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LEGISLATIVE SERVICES

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

HOUSE BILL No. 4169

(By Delegate Mr. Speaker, Mr. Chambers,
and Delegate Ashby)
[By Request of the Executive]

Passed March 9 1996

In Effect From Passage



ENROLLED

H. B. 4169

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATE ASHLEY)
[By Request of the Executive]

[Passed March 9, 1996; in effect from passage.]

AN ACT to amend and reenact section ten, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to race track video lottery; the division of net terminal income; the completion of the veterans memorial by deposit of income from video lottery terminals into the division of culture and history fund; providing for the annual payment of the bond indebtedness of the veterans memorial; providing that after the bonded indebtedness of the veterans memorial is paid that twenty thousand dollars be paid into a special revenue fund to provide markers for veterans graves; authorizing legislative rules; providing for the establishment of a veterans memorial archives within the division of culture and history; establishing the position of director of monuments; specifying effective dates; and providing for the restoration and maintenance of monuments located on the capitol grounds.

Be it enacted by the Legislature of West Virginia:

That section ten, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 22A. RACE TRACK VIDEO LOTTERY.

§29-22A-10. Accounting and reporting; commission to provide communications protocol data; distribu-

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LEGISLATIVE SERVICES DIVISION
STATE OF WEST VIRGINIA

tion of net terminal income; remittance through electronic transfer of funds; establishment of accounts and nonpayment penalties; commission control of accounting for net terminal income; settlement of accounts; manual reporting and payment may be required; request for reports; examination of accounts and records.

1 (a) The commission shall provide to manufacturers, or
2 applicants applying for a manufacturer's permit, the proto-
3 col documentation data necessary to enable the respective
4 manufacturer's video lottery terminals to communicate
5 with the commission's central computer for transmitting
6 auditing program information and for activation and dis-
7 abling of video lottery terminals.

8 (b) The gross terminal income of a licensed racetrack
9 shall be remitted to the commission through the electronic
10 transfer of funds. Licensed racetracks shall furnish to the
11 commission all information and bank authorizations re-
12 quired to facilitate the timely transfer of moneys to the
13 commission. Licensed racetracks must provide the com-
14 mission thirty days' advance notice of any proposed ac-
15 count changes in order to assure the uninterrupted elec-
16 tronic transfer of funds. From the gross terminal income
17 remitted by the licensee to the commission, the commis-
18 sion shall deduct an amount sufficient to reimburse the
19 commission for its actual costs and expenses incurred in
20 administering racetrack video lottery at the licensed race-
21 track, and the resulting amount after such deduction shall
22 be the net terminal income. The amount deducted for
23 administrative costs and expenses of the commission may
24 not exceed four percent of gross terminal income.

25 (c) Net terminal income shall be divided as set out in
26 this subsection. The licensed racetrack's share shall be in
27 lieu of all lottery agent commissions and is considered to
28 cover all costs and expenses required to be expended by
29 the licensed racetrack in connection with video lottery
30 operations. The division shall be made as follows:

31 (1) The commission shall receive thirty percent of net
32 terminal income, which shall be paid into the general reve-

33 nue fund of the state to be appropriated by the Legisla-
34 ture;

35 (2) Fourteen percent of net terminal income at a li-
36 censed racetrack shall be deposited in the special fund
37 established by the licensee, and used for payment of regu-
38 lar purses in addition to other amounts provided for in
39 article twenty-three, chapter nineteen of this code;

40 (3) The county where the video lottery terminals are
41 located shall receive two percent of the net terminal in-
42 come;

43 (4) One half of one percent of net terminal income
44 shall be paid for and on behalf of all employees of the
45 licensed racing association by making a deposit into a
46 special fund to be established by the racing commission to
47 be used for payment into the pension plan for all employ-
48 ees of the licensed racing association;

49 (5) The West Virginia thoroughbred development
50 fund created under section thirteen-b, article twenty-three,
51 chapter nineteen of this code and the West Virginia grey-
52 hound breeding development fund created under section
53 ten, article twenty-three, chapter nineteen of this code shall
54 receive an equal share of a total of not less than one and
55 one-half percent of the net terminal income: *Provided,*
56 That for any racetrack which does not have a breeder's
57 program supported by the thoroughbred development
58 fund or the greyhound breeding development fund, the
59 one and one-half percent provided for in this subdivision
60 shall be deposited in the special fund established by the
61 licensee and used for payment of regular purses, in addi-
62 tion to other amounts provided for in subdivision (2) of
63 this subsection and article twenty-three, chapter nineteen
64 of this code.

65 (6) The West Virginia thoroughbred breeders classic
66 shall receive one percent of the net terminal income which
67 shall be used for purses. The moneys shall be deposited
68 in the separate account established for the classic under
69 section thirteen, article twenty-three, chapter nineteen of
70 this code;

71 (7) A licensee shall receive forty-seven percent of net

72 terminal income;

73 (8) The tourism promotion fund established in section
74 nine, article one, chapter five-b of this code shall receive
75 three percent of the net terminal income; and

76 (9) The veterans memorial program shall receive one
77 percent of the net terminal income until sufficient moneys
78 have been received to complete the veterans memorial on
79 the grounds of the state capitol complex in Charleston,
80 West Virginia. The moneys shall be deposited in the state
81 treasury in the division of culture and history special fund
82 created under section three, article one-i, chapter
83 twenty-nine of this code: *Provided*, That only after suffi-
84 cient moneys have been deposited in the fund to complete
85 the veterans memorial and to pay in full the annual bond-
86 ed indebtedness on the veterans memorial, not more than
87 twenty thousand dollars of the one percent of net terminal
88 income provided for in this subdivision shall be deposited
89 into a special revenue fund in the state treasury, to be
90 known as the "John F. 'Jack' Bennett Fund." The moneys
91 in this fund shall be expended by the division of veterans
92 affairs to provide for the placement of markers for the
93 graves of veterans in perpetual cemeteries in this state.
94 The division of veterans affairs shall promulgate legislative
95 rules pursuant to the provisions of article three, chapter
96 twenty-nine-a of this code specifying the manner in which
97 the funds are spent, determine the ability of the surviving
98 spouse to pay for the placement of the marker, and setting
99 forth the standards to be used to determine the priority in
100 which the veterans grave markers will be placed in the
101 event that there are not sufficient funds to complete the
102 placement of veterans grave markers in any one year, or at
103 all. The remainder of the one percent of terminal shall
104 then continue to be deposited in the special fund in the
105 division of culture and history created under section three,
106 article one-i, chapter twenty-nine of this code and be ex-
107 pended by the division of culture and history to establish a
108 West Virginia veterans memorial archives within the cul-
109 tural center to serve as a repository for the documents and
110 records pertaining to the veterans memorial, to restore and
111 maintain the monuments and memorial on the capitol
112 grounds and to pay the salary and benefits of a director of

113 monuments. The director of monuments shall be respon-
114 sible for restoring and maintaining all monuments and
115 memorials situated upon the grounds of the capitol in
116 Charleston, West Virginia, and, to the extent there are
117 moneys remaining in this fund thereafter, the director of
118 monuments may use the balance to landscape the capitol
119 grounds. The director of monuments shall be under the
120 supervision of and report to the commissioner of the divi-
121 sion of culture and history. The provisions of this subdi-
122 vision relating to the creation of the position of director of
123 monuments shall be effective the first day of January, one
124 thousand nine hundred ninety-seven.

125 (d) Each licensed racetrack shall maintain in its ac-
126 count an amount equal to or greater than the gross termi-
127 nal income from its operation of video lottery machines,
128 to be electronically transferred by the commission on
129 dates established by the commission. Upon a licensed
130 racetrack's failure to maintain this balance, the commission
131 may disable all of a licensed racetrack's video lottery ter-
132 minals until full payment of all amounts due is made.
133 Interest shall accrue on any unpaid balance at a rate con-
134 sistent with the amount charged for state income tax delin-
135 quency under chapter eleven of this code, which interest
136 shall begin to accrue on the date payment is due to the
137 commission.

138 (e) The commission's central control computer shall
139 keep accurate records of all income generated by each
140 video lottery terminal. The commission shall prepare and
141 mail to the licensed racetrack a statement reflecting the
142 gross terminal income generated by the licensee's video
143 lottery terminals. Each licensed racetrack must report to
144 the commission any discrepancies between the commis-
145 sion's statement and each terminal's mechanical and elec-
146 tronic meter readings. The licensed racetrack is solely
147 responsible for resolving income discrepancies between
148 actual money collected and the amount shown on the
149 accounting meters or on the commission's billing state-
150 ment.

151 (f) Until an accounting discrepancy is resolved in
152 favor of the licensed racetrack, the commission may make

153 no credit adjustments. For any video lottery terminal
154 reflecting a discrepancy, the licensed racetrack shall sub-
155 mit to the commission the maintenance log which includes
156 current mechanical meter readings and the audit ticket
157 which contains electronic meter readings generated by the
158 terminal's software. If the meter readings and the commis-
159 sion's records cannot be reconciled, final disposition of the
160 matter shall be determined by the commission. Any ac-
161 counting discrepancies which cannot be otherwise resolved
162 shall be resolved in favor of the commission.

163 (g) Licensed racetracks shall remit payment by mail if
164 the electronic transfer of funds is not operational or the
165 commission notifies licensed racetracks that remittance by
166 this method is required. The licensed racetracks shall
167 report an amount equal to the total amount of cash insert-
168 ed into each video lottery terminal operated by a licensee,
169 minus the total value of game credits which are cleared
170 from the video lottery terminal in exchange for winning
171 redemption tickets, and remit such amount as generated
172 from its terminals during the reporting period. The remit-
173 tance shall be sealed in a properly addressed and stamped
174 envelope and deposited in the United States mail no later
175 than noon on the day when the payment would otherwise
176 be completed through electronic funds transfer.

177 (h) Licensed racetracks may, upon request, receive
178 additional reports of play transactions for their respective
179 video lottery terminals and other marketing information
180 not considered confidential by the commission. The com-
181 mission may charge a reasonable fee for the cost of pro-
182 ducing and mailing any report other than the billing state-
183 ments.

184 (i) The commission has the right to examine all ac-
185 counts, bank accounts, financial statements and records in
186 a licensed racetrack's possession, under its control or in
187 which it has an interest and the licensed racetrack must
188 authorize all third parties in possession or in control of
189 the accounts or records to allow examination of any of
190 those accounts or records by the commission.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Wally Spoonover
Chairman Senate Committee

Randy Seavitt
Chairman House Committee

Originating in the House.

Takes effect from passage.

Carroll R. Rhea
Clerk of the Senate

Burgess M. Gray
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Robert C. Calvert
Speaker of the House of Delegates

The within *is approved* this the *29th*
day of *March*, 1996.

Easton Capenbor
Governor

PRESENTED TO THE :

GOVERNOR

Date 3/26/96

Time 4:12 pm