

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4337**

By Delegate C. Pritt

[Introduced January 10, 2024 ; Referred  
to the Committee on the Judiciary then 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 (4) "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 §19-23-1 of this code;~~

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 §19-23-1 of this code~~ or the  
21 license required to conduct televised racing pursuant to §19-23-12b of this code;

22           (10) "Permit" means the permit required by ~~the provisions of §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 §19-23-1 of this code and issued under the provisions of this article;~~

27           (13) "Permit holder" means any person holding a permit required by ~~the provisions of §19-~~  
28 ~~23-2 of this code and issued under the provisions of §19-23-1~~ *et seq.* of this code;

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

30 by the provisions of §19-23-18 of this code and issued under the provisions of §19-23-1 *et seq.* of  
31 this code;

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

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

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

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

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

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

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

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

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

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

55 (A) Foaled in West Virginia; or

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

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

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

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

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

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

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

78 ~~(29)~~ The "owner of an accredited West Virginia horse" means the owner at the time the  
79 horse earned designated purses to qualify for restricted purse supplements provided in §19-23-  
80 13b of this code;

81 ~~(30)~~ "Registered greyhound owner" means an owner of a greyhound that is registered with

82 the National Greyhound Association;

83 (34) "Fund" means the West Virginia Thoroughbred Development Fund established in §19-  
84 23-13b of this code; and

85 (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~~ is 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~~ the applicant intends to hold or conduct ~~such~~  
17 the horse or dog race meeting (which may be on any day including Sundays): Provided, That  
18 effective July 1, 2024, and thereafter, an applicant is not required to race any minimum number of  
19 dates in 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~~ the applicant

21 proposes to hold or conduct ~~such~~ the 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~~ the license was issued or refused, and, if issued, whether it was ever  
25 suspended or 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, 2024, 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 (a) 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 §19-23-2 of this code; and



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

10           (b) (1) A licensee conducting not less than 220 live racing dates for each horse or dog race  
11 meeting may, with the prior approval of the state Racing Commission, contract with any legal  
12 wagering entity in this state or in any other governmental jurisdiction to receive telecasts and  
13 accept wagers on races conducted by the legal wagering entity: *Provided, That effective July 1,*  
14 2024, and thereafter, a licensee that was licensed prior to January 1, 1994 to conduct dog racing is  
15 not required to conduct a minimum number of live racing dates to contract with a legal wagering  
16 entity in this state or in any other governmental jurisdiction to receive telecasts and accept wagers  
17 on dog and horse races: *Provided, however,* That at those thoroughbred racetracks the licensee,  
18 in applying for racing dates, shall apply for not less than 210 live racing dates for each horse race  
19 meeting: *Provided, however further,* That at those thoroughbred racetracks that have participated  
20 in the West Virginia thoroughbred development fund for a period of more than four consecutive  
21 calendar years prior to December 31, 1992, the licensee may apply for not less than 159 live  
22 racing dates during the calendar year 1997. If, thereafter, for reasons beyond the licensee's  
23 control, related to adverse weather conditions, unforeseen casualty occurrences or a shortage of  
24 thoroughbred horses eligible to compete for purses, the licensee concludes that this number of  
25 racing days cannot be attained, the licensee may file a request with the Racing Commission to  
26 reduce the authorized live racing days. Upon receipt of the request the Racing Commission shall  
27 within 72 hours of the receipt of the request notify the licensee and the representative of a majority  
28 of the owners and trainers at the requesting track and the representative of the majority of the  
29 mutuel clerks at the requesting track that such request has been received and that if no objection  
30 to the request is received within 10 days of the notification the request will be approved: *And*  
31 *Provided further,* That the commission shall give consideration to whether there existed available  
32 unscheduled potential live racing dates following the adverse weather or casualty and prior to the

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

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

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

57 (c) The commission may allow the licensee to commingle its wagering pools with the  
58 wagering pools of the host racing association. If the pools are commingled, the wagering at the

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

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

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

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

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

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

111 Breeding Development Fund".

112 (g) The provisions of the "Federal Interstate Horseracing Act of 1978", also known as  
113 Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in  
114 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 2024, and thereafter, "license" or "video lottery license" also means authorization granted

45 pursuant to §19-23-1 et seq. of this code to a racetrack which was licensed to conduct greyhound  
46 racetrack meetings 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, however, That effective July 1, 2024, 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~~ shall hold a valid racing license granted by  
4 the West Virginia Racing Commission under ~~provisions of §19-23-1 et seq.~~ of this code: *Provided,*  
5 That effective July 1, 2024, 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~~ shall present  
36 to the commission evidence of the existence of an agreement, regarding the proceeds from video  
37 lottery terminals, between the applicant and the representative of a majority of the horse owners  
38 and 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~~ disqualifies the individual from obtaining a license or permit. This  
104 petition shall include sufficient details about the individual's criminal record to enable the Lottery

105 Commission to identify the jurisdiction where the conviction occurred, the date of the conviction,  
106 and the specific nature of the conviction. The Lottery Commission shall provide the determination  
107 within 60 days of receiving the petition from the applicant. The Lottery Commission may charge a  
108 fee to recoup its 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 install and operate up to four hundred video lottery terminals at a licensed racetrack. A licensed  
3 racetrack may apply to the commission for authorization to install and operate more than four  
4 hundred video lottery terminals. If the commission determines that the installation of additional  
5 machines is in the best interest of the licensed racetrack, the Lottery Commission and the citizens  
6 of this state, the 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 or  
14 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 Provided, however, That a racetrack that held a valid dog racing license prior to January 1, 1994,  
27 and that no longer conducts live racing, may continue to operate operational video lottery  
28 terminals in the building or structure in which the grandstand area of the racetrack was located and  
29 in the area of the building or structure where pari-mutuel wagering was permitted between January  
30 1, 1994 and June 30, 2024, as long as applicant continues to operate its original facility and  
31 continues to maintain and offer amenities, accommodations, options, and services at the original  
32 facility.

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

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

39 (d) Security personnel shall be present during all hours of operation at each video lottery  
40 terminal location. Each license holder shall employ the number of security personnel the  
41 commission determines is necessary to provide for safe and approved operation of the video  
42 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 §29-22-6 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~~ The member owns one percent or more of any class of outstanding securities  
48 that are issued by a party to the matter under consideration by the commission; or

49           (B) ~~He or she~~ The member is employed by an independent contractor for a party to the  
50 matter under 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 racetrack, 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 §19-22A-1 *et seq.* and §19-23-1 *et seq.* of this code: Provided, That effective  
65 July 1, 2024, and thereafter, "licensed racetrack" or "racing association" includes a facility which  
66 was licensed prior to January 1, 1994, to hold dog race meetings and which is licensed under §29-  
67 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.*, §29-22-1A *et seq.*, §29-22-1B *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, 2024.

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~~ may 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, 2024, and thereafter, a racetrack that held  
15 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 the 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 150 guest rooms  
84 with significant amenities within three years of the passage of the local option election in its county  
85 authorizing table games at the racetrack, provided the time for completion of the hotel shall be  
86 extended by the same number of days as the completion of the hotel is delayed by a force majeure  
87 events or conditions beyond the reasonable control of the racetrack licensee. The surcharge shall  
88 be paid upon each renewal of its racetrack table games license made after the expiration of the  
89 three year period, and may be extended by the above force majeure events or conditions, until the  
90 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  
103 given 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  
113 agent of the commission in operating an unlimited amount of West Virginia Lottery table games  
114 while the license is active, subject to subsection (d) of this section. A racetrack table games  
115 license is not 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,  
117 a 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, 2024, 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.