

§WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3154

By Delegates Criss, Maynor, and Gearheart

[Introduced March 05, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §29-22B-402, §29-22B-702 and §29-22B-706 of the Code of West
2 Virginia, 1931, as amended, relating to advertising by licensed limited video lottery
3 retailers and licensed limited video lottery operators; restricting rulemaking authority of the
4 Lottery Commission relating to advertising; and authorizing advertising by licensed limited
5 video lottery retailers and licensed limited video lottery operators.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-402. Powers and duties of the state Lottery Commission.

1 In addition to any other powers and duties set forth in this article or article 22 of this chapter,
2 the Lottery Commission has the following powers and duties:

3 (1) To propose legislative rules for promulgation by the Legislature in accordance with the
4 provisions of article §29A-3-1, *et seq.*, of this code, governing the licensing, conduct, and
5 operation of limited video lottery that may be necessary to carry out the purposes of this article;

6 *Provided, That the Lottery Commission may not propose legislative rules restricting advertising or*
7 *promotional activities of licensed limited video lottery retailers or licensed video lottery operators:*

8 *Provided, however, That any legislative rules previously promulgated by the Legislature to restrict*
9 *advertising or promotional activities of licensed limited video lottery retailers or licensed video*
10 *lottery operators shall have no effect upon enactment of the amendments to this section enacted*

11 *during the 2025 Regular Session of the Legislature.* The director shall prepare and submit to the
12 Lottery Commission written recommendations concerning proposed legislative rules for this
13 purpose;

14 (2) To propose other rules for promulgation as provided in article §29A-3-1, *et seq.*, of this
15 code not inconsistent with this article which the commission in its discretion believes to be
16 necessary: *Provided, That the Lottery Commission may not propose legislative rules restricting*
17 *advertising or promotional activities of licensed limited video lottery retailers or licensed video*
18 *lottery operators: Provided, however, That any legislative rules previously promulgated by the*

19 Legislature to restrict advertising or promotional activities of licensed limited video lotter retailers
20 or licensed video lottery operators shall have no effect upon enactment of the amendments to this
21 section enacted during the 2025 Regular Session of the Legislature. Authority to propose rules
22 includes the authority to propose amendments to rules and to propose repealing rules;

23 (3) Notwithstanding any other provision of this code to the contrary, proposed legislative
24 rules for this article filed in the state register by August 1, 2001, may be filed as emergency rules.

25 (4) To conduct hearings upon complaints charging violations of this article or applicable
26 rules, and to conduct other hearings as may be required by this article or rules of the Lottery
27 Commission;

28 (5) To enter into written agreements with the State Police and local law-enforcement
29 agencies for the conduct of identification and investigation of applicants, licensees or employees
30 in accordance with the provisions of this article, including, but not limited to, (A) performing
31 background investigations and criminal records checks and (B) investigating possible violations
32 that may be discovered as a result of an investigatory process or discovered by the Tax
33 Commissioner, the Alcohol Beverage Control Commissioner or the Lottery Commission in the
34 course of conducting their respective business. Disclosure to the State Police or other law-
35 enforcement officials of a possible violation of this article and material facts related thereto shall
36 not be deemed to be an unauthorized disclosure of information under ~~section~~ §11-10-5d of this
37 code. Nothing in this section prevents or impairs the State Police or local law-enforcement
38 agencies from engaging in the activities set forth in this subdivision on their own initiative;

39 (6) To conduct a continuous study and investigation of limited video lottery throughout the
40 state (A) to ascertain any defects in this article or in legislative rules that may conflict with the
41 purposes of this article, (B) to discover any abuses in the administration, control and oversight of
42 limited video lottery or (C) to discover any violation of this article or applicable legislative rules;

43 (7) To formulate and recommend proposed legislation amending this article or any
44 applicable legislative rule so as to increase the efficiency and effectiveness of this article;

45 (8) To report immediately to the Governor, the Speaker of the House of Delegates, the
46 President of the Senate, the minority leaders of both houses, and such other state officers as the
47 Lottery Commission deems appropriate concerning any laws which it determines may require
48 immediate amendment to prevent abuses and violations of this article or any applicable rule or to
49 remedy undesirable conditions in connection with the administration or the operation of limited
50 video lottery;

51 (9) To require such special reports from the director as it considers necessary;

52 (10) To issue licenses to those involved in the ownership, participation, or conduct of
53 limited video lottery;

54 (11) To delegate to the director the authority to issue or deny licenses and renewals under
55 criteria established by the commission;

56 (12) Upon complaint, or upon its own motion, to levy civil penalties and to suspend or
57 revoke licenses that the Lottery Commission has issued for failure to comply with any applicable
58 provision of this article or rule of the commission;

59 (13) To establish and collect fees upon persons, licenses, and gaming devices used in, or
60 participating in, limited video lottery as provided in this article or rule of the commission;

61 (14) To obtain all information from licensees and other persons and agencies which the
62 Lottery Commission deems necessary or desirable in the conduct of its business;

63 (15) To issue subpoenas for the appearance or production of persons, records, and things
64 in connection with applications before the Lottery Commission or in connection with disciplinary or
65 contested cases considered by the Lottery Commission;

66 (16) To apply for injunctive or declaratory relief to enforce the provisions of this article and
67 any rules promulgated pursuant to this article;

68 (17) To impose and collect civil penalties as provided for under this article;

69 (18) To inspect and examine without notice all premises wherein limited video lottery is
70 conducted or devices or equipment used in limited video lottery are located, manufactured, sold,

71 or distributed, and to summarily seize, remove, and impound, without notice or hearing from such
72 premises any equipment, devices, supplies, books, or records for the purpose of examination or
73 inspection;

74 (19) To exercise other incidental powers as may be necessary to ensure the safe and
75 orderly regulation of limited gaming and the secure collection of all revenues, including, but not
76 limited to, taxes, fees, civil penalties and other moneys due the commission;

77 (20) To establish internal control procedures for licensees, including accounting
78 procedures, reporting procedures, and personnel policies;

79 (21) To establish and collect fees for performing background checks on all applicants for
80 licenses and on all persons with whom the commission may agree with or contract with for the
81 providing of goods or services, as the commission deems appropriate;

82 (22) To establish and collect fees for performing, or having performed, tests on equipment
83 and devices to be used in limited video lottery;

84 (23) To demand, at any time when business is being conducted, access to and inspection,
85 examination, photocopying, and auditing of all papers, books, and records of applicants and
86 licensees, on their premises or elsewhere as practicable by authorized employees or agents of the
87 commission and in the presence of the licensee or his or her agent, pertaining to the gross income
88 produced by any licensed gaming establishment and to require verification of income, and all other
89 matters affecting the enforcement of the policies of the Lottery Commission or any provision of this
90 article; and to impound or remove all papers, books, and records of applicants and licensees,
91 without hearing, for inspection or examination; and

92 (24) To prescribe voluntary alternative methods for the making, filing, signing, subscribing,
93 verifying, transmitting, receiving, or storing of returns, writings or other documents.

§29-22B-702. Additional duties of limited video lottery retailers.

1 In addition to the general duties imposed on all licensees in §29-22B-701 of this code, a
2 limited video lottery retailer shall:

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

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

(3) Supervise video lottery operations and ticket validation procedures at the applicable location;

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

(5) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;

(6) Ensure that video lottery terminals are within the sight and control of designated employees of the limited video lottery retailer;

(7) Ensure that video lottery terminals are placed and remain placed in the specific locations which have been approved by the commission. A video lottery terminal in a restricted access adult-only facility may not be relocated within the facility without the prior written approval of the commission;

(8) Monitor video lottery terminals to prevent access to or play by persons who are under the age of 21 years or who are visibly intoxicated;

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

(10) Provide no access by a player to an automated teller machine (ATM) in the restricted access adult-only facility where video lottery games are played, accept no credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins or currency to be utilized by a player to play video lottery games, and extend no credit, in any manner, to a player so as to enable the player to play a video lottery game;

(11) Pay for all credits won upon presentment of a valid winning video lottery ticket;

(12) Report promptly in writing to the operator and the commission all video lottery terminal malfunctions and notify the commission in writing of the failure of an operator or service technician to provide prompt service and repair of the terminals and associated equipment;

(13) Conduct any video lottery advertising or promotional activities ~~only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code;~~

(14) Install, post, and display prominently within or about the approved location signs, redemption information and other promotional material as required by the commission;

(15) Permit video lottery to be played only during those hours established and approved by the commission: *Provided*, That the limited video lottery retailer shall not permit video lottery to be played beyond the hour during which liquor may be served;

(16) Contract with no more than one licensed operator for the placement of video lottery terminals at the licensed location;

(17) Maintain insurance covering all losses as the result of fire, theft, or vandalism to video lottery terminals and associated equipment; and

(18) Comply with all applicable provisions of this article and rules and orders of the commission.

§29-22B-706. Additional duties of operators.

In addition to the general duties imposed on all licensees in §29-22B-701 of this code, an operator shall:

(1) Acquire video lottery terminals by purchase, lease, or other assignment only from licensed manufacturers;

(2) Acquire no video lottery terminals in excess of the number they are authorized to operate in this state as stated in the permit issued under part 11 of this article;

(3) Contract with limited video lottery retailers for a secure location for the placement, operation, and play of the video lottery terminals;

9 (4) Pay no compensation of any kind to any limited video lottery retailer or give or transfer
10 anything of value to any limited video lottery retailer, that is in addition to the consideration stated
11 in the written agreement between the operator and the limited video lottery retailer, which may be
12 not less than 40 percent nor more than 50 percent of the amount of net terminal income received
13 by the operator in connection with the video lottery terminals at that location;

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

17 (6) Purchase or lease and install computer controller units and other associated equipment
18 required by the commission for video lottery terminals owned or leased by the permittee;

19 (7) Permit no person to tamper with or interfere with the operation of any video lottery
20 terminal;

21 (8) Ensure that telephone lines from the commission's central control computer to the
22 video lottery terminals located at the approved location are at all times connected, and prevent any
23 person from tampering or interfering with the operation of the telephone lines;

24 (9) Ensure that video lottery terminals are placed and remain placed in the specific places
25 within the approved restricted access adult-only facility that have been approved by the
26 commission. No video lottery terminal in a restricted access adult-only facility may be relocated
27 within the restricted access adult-only facility without the prior written approval of the commission;

28 (10) Assume financial responsibility for proper and timely payments by limited video lottery
29 retailers of all credits awarded to players in accordance with legislative rules promulgated by the
30 commission;

31 (11) Enter into contracts with limited video lottery retailers to provide for the maintenance
32 and repair of video lottery terminals and associated equipment only by licensed service
33 technicians, and to provide for the placement of video lottery terminals pursuant to the provisions
34 of this article;

(12) Conduct any video lottery advertising and promotional activities ~~only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code;~~

(13) Install, post, and display prominently within or about the approved location signs, redemption information and other material as required by the commission;

(14) Maintain general liability insurance coverage for all video lottery terminals in an amount of at least \$1 million per claim;

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

(16) Assume liability for all amounts due to the commission in connection with any money lost or stolen from any video lottery terminal;

(17) Comply with all applicable provisions of this article and rules and orders of the commission; and

(18) Maintain a separate bank account into which the operator shall deposit the gross terminal income from all of the operator's video lottery terminals.

NOTE: The purpose of this bill is to authorize licensed limited video lottery retailers and operators to advertise.

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