

# WEST VIRGINIA CODE: §29-22B-1803

## **§29-22B-1803. Items subject to forfeiture.**

(a) The following items are subject to forfeiture:

(1) Any video gambling machine present in this state after January 1, 2002;

(2) All property found with the video gambling machine that in any way facilitates its operation for any purpose;

(3) Any video lottery terminal registered under this article that is found on the premises where a video gambling machine is found;

(4) All conveyances, including aircraft, vehicles or vessels, which are used, have been used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession or concealment of a video gambling machine, except as follows:

(A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the person owning such conveyance is a consenting party or privy to a violation of this article;

(B) No conveyance shall be forfeited under the provisions of this article if the person owning the conveyance establishes that he or she neither knew, nor had reason to know, that the conveyance was being employed or was likely to be employed in a violation of this article; and

(C) No bona fide security interest or other valid lien in any conveyance shall be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the holder of such security interest or lien either knew, or had reason to know, that such conveyance was being used or was likely to be used in a violation of this article.

(5) All books, records and materials, including microfilm, tapes and data which are used, or have been used, or are intended for use with a gray gambling device;

(6) All moneys, negotiable instruments, securities or other things of value furnished or intended to be furnished in violation of this article by any person in exchange for a gray gambling device or in exchange for playing or operating a gray gambling device, all proceeds traceable to such an exchange, and all moneys, negotiable instruments and securities used, or which have been used, or which are intended to be used to facilitate any violation of this article: Provided, That no property may be forfeited under this subdivision, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without his or her knowledge or consent; and

(7) All real property, including any right, title and interest in any lot or tract of land, and any

appurtenances or improvements, which are used, or have been used, or are intended to be used, in any manner or part, to commit, or to facilitate the commission of a violation of this article punishable by more than one year imprisonment: Provided, That no property may be forfeited under this subdivision, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without his or her knowledge or consent.

(b) The requirements of this section pertaining to the removal of seized property are not mandatory in the case of real property and the appurtenances thereto.

(c) Property subject to forfeiture under this section may be seized by any person granted law-enforcement powers (hereinafter referred to as the "appropriate person" in section 22B-1804).