days preceding the day of the election. A local option
13 election shall be effective even though the date of the order of the county commission setting the
14 election or the date of publication of notice of the election is prior to the effective date of this article
15 if the election is otherwise held in accordance with the provisions of this section.

16 (d) On the local option election ballot shall be printed the following:

17 Shall West Virginia Lottery table games be permitted at the [name of licensed racetrack]?

18 [] Yes [] No

19 (Place a cross mark in the square next to your choice.)

20 (e) The local option election shall be held in conjunction with the next primary or general
21 election scheduled more than 90 days following receipt by the county commission of the notice
22 required by this section or at a special election: *Provided*, That upon written request by the
23 licensed racetrack that a special election be called, the county commission shall order a special
24 election to be held on the question within 90 days after the receipt by the county commission of
25 that request. The county commission may require the licensed racetrack to pay the entire cost
26 incurred by the county to hold the special election. Approval shall be by a majority of the voters
27 casting votes at the election on the question of approval or disapproval of West Virginia Lottery
28 table games at a licensed racetrack.

29 (f) If the majority votes against allowing table games at a licensed racetrack, no election
30 on the issue shall be held for a period of 104 weeks. A local option election may thereafter be
31 held in the manner provided in this section. The process to hold another election on the question
32 shall start anew, as if no prior request for an election on the question had been filed with county

33 commission and as if there had been no prior election on the question.

34 (g) If the majority votes for allowing West Virginia Lottery table games at a licensed
35 racetrack facility in a county, the measure shall be approved. ~~another local option election on the~~
36 ~~issue shall not be held for a period of five years. A local option election may thereafter be held if~~
37 ~~a written petition of qualified voters residing within the county equal to at least five percent of the~~
38 ~~number of persons who were registered to vote in the next preceding general election is received~~
39 ~~by the county commission of the county in which the horse or dog racetrack is located. The petition~~
40 ~~may be in any number of counterparts. The petition shall be in the following form:~~

41 ~~Petition For Local Option Election~~

42 ~~We, the undersigned legally qualified voters, resident within the County of~~
43 ~~_____ , do hereby petition that a special election be held within the County of~~
44 ~~_____ upon the following question: Shall West Virginia Lottery table games be~~
45 ~~permitted at the [name of racetrack]?~~

46 ~~Name _____ Address _____ Date _____~~

47 ~~(Post office or street address)~~

§29-22C-8. License to operate a racetrack with West Virginia Lottery table games.

1 (a) *Racetrack table games licenses.* -- The commission may issue up to four racetrack
2 table games licenses to operate West Virginia Lottery table games in accordance with the
3 provisions of this article. The Legislature intends that no more than four licenses to operate a
4 racetrack with West Virginia Lottery table games in this state shall be permitted in any event.

5 (b) *Grant of license.* -- Upon the passage of a local option election in a county in
6 accordance with the provisions of §29-22C-7 of this code, the commission shall immediately grant
7 a West Virginia Lottery table games license, and a license for the right to conduct West Virginia
8 Lottery table games as assignee to the intellectual property rights of the state, to allow the licensee
9 to conduct West Virginia table games at the licensed pari-mutuel racetrack identified on the local
10 option election ballot, provided that racetrack holds a valid racetrack video lottery license issued

11 by the commission pursuant to §29-22A-1 *et seq.* of this code ~~and a valid racing license granted~~
12 ~~by the West Virginia Racing Commission pursuant to the provision of article twenty-three, chapter~~
13 ~~nineteen of this code~~ and has otherwise met the requirements for licensure under the provisions
14 of this article and the rules of the commission.

15 (c) *Location.* -- A racetrack table games license authorizes the operation of West Virginia
16 Lottery table games on the grounds of the particular licensed facility identified in the racetrack
17 video lottery license issued pursuant to §29-22A-1 *et seq.* of this code and the license to conduct
18 horse or dog racing issued pursuant to §19-23-1 *et seq.* of this code.

19 (d) *Floor plan submission requirement.* -- Prior to commencing the operation of any table
20 games in a designated gaming area, a racetrack table games licensee shall submit to the
21 commission for its approval a detailed floor plan depicting the location of the designated gaming
22 area in which table games gaming equipment will be located and its proposed arrangement of the
23 table games gaming equipment. Any floor plan submission that satisfies the requirements of the
24 rules promulgated by the commission shall be considered approved by the commission unless
25 the racetrack table games licensee is notified in writing to the contrary within one month of filing
26 a detailed floor plan.

27 (e) *Management service contracts.* --

28 (1) *Approval.* -- A racetrack table games licensee may not enter into any management
29 service contract that would permit any person other than the licensee to act as the commission's
30 agent in operating West Virginia Lottery table games unless the management service contract is:
31 (A) With a person licensed under this article to provide management services; (B) is in writing;
32 and (C) the contract has been approved by the commission.

33 (2) *Material change.* -- The licensed racetrack table games licensee shall submit any
34 material change in a management service contract previously approved by the commission to the
35 commission for its approval or rejection before the material change may take effect.

36 (3) *Prohibition on assignment or transfer.* -- A management services contract may not be

37 assigned or transferred to a third party.

38 (4) *Other commission approvals and licenses.* -- The duties and responsibilities of a
39 management services provider under a management services contract may not be assigned,
40 delegated, subcontracted or transferred to a third party to perform without the prior approval of
41 the commission. Third parties must be licensed under this article before providing service. The
42 commission may by rule clarify application of this subdivision and provide exceptions to its
43 application. The commission shall license and require the display of West Virginia Lottery game
44 logos on appropriate game surfaces and other gaming items and locations as the commission
45 considers appropriate.

46 (f) *Coordination of licensed activities.* -- In order to coordinate various licensed activities
47 within racetrack facilities, the following provisions apply to licensed racetrack facilities:

48 (1) The provisions of this article and of §29-22A-1 *et seq.* of this code shall be interpreted
49 to allow West Virginia Lottery table games and racetrack video lottery operations under those
50 articles to be harmoniously conducted in the same designated gaming area.

51 (2) On the effective date of this article, the provisions of §29-22C-23 of this code apply to
52 all video lottery games conducted within a racetrack facility, notwithstanding any inconsistent
53 provisions contained in §29-22A-1 *et seq.* of this code to the contrary.

54 (3) On and after the effective date of this article, vacation of the premises after service of
55 beverages ceases is not required, notwithstanding to the contrary any inconsistent provisions of
56 this code or inconsistent rules promulgated by the Alcohol Beverage Control Commissioner with
57 respect to hours of sale of those beverages, or required vacation of the premises.

58 (g) *Fees, expiration date and renewal.* --

59 (1) An initial racetrack table games license fee of \$1,500,000 shall be paid to the
60 commission at the time of issuance of the racetrack table games license, regardless of the number
61 of months remaining in the license year for which it is issued. All licenses expire at the end of the
62 day on June 30 each year.

63 (2) The commission shall annually renew a racetrack table games license as of July 1, of
64 each year provided the licensee:

65 (A) Successfully renews its racetrack video lottery license under §29-22A-1 *et seq.* of this
66 code before July 1, ;

67 (B) Pays to the commission the annual license renewal fee of \$2,500,000 required by this
68 section at the time it files its application for renewal of its license under §29-22A-1 *et seq.* of this
69 code; and

70 (C) During the current license year, the licensee complied with all provisions of this article,
71 all rules adopted by the commission and all final orders of the commission applicable to the
72 licensee.

73 (3) *Annual license surcharge for failure to construct hotel on premises.* -- It is the intent of
74 the Legislature that each racetrack for which a racetrack table games license has been issued be
75 or become a destination tourism resort facility. To that end, it is important that each racetrack for
76 which a racetrack table games license has been issued operate a hotel with significant amenities.
77 Therefore, in addition to all other taxes and fees required by the provisions of this article, there is
78 hereby imposed, upon each racetrack for which a racetrack table games license has been issued
79 an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that
80 racetrack does not operate a hotel on its racing property that contains at least 150 guest rooms
81 with significant amenities within three years of the passage of the local option election in its county
82 authorizing table games at the racetrack, provided the time for completion of the hotel shall be
83 extended by the same number of days as the completion of the hotel is delayed by a force majeure
84 events or conditions beyond the reasonable control of the racetrack licensee. The surcharge shall
85 be paid upon each renewal of its racetrack table games license made after the expiration of the
86 three year period, and may be extended by the above force majeure events or conditions, until
87 the racetrack opens a qualifying hotel.

88 (4) If the licensee fails to apply to renew its license under §19-23-1 *et seq.* and §29-22A-

89 1 *et seq.* of this code until after the license expires, the commission shall renew its license under
90 this article at the time it renews its license under §29-22A-1 *et seq.* of this code provided the
91 licensee has paid the annual license fee required by this section and during the preceding license
92 year the licensee complied with all provisions of this article, all rules adopted by the commission
93 and all final orders of the commission applicable to the licensee.

94 (h) *Facility qualifications.* -- A racetrack table games licensee shall demonstrate that the
95 racetrack with West Virginia Lottery table games will: (1) Be accessible to disabled individuals in
96 accordance with applicable federal and state laws; (2) be licensed in accordance with this article,
97 and all other applicable federal, state and local laws; and (3) meet any other qualifications
98 specified in rules adopted by the commission.

99 (i) *Surety bond.* -- A racetrack table games licensee shall execute a surety bond to be
100 given to the state to guarantee the licensee faithfully makes all payments in accordance with the
101 provisions of this article and rules promulgated by the commission. The surety bond shall be:

102 (1) In the amount determined by the commission to be adequate to protect the state
103 against nonpayment by the licensee of amounts due the state under this article;

104 (2) In a form approved by the commission; and

105 (3) With a surety approved by the commission who is licensed to write surety insurance in
106 this state. The bond shall remain in effect during the term of the license and may not be canceled
107 by a surety on less than 30 days' notice in writing to the commission. The total and aggregate
108 liability of the surety on the bond is limited to the amount specified in the bond.

109 (j) *Authorization.* -- A racetrack table games license authorizes the licensee act as an
110 agent of the commission in operating an unlimited amount of West Virginia Lottery table games
111 while the license is active, subject to subsection (d) of this section. A racetrack table games
112 license is not transferable or assignable and cannot be sold or pledged as collateral.

113 (k) *Audits.* -- When applying for a license and annually thereafter prior to license renewal,
114 a racetrack table games licensee shall submit to the commission an annual audit, by a certified

115 public accountant, of the financial transactions and condition of the licensee's total operations.
116 The audit shall be made in accordance with generally accepted accounting principles and
117 applicable federal and state laws.

118 (l) *Commission office space.* -- A racetrack table games licensee shall provide to the
119 commission, at no cost to the commission, suitable office space at the racetrack facility for the
120 commission to perform the duties required of it by this article and the rules of the commission.

§29-22C-10. Duties of racetrack table games licensee.

1 (a) *General.* -- All racetrack table games licensees shall:

2 (1) Promptly report to the commission any facts or circumstances related to the operation
3 of a racetrack with West Virginia Lottery table games which constitute a violation of state or federal
4 law;

5 (2) Conduct all table games activities and functions in a manner which does not pose a
6 threat to the public health, safety or welfare of the citizens of this state and which does not
7 adversely affect the security or integrity of the operation of West Virginia Lottery table games;

8 (3) Hold the commission and this state harmless from and defend and pay for the defense
9 of any and all claims which may be asserted against a racetrack licensee, the commission, the
10 state or employees thereof, arising from the licensee's actions or omission while acting as an
11 agent of the commission by operation of West Virginia Lottery table games pursuant to this article;

12 (4) Assist the commission in maximizing table games revenues;

13 (5) Give preference in hiring to existing employees who have expressed an interest in
14 transferring to an entry level West Virginia Lottery Table games job and who have demonstrated
15 the potential to succeed in that job. To enable these employees to develop the skills necessary
16 to fill an entry level West Virginia Lottery table games position, a licensee shall provide customary
17 industry training for entry level West Virginia Lottery table games jobs. The dates, times, place
18 and manner of providing such training, the appropriate qualifications and certifications, the
19 number of existing employees to be trained, the determination of standards for evaluating

20 successful performance in live auditions for such positions and the determination of who shall be
21 given West Virginia Lottery table game jobs shall be within the sole business discretion of the
22 licensee's management, provided that among equally qualified applicants, as determined by the
23 licensee, length of service shall be the determining factor;

24 (6) Maintain all records required by the commission;

25 (7) Upon request by the commission, provide the commission access to all records and
26 the physical premises where the licensee's table games activities and related activities occur, for
27 the purpose of monitoring or inspecting the licensee's activities and the table games, gaming
28 equipment and security equipment;

29 (8) Keep current in all payments and obligations to the commission; and

30 (9) Conduct no less than ~~two hundred twenty~~ the number of live racing dates, if any, for
31 each horse or dog race meeting ~~or such other number of live racing dates~~ as may be approved
32 by the Racing Commission in accordance with the provisions of §19-23-12b of this code, and
33 otherwise keep in good standing, all licenses and permits granted by the Racing Commission
34 pursuant to §19-23-6 of this code, and any rules promulgated thereunder.

35 (b) *Specific.* -- All racetrack table games licensees shall:

36 (1) Acquire West Virginia Lottery table games and gaming equipment by purchase, lease
37 or other assignment and provide a secure location for the placement, operation and play of the
38 table games and gaming equipment;

39 (2) Permit no person to tamper with or interfere with the operation of any West Virginia
40 Lottery table game;

41 (3) Ensure that West Virginia Lottery table games are within the sight and control of
42 designated employees of the licensed racetrack with West Virginia Lottery table games and under
43 continuous observation by security equipment in conformity with specifications and requirements
44 of the commission;

45 (4) Ensure that West Virginia Lottery table games are placed and remain placed in the

46 specific locations within designated gaming areas at the licensed racetrack which have been
47 approved by the commission. West Virginia Lottery table games at a licensed racetrack shall only
48 be relocated in accordance with the rules of the commission;

49 (5) Maintain at all times sufficient cash and gaming tokens, chips and electronic cards or
50 other electronic media;

51 (6) Install, post and display conspicuously at locations within or about the licensed
52 racetrack with West Virginia Lottery table games, signs, redemption information and other
53 promotional material as required by the commission; and

54 (7) Assume liability for stolen money from any table game.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-12. Certain acts of licensee prohibited; criminal penalties.

1 (a) It is unlawful for any licensee, or agent, employee or member thereof, on such
2 licensee's premises to:

3 (1) Sell or offer for sale any alcoholic liquors other than from the original package or
4 container;

5 (2) Authorize or permit any disturbance of the peace; obscene, lewd, immoral or improper
6 entertainment, conduct or practice, gambling or any slot machine, multiple coin console machine,
7 multiple coin console slot machine or device in the nature of a slot machine;

8 (3) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating
9 beer, wine or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine
10 or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

11 (4) Sell, give away or permit the sale of, gift to or the procurement of any nonintoxicating
12 beer, wine or alcoholic liquors, for or to any person known to be deemed legally incompetent, or

13 for or to any person who is physically incapacitated due to consumption of nonintoxicating beer,
14 wine or alcoholic liquor or the use of drugs;

15 (5) Sell, give or dispense nonintoxicating beer, wine or alcoholic liquors in or on any
16 licensed premises or in any rooms directly connected therewith, between the hours of three
17 o'clock a.m. and ~~one~~ 10 o'clock ~~p.m.~~ a.m. on any Sunday: Provided, That a holder of a license
18 issued pursuant to §29-22A-7 of this code may sell, give, or dispense nonintoxicating beer, wine
19 or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith,
20 during licensee's hours of operation;

21 (6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating
22 beer, wine or alcoholic liquors, covered by this article, to any person who is less than 21 years of
23 age;

24 (7) With the intent to defraud, alter, change or misrepresent the quality, quantity or brand
25 name of any alcoholic liquor;

26 (8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or
27 approved dues paying member in good standing of said private club or a guest of such member;

28 (9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide,
29 cyclopropane, ethylene, helium or nitrous oxide for purposes of human consumption except as
30 authorized by the commissioner;

31 (10) (A) Employ any person who is less than eighteen years of age in a position where the
32 primary responsibility for such employment is to sell, furnish or give nonintoxicating beer, wine or
33 alcoholic liquors to any person;

34 (B) Employ any person who is between the ages of 18 and 21 who is not directly
35 supervised by a person aged 21 or over in a position where the primary responsibility for such
36 employment is to sell, furnish or give nonintoxicating beer, wine or alcoholic liquors to any person;
37 or

38 (11) Violate any reasonable rule of the commissioner.

39 (b) It is unlawful for any licensee to advertise in any news media or other means, outside
40 of the licensee's premises, the fact that alcoholic liquors may be purchased thereat.

41 (c) Any person who violates any of the foregoing provisions is guilty of a misdemeanor
42 and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or
43 imprisoned in jail for a period not to exceed one year, or both fined and imprisoned.

NOTE: The purpose of this bill is to provide for the Racing Commission to approve number of racing days requested by racing association. The bill eliminates racing day requirement to maintain video lottery license. The bill eliminates prohibition of ATM's on casino floors. The bill eliminates recall elections for video lottery and racetrack table games. The bill allows video lottery licensees to serve alcoholic beverages during hours of operation.

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