

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 305

By Senator Stuart

[Introduced January 20, 2023; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend and reenact §19-23-3, §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, and §29-22A-12 of said
 3 code; and to amend and reenact §29-22C-3, §29-22C-8, and §29-22C-10 of said code, all
 4 relating to dog racing requirements; modifying certain definitions; eliminating the
 5 requirement that an applicant for a dog racing license race a minimum number of dates to
 6 qualify for such a license; eliminating the requirement that an applicant for a dog racing
 7 license race a minimum number of dates to contract to receive telecasts and accept
 8 wagers; providing that a dog racetrack is required to hold a racing license to conduct
 9 simulcast racing regardless of whether the racetrack continues to conduct live dog racing;
 10 authorizing the West Virginia Racing Commission to promulgate rules, including
 11 emergency rules, regarding licensure of dog racetracks conducting only simulcast racing;
 12 eliminating the requirement that a video lottery licensee at a dog track must hold a racing
 13 license to renew a video lottery license or racetrack table games license; permitting a dog
 14 racetrack to continue to operate operational video lottery and racetrack table games in a
 15 location where live racing was previously conducted; and eliminating the requirement that
 16 a racetrack table games licensee at a dog racetrack must race a minimum number of
 17 dates.

Be it enacted by the Legislature of West Virginia:

CHAPTER 19. AGRICULTURE.

Part V. License and Permit Procedures.

ARTICLE 23. HORSE AND DOG RACING.

§19-23-3. Definitions.

1 Unless the context clearly requires a different meaning, as used in this article:
 2 ~~(1)~~—"Horse racing" means any type of horse racing, including, but not limited to,
 3 thoroughbred racing and harness racing;

4 ~~(2)~~ "Thoroughbred racing" means flat or running type horse racing in which each horse
5 participating is a thoroughbred and mounted by a jockey;

6 ~~(3)~~ "Harness racing" means horse racing in which the horses participating are harnessed
7 to a sulky, carriage or other vehicle and does not include any form of horse racing in which the
8 horses are mounted by jockeys;

9 ~~(4)~~ "Horse race meeting" means the whole period of time for which a license is required by
10 the provisions of section one of this article;

11 ~~(5)~~ "Dog racing" means any type of dog racing, including, but not limited to, greyhound
12 racing;

13 ~~(6)~~ "Purse" means any purse, stake or award for which a horse or dog race is run;

14 ~~(7)~~ "Racing association" or "person" means any individual, partnership, firm, association,
15 corporation or other entity or organization of whatever character or description;

16 ~~(8)~~ "Applicant" means any racing association making application for a license under the
17 provisions of this article or any person making application for a permit under the provisions of this
18 article or any person making application for a construction permit under the provisions of this
19 article;

20 ~~(9)~~ "License" means the license required by the provisions of section one of this article or
21 the license required to conduct televised racing pursuant to §19-23-12b of this code;

22 ~~(10)~~ "Permit" means the permit required by §19-23-2 of this code;

23 ~~(11)~~ "Construction permit" means the construction permit required by ~~the provisions of §19-~~
24 ~~23-18 of this code;~~

25 ~~(12)~~ "Licensee" means any racing association holding a license required by the provisions
26 of section one of this article and issued under the provisions of this article;

27 ~~(13)~~ "Permit holder" means any person holding a permit required by the provisions of
28 section two of this article and issued under the provisions of this article;

29 ~~(14)~~ "Construction permit holder" means any person holding a construction permit required

30 by the provisions of §19-23-18 of this code article and issued under the provisions of this article;

31 ~~(15)~~ "Hold or conduct" includes "assist, aid or abet in holding or conducting";

32 ~~(16)~~ "Racing commission" means the West Virginia Racing Commission;

33 ~~(17)~~ "Stewards" means the steward or stewards representing the Racing Commission, the
34 steward or stewards representing a licensee and any other steward or stewards whose duty it is to
35 supervise any horse or dog race meeting, all as may be provided by reasonable rules of the
36 Racing Commission which rules shall specify the number of stewards to be appointed, the method
37 and manner of their appointment and their powers, authority and duties;

38 ~~(18)~~ "Pari-mutuel" means a mutuel or collective pool that can be divided among those who
39 have contributed their wagers to one central agency, the odds to be reckoned in accordance to the
40 collective amounts wagered upon each contestant running in a horse or dog race upon which the
41 pool is made, but the total to be divided among the first three contestants on the basis of the
42 number of wagers on these;

43 ~~(19)~~ "Pari-mutuel clerk" means any employee of a licensed racing association who is
44 responsible for the collection of wagers, the distribution of moneys for winning pari-mutuel tickets,
45 verification of the validity of pari-mutuel tickets and accounting for pari-mutuel funds;

46 ~~(20)~~ "Pool" means a combination of interests in a joint wagering enterprise or a stake in
47 such enterprise;

48 ~~(21)~~ "Legitimate breakage" is the percentage left over in the division of a pool;

49 ~~(22)~~ "To the dime" means that wagers shall be figured and paid to the dime;

50 ~~(23)~~ "Code" means the Code of West Virginia, 1931, as heretofore and hereinafter
51 amended;

52 ~~(24)~~ "Accredited thoroughbred horse" means a thoroughbred horse that is registered with
53 the West Virginia Thoroughbred Breeders Association and that is:

54 (A) Foaled in West Virginia; or

55 (B) Sired by an accredited West Virginia sire; or

56 (C) As a yearling, finished 12 consecutive months of verifiable residence in the state,
57 except for 30 days' grace: (i) For the horse to be shipped to and from horse sales where the horse
58 is officially entered in the sales catalogue of a recognized thoroughbred sales company, or

59 (ii) For obtaining veterinary services, documented by veterinary reports;

60 ~~(25)~~ "Accredited West Virginia sire" is a sire that is permanently domiciled in West Virginia,
61 stands a full season in West Virginia and is registered with West Virginia Thoroughbred Breeders
62 Association;

63 ~~(26)~~ "Breeder of an accredited West Virginia horse" is the owner of the foal at the time it
64 was born in West Virginia;

65 ~~(27)~~ "Raiser of an accredited West Virginia horse" is the owner of the yearling at the time it
66 finished 12 consecutive months of verifiable residence in the state. During the period, the raiser
67 will be granted one month of grace for his or her horse to be shipped to and from thoroughbred
68 sales where the horse is officially entered in the sales catalogue of a recognized thoroughbred
69 sales company. ~~In the event~~ If the yearling was born in another state and transported to this state,
70 this definition does not apply after the December 31, 2007, to any pari-mutuel racing facility
71 located in Jefferson County nor shall may it apply after the December 31, 2012, and thereafter to
72 any pari-mutuel racing facility located in Hancock County. Prior to the horse being shipped out of
73 the state for sales, the raiser must notify the Racing Commission of his or her intentions;

74 ~~(28)~~ The "owner of an accredited West Virginia sire" is the owner of record at the time the
75 offspring is conceived;

76 ~~(29)~~ The "owner of an accredited West Virginia horse" means the owner at the time the
77 horse earned designated purses to qualify for restricted purse supplements provided in §19-23-
78 13b of this code;

79 ~~(30)~~ "Registered greyhound owner" means an owner of a greyhound that is registered with
80 the National Greyhound Association;

81 ~~(31)~~ "Fund" means the West Virginia Thoroughbred Development Fund established in §19-

82 23-13b of this code; and

83 (32) "Regular purse" means both regular purses and stakes purses.

§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 file
 3 with the Racing Commission an application for a license to hold or conduct such horse or dog race
 4 meeting. A separate application shall be filed for each separate license sought for each horse or
 5 dog race meeting which such applicant proposes to hold or conduct. The Racing Commission
 6 shall prescribe blank forms to be used in making such application. ~~Such~~ The application shall be
 7 filed on or before a day to be fixed by the Racing Commission and shall disclose, but not be limited
 8 to, the following:

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

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

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

16 (4) The dates, totaling not less than 200, such applicant intends to hold or conduct such
 17 horse or dog race meeting (which may be on any day including Sundays): Provided, That effective
 18 July 1, 2023, and thereafter, an applicant is not required to race any minimum number of dates in
 19 order to qualify for a license to hold a dog race meeting;

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

22 (6) Whether the applicant, any partner, member, officer or director has previously applied

23 for a license under the provisions of this article or for a similar license in this or any other state, and
24 if so, whether such license was issued or refused, and, if issued, whether it was ever suspended or
25 revoked; and

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

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

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

44 (d) On or after July 1, 2023, a licensee that was licensed prior to January 1, 1994 to
45 conduct dog racing may continue to maintain a license as provided for in §19-22A-7 and §29-22C-
46 8 of this code without the requirement of conducting live racing dates. In order to discontinue live
47 dog racing dates, any such licensee shall comply with the following requirements:

48 (1) Provide written notification to the Racing Commission of the licensee's intent to

49 discontinue live dog racing dates;

50 (2) Comply with any and all requirements established by the Racing Commission for the
51 discontinuance of live dog racing; and

52 (3) Pay a \$250,000 live racing cessation fee, which shall be placed by the Racing
53 Commission in the special revenue account called the Administration, Promotion, Education,
54 Capital Improvement and Greyhound Adoption Programs to Include Spaying and Neutering
55 Account created in §19-23-10(d) of this code, to be allocated specifically to facilitate care for and
56 adoption of, or placement in no-kill animal shelters of accredited West Virginia whelped
57 greyhounds actively running at any such West Virginia dog track.

58 Nothing in this subsection amends or alters any amounts deducted and any other moneys
59 required by this code to be deposited in the West Virginia Greyhound Breeding Development
60 Fund, as created in §19-21-10 of this code, or any other amounts required to be deposited into any
61 fund or paid for the purposes of funding purses, awards or providing any other funding for
62 greyhound racing.

63 (e) The Racing Commission may promulgate rules, including emergency rules, in
64 accordance with §29A-3-1, et seq., of this code, as it considers necessary to implement and
65 efficiently administer the requirement of §19-23-7(d) of this code.

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

1 For the purposes of this section:

2 (4) "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 a
5 licensed racetrack and which day or days have had the prior written approval of the representative
6 of the majority of the owners and trainers who hold permits required by section two of this article;
7 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) (1) A licensee conducting not less than 225 live racing dates for each horse or dog race
12 meeting may, with the prior approval of the state Racing Commission, contract with any legal
13 wagering entity in this state or in any other governmental jurisdiction to receive telecasts and
14 accept wagers on races conducted by the legal wagering entity: Provided, That effective July 1,
15 2023, and thereafter, a licensee that was licensed prior to January 1, 1994 to conduct dog racing is
16 not required to conduct a minimum number of live racing dates to contract with a legal wagering
17 entity in this state or in any other governmental jurisdiction to receive telecasts and accept wagers
18 on dog and horse races: Provided, however, That at those thoroughbred racetracks the licensee,
19 in applying for racing dates, shall apply for not less than 210 live racing dates for each horse race
20 meeting: Provided, however further, That at those thoroughbred racetracks that have participated
21 in the West Virginia thoroughbred development fund for a period of more than four consecutive
22 calendar years prior to December 31, 1992, the licensee may apply for not less than 159 live
23 racing dates during the calendar year 1997. If, thereafter, for reasons beyond the licensee's
24 control, related to adverse weather conditions, unforeseen casualty occurrences or a shortage of
25 thoroughbred horses eligible to compete for purses, the licensee concludes that this number of
26 racing days cannot be attained, the licensee may file a request with the Racing Commission to
27 reduce the authorized live racing days. Upon receipt of the request the Racing Commission shall
28 within 72 hours of the receipt of the request notify the licensee and the representative of a majority
29 of the owners and trainers at the requesting track and the representative of the majority of the
30 mutuel clerks at the requesting track that such request has been received and that if no objection
31 to the request is received within 10 days of the notification the request will be approved: And
32 provided further, That the commission shall give consideration to whether there existed available
33 unscheduled potential live racing dates following the adverse weather or casualty and prior to the
34 end of the race meeting which could be used as new live racing dates in order to maintain the full

35 live racing schedule previously approved by the Racing Commission. If an objection is received by
36 the commission within the time limits, the commission shall, within 30 days of receipt of ~~such~~ the
37 objection, set a hearing on the question of reducing racing days, which hearing shall be conducted
38 at a convenient place in the county in which the requesting racetrack is located. The commission
39 shall hear from all parties concerned and, based upon testimony and documentary evidence
40 presented at the hearing, shall determine the required number of live racing days: *And provided*
41 *further*, That the commission shall not reduce the number of live racing days below one 185 days
42 for a horse race meeting unless the licensee requesting such reduction has: (i) Filed with the
43 commission a current financial statement, which ~~shall be~~ is subject to independent audit; and (ii)
44 met the burden of proving that just cause exists for ~~such~~ the requested reduction in live racing
45 days. The telecasts may be received and wagers accepted at any location authorized by ~~the~~
46 ~~provisions of~~ §19-23-12a of this code. The contract ~~must~~ shall receive the approval of the
47 representative of the majority of the owners and trainers who hold permits required by §19-23-2 of
48 this code at the receiving thoroughbred racetrack.

49 (2) A facility that was licensed prior to January 1, 1994, to conduct dog racing is required to
50 hold a racing license to receive telecasts and accept wagers on dog and horse races, regardless
51 of whether the facility continues to conduct live dog racing: *Provided*, That nothing in this section
52 permits a racetrack to receive telecasts and accept wagers on dog and horse races in more than
53 one location.

54 (3) The commission may promulgate rules, including emergency rules, in accordance with
55 §29A-3-1, *et seq.*, of this code, as it considers necessary to implement and efficiently administer
56 the requirement of §19-23-12b(b)(2) of this code; *Provided*, That the rules are to be consistent with
57 the rules promulgated for pari-mutuel wagering on televised races at live racetracks.

58 (c) The commission may allow the licensee to commingle its wagering pools with the
59 wagering pools of the host racing association. If the pools are commingled, the wagering at the
60 licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and

61 be electronically linked with the equipment at the sending racetrack. Subject to the approval of the
62 commission, the types of betting, licensee commissions and distribution of winnings on pari-
63 mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack.
64 Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with
65 the law or rules governing the sending racetrack and must be distributed in a manner agreed to
66 between the licensee and the sending racetrack. For the televised racing services it provides, the
67 host racing association shall receive a fee to be paid by the receiving licensee racetrack which
68 shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing
69 association.

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

73 (e) (1) From the licensee commissions authorized by subsection (c) of this section, the
74 licensee shall pay one tenth of one percent of each commission into the General Fund of the
75 county, in which the racetrack is located and at which the wagering occurred and there is imposed
76 and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool
77 exceeds \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel
78 pools tax required by section ten of this article; or (ii) a daily license tax of \$1,250. For each
79 televised racing day on which the total pari-mutuel pool is \$100,000, the licensee shall pay a daily
80 license tax of \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof, that the
81 pari-mutuel pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the total pari-
82 mutuel pool for purposes of this subsection shall include only one half of all wagers placed at a
83 licensed racetrack in this state on televised races conducted at another licensed racetrack within
84 this state. Payments of the tax imposed by this section are subject to the requirements of §19-23-
85 10 (e) of this code.

86 (2) From the licensee commissions authorized by subsection (c) of this section, after

87 payments are made in accordance with the provisions of subdivision (1) of this subsection, the
88 licensee shall pay, for each televised racing day, one fourth of one percent of the total pari-mutuel
89 pools for and on behalf of all employees of the licensed racing association by making a deposit into
90 a special fund to be established by the Racing Commission and to be used for payments into the
91 pension plan for all employees of the licensed racing association.

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

105 (f) After deducting the tax and other payments required by subsection (e) of this section,
106 the amount required to be paid under the terms of the contract with the host racing association and
107 the cost of transmission, the horse racing association shall make a deposit equal to 50 percent of
108 the remainder into the purse fund established under ~~the provisions of §19-23-9(b)(1) of this code.~~
109 After deducting the tax and other payments required by subsection (e) of this section, dog
110 racetracks shall pay an amount equal to two tenths of one percent of the daily simulcast pari-
111 mutuel pool to the "West Virginia Racing Commission Special Account-West Virginia Greyhound
112 Breeding Development Fund".

113 (g) The provisions of the "Federal Interstate Horseracing Act of 1978", also known as
114 Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in
115 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 has
9 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 terminals
12 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 a
17 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 a
41 racetrack which is licensed by the West Virginia Racing Commission to conduct thoroughbred or
42 greyhound racing meetings pursuant to §19-23-1 *et seq.* of this code permitting the racetrack to
43 operate video lottery terminals authorized by the commission.: Provided, That effective July 1,
44 2023, and thereafter, "license" or "video lottery license" also means authorization granted
45 pursuant to said article to a racetrack which was licensed to conduct greyhound racing meetings

46 prior to January 1, 1994.

47 (e) "Lottery" means the public gaming systems or games established and operated by the
48 State Lottery Commission.

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

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

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

63 (i) "Own" means any beneficial or proprietary interest in any property or business of an
64 applicant or licensed racetrack.

65 (j) "Pari-mutuel racing facility," "licensed racetrack," "racetrack" or "track" means a facility
66 where horse or dog race meetings are held and the pari-mutuel system of wagering is authorized
67 pursuant to the provisions of §19-23-1 *et seq.* of this code: *Provided*, That, for the purposes of this
68 article, "pari-mutuel racing facility," "licensed racetrack," "racetrack" or "track" includes only a
69 facility which was licensed prior to January 1, 1994, to hold horse or dog race meetings, and which
70 conducts not less than 220 live racing dates for each horse or dog race meeting or such other
71 number of live racing dates as may be approved by the Racing Commission in accordance with

72 the provisions of §19-23-12b of this code.: Provided further, That effective July 1, 2023, and
73 thereafter, "pari-mutuel racing facility," "licensed racetrack," "racetrack" or "track" also includes a
74 racetrack which was licensed to conduct greyhound racing meetings prior to January 1, 1994, and
75 continues to hold a racing license to receive telecasts and accept wagers on horse or dog races,
76 regardless of whether the facility continues to conduct live dog racing.

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

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

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

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

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

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

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

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

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

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

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

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

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

119 ~~(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 must hold a valid racing license granted by the
4 West Virginia Racing Commission under provisions of §19-23-1 *et seq.* of this code.: *Provided,*
5 That effective July 1, 2023, and thereafter, an applicant that held a valid dog racing license prior to
6 January 1, 1994, is not required to hold a valid racing license in order to renew a video lottery
7 license so long as the applicant continues to operate its original facility and continues to maintain
8 and offer amenities, accommodations, options and services at such original facility.

9 (2) An applicant ~~must~~ shall be a person of good character and integrity.

10 (3) An applicant ~~must~~ shall be a person whose background, including criminal record,
11 reputation, and associations, does not pose a threat to the security and integrity of the lottery or to
12 the public interest of the state. All new applicants for licenses and permits issued by the
13 commission shall furnish fingerprints for a national criminal records check by the Criminal
14 Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation.
15 The fingerprints shall be furnished by all persons required to be named in the application and shall
16 be accompanied by a signed authorization for the release of information by the Criminal
17 Investigation Bureau and the Federal Bureau of Investigation. The commission may require any
18 applicant seeking the renewal of a license or permit to furnish fingerprints for a national criminal
19 records check by the Criminal Identification Bureau of the West Virginia State Police and the
20 Federal Bureau of Investigation: *Provided,* That the Lottery Commission shall apply §29-22A-7(g)
21 and §29-22A-7(h) of this code in determining whether an applicant's prior criminal convictions
22 bear a rational nexus to the license or permit being sought.

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

26 (5) An applicant ~~must~~ shall be a person who has secured adequate financing for the
27 business for which a video lottery license or permit application is made. The commission shall

28 determine whether financing is from a source which meets the qualifications of this section and is
29 adequate to support the successful performance of the duties and responsibilities of the licensed
30 racetrack or permit holder. An applicant for a video lottery license shall disclose all financing or
31 refinancing arrangements for the purchase, lease, or other acquisition of video lottery terminals
32 and associated equipment in the degree of detail requested by the commission. A licensed
33 racetrack shall request commission approval of any change in financing or lease arrangements at
34 least 30 days before the effective date of the change.

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

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

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

51 (1) Each person associated with a corporate applicant, including any corporate holding
52 company, parent company, or subsidiary company of the applicant, but not including a bank or
53 other licensed lending institution which holds a mortgage or other lien acquired in the ordinary

54 course of business, who has the ability to control the activities of the corporate applicant or elect a
55 majority of the board of directors of that corporation.

56 (2) Each person associated with a noncorporate applicant who directly or indirectly holds
57 any beneficial or proprietary interest in the applicant or whom the commission determines to have
58 the ability to control the applicant.

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

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

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

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

80 permit.

81 (g) The Lottery Commission may not disqualify an applicant from an initial license or permit
82 because of a prior criminal conviction that remains unreversed unless that conviction is for a crime
83 that bears a rational nexus to the activity requiring a license or permit. In determining whether a
84 criminal conviction bears a rational nexus to a profession or occupation, the Lottery Commission
85 shall consider at a minimum:

86 (1) The nature and seriousness of the crime for which the individual was convicted;

87 (2) The passage of time since the commission of the crime;

88 (3) The relationship of the crime to the ability, capacity, and fitness required to perform the
89 duties and discharge the responsibilities of the profession or occupation; and

90 (4) Any evidence of rehabilitation or treatment undertaken by the individual.

91 (h) Notwithstanding any other provision of this code to the contrary, if an applicant is
92 disqualified from a license or permit because of a prior criminal conviction, the Lottery Commission
93 shall permit the applicant to apply for an initial license or permit if:

94 (1) A period of five years has elapsed from the date of conviction or the date of release from
95 incarceration, whichever is later;

96 (2) The individual has not been convicted of any other crime during the period of time
97 following the disqualifying offense; and

98 (3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a
99 conviction for an offense of a violent or sexual nature may subject an individual to a longer period
100 of disqualification from a license or permit, to be determined by the Lottery Commission.

101 (i) An individual with a criminal record who has not previously applied for a license or permit
102 may petition the Lottery Commission at any time for a determination of whether the individual's
103 criminal record will disqualify the individual from obtaining a license or permit. This petition shall
104 include sufficient details about the individual's criminal record to enable the Lottery Commission to
105 identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific

106 nature of the conviction. The Lottery Commission shall provide the determination within 60 days of
107 receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its
108 costs for each petition.

§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 may install and operate up to four hundred video lottery terminals at a licensed racetrack. A
3 licensed racetrack may apply to the commission for authorization to install and operate more than
4 four hundred video lottery terminals. If the commission determines that the installation of
5 additional machines is in the best interest of the licensed racetrack, the Lottery Commission and
6 the citizens of this state, the commission may grant permission to install and operate additional
7 machines.

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

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

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

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

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

19 (5) Operational video lottery terminals may only be located in the building or structure in
20 which the grandstand area of the racetrack is located and in the area of the building or structure
21 where pari-mutuel wagering is permitted under ~~the provisions of~~ §19-23-1 *et seq.* of this code:
22 *Provided*, That if the commission, before November 1, 1993, has authorized any racetrack to

23 operate video lottery terminals and offer video lottery games in a location which would not conform
 24 to the requirements of this subdivision, the racetrack may continue to use video lottery terminals
 25 registered with and approved by the commission at that nonconforming location and to offer the
 26 games and any variations or composites of the games as may be approved by the commission.;

27 Provided, however, That a racetrack that held a valid dog racing license prior to January 1, 1994,
 28 and that no longer conducts live racing, may continue to operate operational video lottery
 29 terminals in the building or structure in which the grandstand area of the racetrack was located and
 30 in the area of the building or structure where pari-mutuel wagering was permitted between January
 31 1, 1994 and June 30, 2023, so long as applicant continues to operate its original facility and
 32 continues to maintain and offer amenities, accommodations, options and services at such original
 33 facility.

34 (6) Nothing in this subdivision permits a licensed racetrack to operate operational video
 35 lottery terminals or offer video lottery games in more than one location.

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

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

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

§29-22C-3. Definitions.

1 (a) *Applicability of definitions.* -- For the purposes of this article, the words or terms defined
 2 in this section, and any variation of those words or terms required by the context, have the
 3 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 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 pursuant to this article, or a
16 licensee who holds a current license.

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 or
22 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, permit or certificate after an examination to test the knowledge or ability of the
28 applicant where the controversy concerns whether the examination was fair or whether the
29 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 issued under this article or the holder of a license issued under
32 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 §29-22-1 *et seq.* of this code.

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

54 ~~(15)~~ "Gross receipts" means the total of all sums including valid or invalid checks, currency,
55 tokens, coupons (excluding match play coupons), vouchers or instruments of monetary value

56 whether collected or uncollected, received by a racetrack with table games from table gaming
57 operations at a race track, including all entry fees assessed for tournaments or other contests.

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

63 (17) "Licensed racetrack" means a thoroughbred horse or greyhound dog racing facility
64 licensed under both §29-22A-1 *et seq.* this code and §19-23-1 *et seq.* of this code: Provided, That
65 effective July 1, 2023, and thereafter, "licensed racetrack" or "racing association" includes a facility
66 which was licensed prior to January 1, 1994, to hold dog race meetings and which is licensed
67 under §29-22C-1 *et seq.* of this code.

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

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

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

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

78 (D) A license to provide management services under a contract to a racetrack licensed
79 under this article to operate table games.

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

81 (20) "Lottery" means the public gaming systems or games regulated, controlled, owned

82 and operated by the state Lottery Commission in the manner provided by general law, as provided
83 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.*
84 of this code.

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

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

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

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

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

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

102 (27) "Racetrack table games license" means authorization granted under this article by the
103 commission to a racetrack that is already licensed under §29-22A-1 *et seq.* of this code to operate
104 racetrack video lottery terminals and holds a valid horse racing license or held a valid dog racing
105 license prior to January 1, 1994, granted by the West Virginia Racing Commission pursuant to ~~the~~
106 ~~provision of~~ §19-23-1 *et seq.* of this code, which permits the racetrack as an agent of the
107 commission for the limited purpose of operation of West Virginia Lottery table games in one or

108 more designated gaming areas in one or more buildings owned or leased by the licensed
 109 racetrack on the grounds where live pari-mutuel racing is conducted by the licensee, or in the case
 110 of a licensee that held a valid dog racing license prior to January 1, 1994 and that no longer
 111 conducts live racing, on the grounds where live pari-mutuel racing was conducted between
 112 January 1, 1994 and June 30, 2023.

113 ~~(28)~~ "Racetrack Table Games Fund" means the special fund in the state Treasury created
 114 in §29-22C-27 of this code.

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

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

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

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

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

§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 by
12 the West Virginia Racing Commission pursuant to ~~the provisions of §19-23-1~~ *et seq.* of this code
13 and has otherwise met the requirements for licensure under the provisions of this article and the
14 rules of the commission.; Provided, That effective July 1, 2023, and thereafter, a racetrack that
15 held a valid dog racing license prior to January 1, 1994, is not required to hold a current dog racing
16 license so long as the applicant continues to operate its original facility and continues to maintain
17 and offer amenities, accommodations, options, and services at such original facility.

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

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

29 detailed floor plan.

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

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

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

39 (3) *Prohibition on assignment or transfer.* -- A management services contract may not be
40 assigned or transferred to a third party.

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

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

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

54 (2) On the effective date of this article, the provisions of §29-22C-23 of this code apply to all

55 video lottery games conducted within a racetrack facility, notwithstanding any inconsistent
56 provisions contained in §29-22A-1 *et seq.* of this code to the contrary.

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

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

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

66 (2) The commission shall annually renew a racetrack table games license as of October 1
67 of each year, provided the licensee:

68 (A) Successfully renews its racetrack video lottery license under §29-22A-1 *et seq.* of this
69 code before October 1;

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

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

76 (3) *Annual license surcharge for failure to construct hotel on premises.* -- It is the intent of
77 the Legislature that each racetrack for which a racetrack table games license has been issued be
78 or become a destination tourism resort facility. To that end, it is important that each racetrack for
79 which a racetrack table games license has been issued operate a hotel with significant amenities.
80 Therefore, in addition to all other taxes and fees required by the provisions of this article, there is

81 hereby imposed, upon each racetrack for which a racetrack table games license has been issued
82 an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that
83 racetrack does not operate a hotel on its racing property that contains at least one hundred fifty
84 guest rooms with significant amenities within three years of the passage of the local option election
85 in its county authorizing table games at the racetrack, provided the time for completion of the hotel
86 shall be extended by the same number of days as the completion of the hotel is delayed by a force
87 majeure events or conditions beyond the reasonable control of the racetrack licensee. The
88 surcharge shall be paid upon each renewal of its racetrack table games license made after the
89 expiration of the three year period, and may be extended by the above force majeure events or
90 conditions, until the racetrack opens a qualifying hotel.

91 (4) If the licensee fails to apply to renew its license under §19-23-1 *et seq.* and §29-22A-1
92 *et seq.* of this code until after the license expires, the commission shall renew its license under this
93 article at the time it renews its license under §29-22A-1 *et seq.* of this code provided the licensee
94 has paid the annual license fee required by this section and during the preceding license year the
95 licensee complied with all provisions of this article, all rules adopted by the commission and all
96 final orders of the commission applicable to the licensee.

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

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

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

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

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

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

116 (k) *Audits.* -- When applying for a license and annually thereafter prior to license renewal, a
 117 racetrack table games licensee shall submit to the commission an annual audit, by a certified
 118 public accountant, of the financial transactions and condition of the licensee's total operations. The
 119 audit shall be made in accordance with generally accepted accounting principles and applicable
 120 federal and state laws.

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

124 (m) Nothing in this section permits a licensed racetrack to operate West Virginia Lottery
 125 table games in more than one location.

§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 to
16 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 and
18 manner of providing such training, the appropriate qualifications and certifications, the number of
19 existing employees to be trained, the determination of standards for evaluating successful
20 performance in live auditions for such positions and the determination of who shall be given West
21 Virginia Lottery table game jobs shall be within the sole business discretion of the licensee's
22 management, provided that among equally qualified applicants, as determined by the licensee,
23 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 the
26 physical premises where the licensee's table games activities and related activities occur, for the
27 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 220 live racing dates for each horse or dog race meeting or such
31 other number of live racing dates as may be approved by the Racing Commission in accordance
32 with the provisions of §19-23-12b of this code, and otherwise keep in good standing, all licenses

33 and permits granted by the Racing Commission pursuant to §19-23-6 of this code, and any rules
34 promulgated thereunder: Provided, That effective July 1, 2023, and thereafter, a racetrack that
35 held a valid dog racing license prior to January 1, 1994, is not required to race any minimum
36 number of dates.

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

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

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

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

47 (4) Ensure that West Virginia Lottery table games are placed and remain placed in the
48 specific locations within designated gaming areas at the licensed racetrack which have been
49 approved by the commission. West Virginia Lottery table games at a licensed racetrack shall only
50 be relocated in accordance with the rules of the commission;

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

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

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

NOTE: The purpose of this bill is to clarify that a licensed racetrack casino must not

maintain an active dog racing license in order to receive telecasts and accept wagers on dog and horse races, or to otherwise apply and qualify for a video lottery or racetrack table game licenses

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