

HB 5016

Enrolled

H. B. 5016

Passed March 17, 1994
In effect from passage

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1994 MAR 18 PM 5:48

RECEIVED

ENROLLED

H. B. 5016

(By Delegates Pettit and Love)

[Passed March 17, 1994; in effect from passage.]

OFFICE OF THE CLERK
LEGISLATIVE SERVICE
BUREAU OF THE CLERK

001 MAR 19 PM 5:49

RECEIVED

AN ACT to amend article one, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nine; to amend and reenact section twelve-b, article twenty-three, chapter nineteen of said code; to amend and reenact section nine, article twenty-two, chapter twenty-nine of said code; and to amend chapter twenty-nine of said code by adding thereto a new article, designated article twenty-two-a, all relating to the operation of video lottery games at licensed horse and dog racetracks; creating a tourism promotion fund; earmarking one fourth of one percent of a televised racing day's pari-mutuel pool for the race track employee's pension trust; removing a prohibition against including the handle from televised simulcast racing in the calculation of average daily handle; authorizing a lottery game which uses an electronic computer and a video screen to operate a game and communicate the results thereof, and restricting its availability to private clubs, retail liquor licenses and

class A nonintoxicating beer licensees; creating the racetrack video lottery act; providing legislative findings and declarations and legislative purpose; providing definitions of terms; authorizing the implementation and operation of video lottery games; providing for the application of article twenty-two, chapter twenty-nine; specifying video lottery terminal requirements and specifications; relating to applications for approval of video lottery terminals, testing of video lottery terminals and report of test results, modifications to approved video lottery terminals, seizure and destruction of nonconforming video lottery terminals; prescribing hardware specifications, software specifications for randomness testing, percentage payout, continuation of game play after malfunction and play transaction records; establishing license and permit qualifications for manufacturers, racetracks, service technicians and validation managers; relating to information to be furnished by applicants for license or permit and waiver of liability; requiring oath or affirmation of applications; requiring applicants to provide accurate and material information; relating to forms of application; providing for local option elections; relating to form of petition for local option elections, legal publications related to local option elections, certification of results of local option elections, issuance of video lottery license, notice of incomplete application and notice of license or

permit denial, suspension or revocation; providing procedures for review of license or permit denial, suspension or revocation; relating to license and permit fees, renewal fees and renewal dates, bonding, renewal of license or permit and notice of change affecting license or permit; providing that license or permit is not transferrable or assignable; relating to general duties of all video lottery license and permit holders, specific duties of permitted manufacturers, permitted service technicians, permitted validation managers and licensed racetracks; specifying video lottery game accounting and reporting requirements; relating to communications protocol data, distribution of net terminal income, remittance through electronic transfer of funds, commission control of accounting for terminal income, optional manual reporting and payment, request for reports, examination of accounts and records and video lottery terminal maintenance; requiring manufacturers to provide training; relating to availability of training, reports and certificates of training programs, requirements of service technicians, requirement for maintenance logs, keys to video lottery terminals, notification of repairs to the logic area, notification of broken seals on logic boards, number and location of terminals, security requirements and payment of credits, method of payments and restrictions on payment of credits; requiring defacing of redeemed tickets; relating to liability for video lottery terminal malfunction and

transportation and registration of video lottery terminals; providing hearing and appeal procedures; defining certain misdemeanor and felony offenses related to the operation of video lottery games and establishing penalties therefor; providing for civil penalties for certain violations; providing for a resolution of any disagreement between the racing commission and the lottery commission; providing for severability; and providing an effective date and termination date.

Be it enacted by the Legislature of West Virginia:

That article one, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nine; that section twelve-b, article twenty-three, chapter nineteen of said code be amended and reenacted; that section nine, article twenty-two, chapter twenty-nine of said code be amended and reenacted; and that said chapter be further amended by adding thereto a new article, designated article twenty-two-a, all to read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 1. DIVISION OF TOURISM AND PARKS.

§5B-1-9. Tourism promotion fund created; use of funds; and establishment of tourism promotion fund commission.

There is hereby created in the state treasury, a special revenue fund to be known as the "tourism promotion fund". It

shall be expended by the commissioner of the division of tourism and parks in the following manner:

(a) A minimum of five percent of the moneys deposited in the fund each year shall be used solely for direct advertising for West Virginia travel and tourism. Direct advertising means advertising which is limited to television, radio, newspaper, magazines and outdoor billboards, or any combination thereof;

(b) The balance of the moneys deposited in the fund shall be used for direct advertising within the state's eight regional development districts. The funds shall be made available to these districts beginning the first day of July, one thousand nine hundred ninety-four, according to rules promulgated by the division of tourism and parks; and

(c)(1) There is hereby established an eight-member tourism promotion fund commission which shall be composed of one member each from the House and Senate, each to be appointed by the speaker and the president, respectively, the commissioner of the department of tourism and parks and his or her designee, the state travel director for the division of tourism and parks, and four representatives of the private sector tourism industry appointed by the governor from a list submitted by the West Virginia hospitality and travel association. Members of the commission who are not employees of the state of West Virginia shall be reimbursed for traveling expenses.

(2) The commission shall meet upon call by the commissioner, but shall meet at least four times each fiscal year beginning the

first day of July, one thousand nine hundred ninety-four. All advertising expenditures over twenty-five thousand dollars from the tourism promotion fund require prior approval from the commission.

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE AND DOG RACING.

PART VI. PARI-MUTUEL SYSTEM OF WAGERING AUTHORIZED;

COMMISSIONS DEDUCTED FROM PARI-MUTUEL POOLS.

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

(a) For the purposes of this section:

(1) "Televised racing day" means a calendar day, assigned by the commission, at a licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at racetracks outside of the state which are broadcast by television at a licensed racetrack and which day or days have had the prior written approval of the representative of the majority of the owners and trainers who hold permits required by section two of this article; and

(2) "Host racing association" means any person who, pursuant to a license or other permission granted by the host state, conducts the horse or dog race subject to the interstate wager.

(b) A licensee conducting not less than two hundred twenty live racing dates for each horse or dog race meeting may, with the prior approval of the state racing commission, contract with any legal wagering entity in any other state to receive telecasts

and accept wagers on races conducted by the legal wagering entity: *Provided*, That at those thoroughbred racetracks participating in the West Virginia thoroughbred development fund authorized by section thirteen-b of this article, the licensee, in applying for racing dates, shall apply for not less than two hundred twenty live racing dates for each horse race meeting. If, thereafter, for reasons beyond the licensee's control, the licensee concludes that this number of racing days cannot be attained, the licensee may file a request with the racing commission to reduce the authorized live racing days. Upon receipt of the request the racing commission shall within seventy-two hours of the receipt of the request notify the licensee and the representative of a majority of the owners and trainers at the requesting track that such request has been received and that if no objection to the request is received within ten days of the notification the request will be approved. If an objection is received by the commission within the time limits, the commission shall establish a binding arbitration board. The board shall consist of one member appointed by the licensee, one member appointed by the representative of a majority of the owners and trainers at the racetrack and a third member to be selected by the two appointed members. In the event the two members cannot agree on the third member, each member shall submit two names to the racing commission and from those names the racing commission shall appoint the third member of the board. The board shall hear from all parties concerned and

thereupon shall make recommendations to the racing commission on the required number of live racing days. The recommendations of the board are final. The telecasts may be received and wagers accepted at any location authorized by the provisions of section twelve-a of this article. The contract must receive the approval of the representative of the majority of the owners and trainers who hold permits required by section two of this article at the receiving racetrack.

(c) The commission may allow the licensee to commingle its wagering pools with the wagering pools of the host racing association. If the pools are commingled, the wagering at the licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and be electronically linked with the equipment at the sending racetrack. Subject to the approval of the commission, the types of betting, licensee commissions and distribution of winnings on pari-mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack. Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with the law or rules governing the sending racetrack and must be distributed in a manner agreed to between the licensee and the sending racetrack.

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

(e) (1) From the licensee commissions authorized by subsection (c) of this section, the licensee shall pay one tenth of one percent of each commission into the general fund of the county, in which the racetrack is located and at which the wagering occurred and there is imposed and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool exceeds one hundred thousand dollars, the greater of either: (i) The total of the daily license tax and the pari-mutuel pools tax required by section ten of this article; or (ii) a daily license tax of one thousand two hundred fifty dollars. For each televised racing day on which the total pari-mutuel pool is one hundred thousand dollars or less, the licensee shall pay a daily license tax of five hundred dollars plus an additional license tax of one hundred dollars for each ten thousand dollars, or part thereof, that the pari-mutuel pool exceeds fifty thousand dollars, but does not exceed one hundred thousand dollars. Payments of the tax imposed by this section are subject to the requirements of subsection (e), section ten of this article.

(2) From the license commissions authorized by subsection (c) of this section, after payments are made in accordance with the provisions of subdivision (1) of this subsection, the licensee shall pay, for each televised racing day, one fourth of one percent of the total pari-mutuel pools for and on behalf of all employees of the licensed racing association by making a deposit into a special fund to be established by the racing commission

and to be used for payments into the pension plan for all employees of the licensed racing association.

(f) After deducting the tax required by subsection (e) of this section, the amount required to be paid under the terms of the contract with the legal wagering entity of another state and the cost of transmission, the horse racing association shall make a deposit equal to fifty percent of the remainder into the purse fund established under the provisions of subdivision (1), subsection (b), section nine of this article.

(g) The provisions of the "Federal Interstate Horseracing Act of 1978", also known as Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in determining the intent of this section.

(h) On and after the first day of January, one thousand nine hundred ninety-five, the handle from televised simulcast racing shall be included in the calculation of "average daily handle" as it is calculated in section ten of this article to determine the alternative daily pari-mutuel pool tax.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-9. Initiation and operation of lottery; restrictions; prohibited themes, games, machines or devices; distinguishing numbers; winner selection; public drawings; witnessing of results; testing and inspection of equipment; price of tickets; claim for and payment of prizes; invalid, counterfeit tickets;

estimated prizes and odds of winning; participant bound by lottery rules and validation procedures; security procedures; additional games; electronic and computer systems.

(a) The commission shall initiate operation of the state lottery on a continuous basis at the earliest feasible and practical time, first initiating operation of the preprinted instant winner type lottery. The lottery shall be initiated and shall continue to be operated so as to produce the maximum amount of net revenues to benefit the public purpose described in this article consonant with the public good. Other state government departments, boards, commissions, agencies and their officers shall cooperate with the lottery commission so as to aid the lottery commission in fulfilling these objectives.

(b) The commission shall promulgate rules and regulations specifying the types of lottery games to be conducted by the lottery: *Provided, That:*

(1) No lottery may use the results of any amateur or professional sporting event, dog race or horse race to determine the winner.

(2) Electronic video lottery systems must include a central site system of monitoring the lottery terminals utilizing an on-line or dial-up inquiry.

(3) In a lottery utilizing a ticket, each ticket shall bear a unique number distinguishing it from each other ticket.

(4) No lottery utilizing a machine may use machines which dispense coins or currency.

(5) A lottery game which utilizes an electronic computer and a video screen to operate a lottery game and communicate the results thereof, such as the game "Travel", and which does not utilize an interactive electronic terminal device allowing input by an individual player, may only be made available by the commission in (A) private clubs licensed in accordance with the provisions of article seven, chapter sixty of this code, (B) retail licensees licensed in accordance with the provisions of article three-a of said chapter sixty, and (C) in the facilities of class A licensees which are licensed in accordance with the provisions of section nine, article sixteen, chapter eleven of this code, in which facility at least seventy-five percent of the nonintoxicating beer sold by the class A licensee in the preceding year was sold for consumption on the premises: *Provided,* That if sales information is not available for the preceding year, the commission in its discretion may base any issuance or denial of an annual license upon a reasonable projection of the volume of sales of nonintoxicating beer for consumption on the premises as a percentage of the total sales of nonintoxicating beer.

(6) Selection of the winner must be predicted totally on chance.

(7) Any drawings or winner selections shall be held in public and witnessed by an independent accountant designated by the director for such purposes.

(8) All lottery equipment and materials shall be regularly inspected and tested, before and after any drawings or winner selections, by independent qualified technicians.

(9) The director shall establish the price for each lottery and determine the method of selecting winners and the manner of payment of prizes, including providing for payment by the purchase of annuities for prizes payable in installments.

(10) All claims for prizes shall be examined and no prize shall be paid as a result of altered, stolen or counterfeit tickets or materials, or which fail to meet validation rules or regulations established for a lottery. No prize shall be paid more than once, and, in the event of a binding determination by the commission that more than one person is entitled to a particular prize, the sole remedy of the claimants shall be the award to each of them of an equal share in the single prize.

(11) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery, or the estimated odds of winning such prizes shall be printed on any lottery ticket, where feasible, or in descriptive materials, and shall be available at the offices of the commission.

(12) No prizes shall be paid which are invalid and not contemplated by the prize structure of the lottery involved.

(13) By purchasing a ticket or participation in a lottery, a participant agrees to abide by, and be bound by, the lottery rules which apply to the lottery or game play involved. An abbreviated form of such rules may appear on tickets and shall appear on descriptive materials and shall be available at the offices of the commission. A participant in a lottery agrees that the determination of whether the participant is a valid winner is subject to the lottery or game play rules and the winner validation tests established by the commission. The determination of the winner by the commission shall be final and binding upon all participants in a lottery and shall not be subject to review or appeal.

(14) The commission shall institute such security procedures as it deems necessary to ensure the honesty and integrity of the winner selection process for each lottery. All such security and validation procedures and techniques shall be, and remain, confidential, and shall not be subject to any discovery procedure in any civil judicial, administrative or other proceeding, nor subject to the provisions of article one, chapter twenty-nine-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended.

(c) The commission shall proceed with operation of such additional lottery games, including the implementation of games utilizing a variety of existing or future technological advances at the earliest feasible date. The commission may operate lottery games utilizing electronic computers and electronic

computer terminal devices and systems, which systems must include a central site system of monitoring the lottery terminals utilizing direct communication systems, or other technological advances and procedures, ensuring honesty and integrity in the operation of the lottery.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-1. Short title.

This article shall be known and may be cited as the "Racetrack Video Lottery Act."

§29-22A-2. Legislative findings and declarations.

(a) The Legislature finds and declares that the limited video lottery games authorized by this article are "lotteries" as that term is commonly understood and as that term is used in West Virginia Constitution, article VI, section thirty-six, the video lottery games authorized by this article being lottery games which utilize advanced computer technology; and that the Constitution grants to the Legislature the authority to establish, by general law, the manner of regulation, control, ownership and operation of lottery games in the state of West Virginia.

(b) The Legislature further finds and declares that the state can control, own and operate a video lottery by possessing a proprietary interest in the main logic boards, all erasable, programmable read-only memory chips used in any video lottery equipment or games, and software consisting of computer programs, documentation and other related materials necessary for the video

lottery system to be operated. The state may acquire a proprietary interest in video lottery game software, for purposes of this article, through outright ownership or through an exclusive product license agreement with a manufacturer whereby the manufacturer retains copyrighted ownership of the software but the license granted to the state is nontransferable and authorizes the state to run the software program, solely for its own use, on the state's central equipment unit and electronic video terminals networked to the central equipment unit.

(c) The Legislature further finds and declares that the state can control and regulate a video lottery if the state limits licensure to a limited number of video lottery facilities located at qualified horse or dog racetracks, extends strict and exclusive state regulation to all persons, locations, practices and associations related to the operation of licensed video lottery facilities, and provides comprehensive law enforcement supervision of video lottery activities.

(d) The Legislature further finds and declares that since the public has an interest in video lottery operations and since lottery operations conducted pursuant to West Virginia Constitution, article VI, section thirty-six, and under this article represent an exception to the general statutory policy of the state concerning wagering for private gain, participation in a video lottery by a licensee or permittee under this article shall be deemed a privilege conditioned upon the proper and continued qualification of the licensee or permittee and upon the

discharge of the affirmative responsibility of each licensee to provide to the regulatory and investigatory authorities established by this article any assistance and information necessary to assure that the policies declared by this article are achieved. Consistent with this policy, it is the intent of this article to preclude the creation of any property right in any license or permit issued by the state under this article, the accrual of any value to the privilege of participation in any video lottery operation, or the transfer of any license or permit, and to require that participation in video lottery operations be solely conditioned upon the individual qualifications of persons seeking such privilege.

(e) The purpose of this article is to define and provide specific standards for the operation of video lottery games at pari-mutuel racing facilities licensed by the state racing commission pursuant to article twenty-three, chapter nineteen of this code. The Legislature finds and declares that the existing pari-mutuel racing facilities in West Virginia provide a valuable tourism resource for this state and provide significant economic benefits to the citizens of this state through the provision of jobs and the generation of state revenues; that this valuable tourism resource is threatened because of a general decline in the racing industry and because of increasing competition from racing facilities and lottery products offered by neighboring states; and that the survival of West Virginia's pari-mutuel

racetrack industry is in jeopardy unless modern lottery games are authorized at the racetracks.

§29-22A-3. Definitions.

As used in this article:

(a) "Applicant" means any person applying for any video lottery license or permit.

(b) "Associated equipment" means any hardware located on the licensed racetrack's premises which is connected to the video lottery system for the purpose of performing communication, validation or other functions, but not including the video lottery terminals or the communication facilities of a regulated public utility.

(c) "Background investigation" means a security, criminal and credit investigation of a person, as defined in this section, who has applied for a video lottery license or permit, or who has been granted a video lottery license or permit.

(d) "Central computer", "central control computer" or "central site system" means any central site computer provided to and controlled by the commission to which video lottery terminals communicate for purposes of information retrieval and terminal activation and disable programs;

(e) "Commission" or "state lottery commission" means the West Virginia lottery commission created by article twenty-two of this chapter.

(f) "Control" means the authority to direct the management and policies of an applicant or a license or permit holder.

(g) "Costs" means the expenses incurred by the commission in the testing and examination of video lottery terminals and the performance of background investigations and other related activities which are charged to and collected from applicants or license or permit holders.

(h) "Director" means the individual appointed by the governor to provide management and administration necessary to direct the state lottery office.

(i) "Disable" or "terminal disable" means the process of executing a shutdown command from the central control computer which causes video lottery terminals to cease functioning.

(j) "Display" means the visual presentation of video lottery game features on the video display monitor or screen of a video lottery terminal.

(k) "Gross terminal income" means the total amount of cash inserted into the video lottery terminals operated by a licensee, minus the total value of game credits which are cleared from the video lottery terminals in exchange for winning redemption tickets.

(l) "License", or "video lottery license" means authorization granted by the commission to a racetrack which is licensed by the West Virginia racing commission to conduct thoroughbred or greyhound racing meetings pursuant to article twenty-three, chapter nineteen of this code permitting the racetrack to operate video lottery terminals authorized by the commission.

(m) "Lottery" means the public gaming systems or games established and operated by the state lottery commission.

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

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

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

(q) "Pari-mutuel racing facility", "licensed racetrack", "racetrack" or "track" means a facility where horse or dog race meetings are held and the pari-mutuel system of wagering is authorized pursuant to the provisions of article twenty-three, chapter nineteen of this code: *Provided, That, for the purposes of this article, "pari-mutuel racing facility", "licensed racetrack", "racetrack" or "track" includes only a facility which*

was licensed prior to the first day of January, one thousand nine hundred ninety-four to hold horse or dog race meetings, and which conducts not less than two hundred twenty live racing dates for each horse or dog race meeting or such other number of live racing dates as may be approved by the racing commission in accordance with the provisions of section twelve-b, article twenty-three, chapter nineteen of this code.

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

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

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

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

(v) "Video lottery game" means a commission approved, owned and controlled electronically simulated game of chance which is displayed on the screen or video monitor of a video lottery terminal and which:

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

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

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

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

(5) In the case of a video lottery game which allows the player an option to select replacement symbols or numbers or additional symbols or numbers after the game is initiated and in the course of play, either (A) signals the player, prior to any optional selection by the player of randomly generated replacement symbols or numbers, as to which symbols or numbers should be retained by the player to present the best chance, based upon probabilities, that the player may select a winning combination, (B) signals the player, prior to any optional selection by the player of randomly generated additional symbols or numbers, as to whether such additional selection presents the best chance, based upon probabilities, that the player may select a winning combination, or (C) randomly generates additional or

replacement symbols and numbers for the player after automatically selecting the symbols and numbers which should be retained to present the best chance, based upon probabilities, for a winning combination, so that in any event, the player is not permitted to benefit from any personal skill, based upon a knowledge of probabilities, before deciding which optional numbers or symbols to choose in the course of video lottery game play;

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

(7) Does not use the following game themes commonly associated with casino gambling: roulette, dice, baccarat card games, or games having a video display depicting symbols which appear to roll on drums to simulate a classic casino slot machine: *Provided*, That game themes of other card games and keno may be used.

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

(x) "Video lottery" means a lottery which allows a game to be played utilizing an electronic computer and an interactive computer terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which terminal device the player inserts coins or

currency as consideration in order for play to be available, and through which terminal device the player may receive free games or credit that can be redeemed for cash, or nothing, as may be determined wholly or predominantly by chance. "Video lottery" does not include a lottery game which merely utilizes an electronic computer and a video screen to operate a lottery game and communicate the results thereof, such as the game "Travel", and which does not utilize an interactive electronic terminal device allowing input by an individual player.

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

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

§29-22A-4. Video lottery games authorized.

The state lottery commission is authorized to implement and operate video lottery games at pari-mutuel racing facilities in this state in accordance with the provisions of this article and the applicable provisions of article twenty-two of this chapter. The provisions of article twenty-two of this chapter apply to this article, except in the event of conflict or inconsistency between any of the provisions of this article and the provisions of article twenty-two of this chapter. In that event, the

provisions of this article shall supersede any conflicting or inconsistent provisions contained in article twenty-two of this chapter.

§29-22A-5. Video lottery terminal requirements; filing of specific game rules with the secretary of state; application for approval of a video lottery terminal; testing of video lottery terminals; report of test results; modifications to previously approved models; conformity to prototype; seizure and destruction of terminals.

(a) Video lottery terminals registered with and approved by the commission for use at licensed racetracks may offer video lottery games regulated, controlled, owned and operated by the commission in accordance with the provisions of this section, and utilizing specific game rules separately filed from time to time by the commission with the secretary of state.

(b) A manufacturer may not sell or lease a video lottery terminal for placement at a licensed racetrack in this state unless the terminal has been approved by the commission. Only manufacturers with permits may apply for approval of a video lottery terminal or associated equipment. The manufacturer shall submit two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals and any other information requested by the commission for the purpose of analyzing and testing the video lottery terminal or associated equipment.

(c) The commission may require that two working models of a video lottery terminal be transported to the location designated by the commission for testing, examination and analysis.

(1) The manufacturer shall pay all costs of testing, examination, analysis and transportation of such video lottery terminal models. The testing, examination and analysis of any video lottery terminal model may require dismantling of the terminal and some tests may result in damage or destruction to one or more electronic components of such terminal model. The commission may require that the manufacturer provide specialized equipment or pay for the services of an independent technical expert to test the terminal.

(2) The manufacturer shall pay the cost of transportation of two video lottery terminals to lottery headquarters. The commission shall conduct an acceptance test to determine terminal functions and central system compatibility. If the video lottery terminal fails the acceptance test conducted by the commission, the manufacturer shall make all modifications required by the commission.

(d) After each test has been completed, the commission shall provide the terminal manufacturer with a report containing findings, conclusions and pass/fail results. The report may contain recommendations for video lottery terminal modification to bring the terminal into compliance with the provisions of this article. Prior to approving a particular terminal model, the commission may require a trial period not in excess of sixty days

for a licensed racetrack to test the terminal. During the trial period, the manufacturer may not make any modifications to the terminal model unless such modifications are approved by the commission.

(e) The video lottery terminal manufacturer and licensed racetrack are jointly responsible for the assembly and installation of all video lottery terminals and associated equipment. The manufacturer and licensed racetrack shall not change the assembly or operational functions of a terminal licensed for placement in West Virginia unless a request for modification of an existing video terminal prototype is approved by the commission. The request must contain a detailed description of the type of change, the reasons for the change and technical documentation of the change.

(f) Each video lottery terminal approved for placement at a licensed racetrack must conform to the exact specifications of the video lottery terminal prototype tested and approved by the commission. If any video lottery terminal or any video lottery terminal modification, which has not been approved by the commission, is supplied by a manufacturer and operated by a licensed racetrack, the commission shall seize and destroy all of that licensed racetrack's and manufacturer's noncomplying video lottery terminals and shall suspend the license and permit of the licensed racetrack and manufacturer.

§29-22A-6. Video lottery terminal hardware and software requirements; hardware specifications; software

requirements for randomness testing; software requirements for percentage payout; software requirements for continuation of video lottery game after malfunction; software requirements for play transaction records.

(a) Video lottery terminals licensed for placement in this state shall meet the following hardware specifications:

(1) Electrical and mechanical parts and design principles may not subject a player to physical hazards or injury.

(2) A surge protector shall be installed on the electrical power supply line to each video lottery terminal. A battery or equivalent power back-up for the electronic meters shall be capable of maintaining accuracy of all accounting records and terminal status reports for a period of one hundred eighty days after power is disconnected from the terminal. The power back-up device shall be located within the locked logic board compartment of the video lottery terminal.

(3) An on/off switch which controls the electrical current used in the operation of the terminal shall be located in an accessible place within the interior of the video lottery terminal.

(4) The operation of each video lottery terminal may not be adversely affected by any static discharge or other electromagnetic interference.

(5) A minimum of one electronic or mechanical coin acceptor or other means accurately and efficiently to establish credits

shall be installed on each video lottery terminal. Each video lottery terminal may also contain bill acceptors for one or more of the following: One dollar bills, five dollar bills, ten dollar bills and twenty dollar bills. All coin and bill acceptors must be approved by the commission prior to use on any video lottery terminal in this state.

(6) Access to the interior of video lottery terminal shall be controlled through a series of locks and seals.

(7) The main logic boards and all erasable programmable read-only memory chips (Eproms) are deemed to be owned by the commission and shall be located in a separate locked and sealed area within the video lottery terminal.

(8) The cash compartment shall be located in a separate locked area within or attached to the video lottery terminal;

(9) No hardware switches, jumpers, wire posts or any other means of manipulation may be installed which alter the pay tables or payout percentages in the operation of a game. Hardware switches on a video lottery terminal to control the terminal's graphic routines, speed of play, sound and other purely cosmetic features may be approved by the commission.

(10) Each video lottery terminal shall contain a single printing mechanism capable of printing an original ticket and retaining an exact legible copy within the video lottery terminal or other means of capturing and retaining an electronic copy of the ticket data as approved by the commission. The following

information shall be recorded on the ticket when credits accrued on a video lottery terminal are redeemed for cash:

(i) The number of credits accrued;

(ii) Value of the credits in dollars and cents displayed in both numeric and written form;

(iii) Time of day and date;

(iv) Validation number; and

(v) Any other information required by the commission.

(11) A permanently installed and affixed identification plate shall appear on the exterior of each video lottery terminal and the following information shall be on the plate:

(i) Manufacturer of the video lottery terminal;

(ii) Serial number of the terminal; and

(iii) Model number of the terminal.

(12) The rules of play for each game shall be displayed on the video lottery terminal face or screen. The commission may reject any rules of play which are incomplete, confusing, misleading or inconsistent with game rules approved by the commission. For each video lottery game, there shall be a display detailing the credits awarded for the occurrence of each possible winning combination of numbers or symbols. A video lottery terminal may not allow more than two dollars to be wagered on a single game. All information required by this subdivision shall be displayed under glass or another transparent substance. No stickers or other removable devices may be placed

on the video lottery terminal screen or face without the prior approval of the commission.

(13) Communication equipment and devices shall be installed to enable each video lottery terminal to communicate with the commission's central computer system by use of a communications protocol provided by the commission to each permitted manufacturer, which protocol shall include information retrieval and terminal activation and disable programs, and the commission may require each licensed racetrack to pay the cost of a central site computer as a part of the licensing requirement.

(14) All video lottery terminals shall have a security system which temporarily disables the gaming function of the terminal while opened.

(b) Each video lottery terminal shall have a random number generator to determine randomly the occurrence of each specific symbol or number used in video lottery games. A selection process is random if it meets the following statistical criteria:

(1) Chi-square test. Each symbol or number shall satisfy the ninety-nine percent confidence limit using the standard chi-square statistical analysis of the difference between the expected result and the observed result.

(2) Runs test. Each symbol or number may not produce a significant statistic with regard to producing patterns of occurrences. Each symbol or number is random if it meets the ninety-nine percent confidence level with regard to the "runs

test" for the existence of recurring patterns within a set of data.

(3) Correlation test. Each pair of symbols or numbers is random if it meets the ninety-nine percent confidence level using standard correlation analysis to determine whether each symbol or number is independently chosen without regard to another symbol or number within a single game play.

(4) Serial correlation test. Each symbol or number is random if it meets the ninety-nine percent confidence level using standard serial correlation analysis to determine whether each symbol or number is independently chosen without reference to the same symbol or number in a previous game.

(c) Each video lottery terminal shall meet the following maximum and minimum theoretical percentage payout during the expected lifetime of said terminal:

(1) Video lottery games shall pay out no less than eighty percent and no more than ninety-five percent of the amount wagered. The theoretical payout percentage will be determined using standard methods of probability theory.

(2) Manufacturers must file a request and receive approval from the commission prior to manufacturing for placement in this state video lottery terminals programmed for a payout greater than ninety-two percent of the amount wagered. Commission approval must be obtained prior to applying for testing of such high payout terminals.

(3) Each terminal shall have a probability greater than one in seventeen million of obtaining the maximum payout for each play.

(d) Each video lottery terminal shall be capable of continuing the current game with all current game features after a video lottery terminal malfunction is cleared. If a video lottery terminal is rendered totally inoperable during game play, the current wager and all credits appearing on the video lottery terminal screen prior to the malfunction shall be returned to the player.

(e) Each video lottery terminal shall at all times maintain electronic accounting regardless of whether the terminal is being supplied with electrical power. Each meter shall be capable of maintaining a total of no less than eight digits in length for each type of data required. The electronic meters shall record the following information:

(1) Number of coins inserted by players or the coin equivalent if a bill acceptor is being used;

(2) Number of credits wagered;

(3) Number of credits won;

(4) Number of credits paid out by a printed ticket;

(5) Number of times the logic area was accessed;

(6) Number of times the cash door was accessed;

(7) Number of credits wagered in the current game;

(8) Number of credits won in the last complete video lottery game; and

(9) Number of cumulative credits representing money inserted by a player and credits for video lottery games won but not collected.

(f) No video lottery terminal may have any mechanism which allows the electronic accounting meters to clear automatically. Electronic accounting meters may not be cleared without the prior approval of the commission. Both before and after any electronic accounting meter is cleared, all meter readings shall be recorded in the presence of a commission employee.

(g) The primary responsibility for the control and regulation of any video lottery games and video lottery terminals operated pursuant to this article rests with the commission.

(h) The commission shall directly or through a contract with a third party vendor other than the video lottery licensee, maintain a central site system of monitoring the lottery terminals, utilizing an on-line or dial-up inquiry. The central site system shall be capable of monitoring the operation of each video lottery game or video lottery terminal operating pursuant to this article and, at the direction of the director, immediately disable and cause not to operate, any video lottery game and video lottery terminal. As provided in this section, the commission may require the licensed racetrack to pay the cost of a central site computer as part of the licensing requirement.

§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.

(a) No video lottery license or permit may be granted unless the commission has determined that the applicant satisfies all of the following qualifications:

(1) An applicant for a video lottery license must hold a valid racing license granted by the West Virginia racing commission under provisions of article twenty-three, chapter nineteen of this code.

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

(3) An applicant must be a person whose background, including criminal record, reputation and associations, does not pose a threat to the security and integrity of the lottery or to the public interest of the state. A person who has been convicted of any violation of article twenty-two of this chapter or of this article or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible for any license or permit. The commission shall revoke the license or permit of any person who is convicted of any such crime after a license or permit is granted.

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

(5) An applicant must be a person who has secured adequate financing for the business for which a video lottery license or permit application is made. The commission shall determine whether financing is from a source which meets the qualifications of this section, and is adequate to support the successful performance of the duties and responsibilities of the licensed racetrack or permit holder. An applicant for a video lottery license shall disclose all financing or refinancing arrangements for the purchase, lease or other acquisition of video lottery terminals and associated equipment in the degree of detail requested by the commission. A licensed racetrack shall request commission approval of any change in financing or lease arrangements at least thirty days before the effective date of the change.

(6) A racetrack applying for a video lottery license or a license renewal must present to the commission evidence of the existence of an agreement, regarding the proceeds from video lottery terminals, between the applicant and the representative of a majority of the horse owners and trainers, the representative of a majority of the pari-mutuel clerks and the representative of a majority of the breeders or the representative of a majority of the kennel owners for the applicable racetrack who hold permits required by section two, article twenty-three, chapter nineteen of this code.

(7) A racetrack applying for a video lottery license or a license renewal must file with the commission a copy of any

current or proposed agreement between the applicant and any manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals, the electronic computer components thereof, the random number generator thereof, or the cabinet in which it is housed. Once filed with the commission, such agreement shall be a public document subject to the provisions of article one, chapter twenty-nine-b of this code.

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

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company or subsidiary company of the applicant (but not including a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business) who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation.

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

(3) Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant

influence over decisions concerning any part of the applicant's business operation.

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

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

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

(f) An applicant who knowingly fails to reveal any fact material to qualification or who knowingly submits false or misleading material information is ineligible for a video lottery license or permit.

§29-22A-8. Form of application; local option elections; issuance of license; notice of incomplete application; notice of license or permit denial, suspension or revocation; procedure for review of license or permit denial, suspension or revocation; fees, renewal fees and renewal dates; bonding; renewal of licenses and permits; notice of change affecting license or permit; license or permit not transferrable or assignable.

(a) The commission shall determine the form of applications to be used and shall not consider incomplete applications. The commission may consider an application when the applicant has completed and executed all forms and documents required by the commission and all application fees and costs have been paid.

(b) The question of whether video lottery games shall be permitted at pari-mutuel racetracks shall be determined by local option election in each county in which a pari-mutuel racetrack is located. The local option election on this question may be placed on the ballot in each county at the primary election to be held on the tenth day of May, one thousand nine hundred ninety-four, or at any primary, general or special election to be held thereafter. The county commission of the county in which the

racetrack is located shall give notice to the public of such election by publication thereof as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election.

On the local option election ballot shall be printed the following:

Shall West Virginia lottery commission video lottery games be permitted within an area at the [name of racetrack] in which pari-mutuel betting is authorized by law?

Yes No

(Place a cross mark in the square opposite your choice.)

The ballots shall be counted, returns made and canvassed as in general elections, and the results certified by the commissioners of election to the county commission. The county commission shall, without delay, certify the result of the election to the commission.

(c) Upon receipt of the results of the election from the county commission, and if a majority has voted "yes", the commission shall issue the requested license if the applicant is otherwise qualified for the license. If a majority has voted "no", the commission shall so notify the applicant, the

application shall be denied, and another election on the issue shall not be held for a period of two years. If a majority has voted "yes", another local option election on the issue shall not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which the horse or dog racetrack is located. The petition may be in any number of counterparts.

The petition shall be in the following form:

Petition For Local Option Election

We, the undersigned legally qualified voters, resident within the county of _____, do hereby petition that a special election be held within the county of _____ upon the following question: Shall West Virginia lottery commission video lottery games be permitted within an area at the [name of racetrack] in which pari-mutuel betting is authorized by law?

Name	Address	Date
(Post office or street address)		

(d) If the commission, prior to the first day of November, one thousand nine hundred ninety-three, has authorized any racetrack to conduct video lottery games at its pari-mutuel facility, the games may continue to operate until the first day of January, one thousand nine hundred ninety-five, pending the

results of any local option election held pursuant to the provisions of this section.

(e) The commission may not issue any license or permit until background investigations are concluded. The commission must make an affirmative determination that the applicant is qualified and the applicable license or permit fees have been paid prior to issuing any license or permit.

(f) The commission shall notify the applicant if an application is incomplete and the notification shall state the deficiencies in the application.

(g) The commission shall notify applicants in writing of the denial, suspension or revocation of a permit or license and the reasons for the denial, suspension or revocation in accordance with the provisions of section fifteen of this article.

(h) An applicant may request a hearing to review a license or permit denial, suspension or revocation in accordance with section fifteen of this article.

(i) The following license or permit fees shall be paid annually by each licensed racetrack, or permitted manufacturer, service technician or validation manager:

- (1) Racetrack: \$1,000.
- (2) Manufacturer: \$10,000.
- (3) Service technician: \$100.
- (4) Validation manager: \$50.

The fees shall be paid to the commission at the time of license or permit application and on or before the first day of

July of each year thereafter, at which time the license or permit may be renewed.

(j) An applicant for a video lottery license shall, prior to the issuance of the license, post a bond or irrevocable letter of credit in a manner and in an amount established by the commission. The bond shall be issued by a surety company authorized to transact business in West Virginia and the company shall be approved by the insurance commissioner of this state as to solvency and responsibility.

(k) The commission shall renew video lottery licenses and permits annually as of the first day of July of each year, if each person seeking license or permit renewal submits the applicable renewal fee, completes all renewal forms provided by the commission, and continues to meet all qualifications for a license or permit.

(l) License and permit holders shall notify the commission of any proposed change of ownership or control of the license or permit holder and of all other transactions or occurrences relevant to license or permit qualification. In order for a license or permit to remain in effect, commission approval is required prior to completion of any proposed change of ownership or control of a license or permit holder.

(m) A license or permit is a privilege personal to the license or permit holder and is not a legal right. A license or permit granted or renewed pursuant to this article may not be transferred or assigned to another person, nor may a license or a

permit be pledged as collateral. The purchaser or successor of any license or permit holder must independently qualify for a license or permit. The sale of more than five percent of a license or permit holder's voting stock, or more than five percent of the voting stock of a corporation which controls the license or permit holder or the sale of a license or permit holder's assets, other than those bought and sold in the ordinary course of business, or any interest therein, to any person not already determined to have met the qualifications of section seven of this article voids the license unless the sale has been approved in advance by the commission.

§29-22A-9. General duties of all video lottery license and permit holders; duties of permitted manufacturers; duties of permitted service technicians; duties of permitted validation managers; duties of licensed racetracks.

(a) The general duties required of all video lottery license and permit holders are as follows:

(1) Promptly report to the commission any facts or circumstances related to video lottery operations which constitute a violation of state or federal law.

(2) Conduct all video lottery activities and functions in a manner which does not pose a threat to the public health, safety or welfare of the citizens of this state, and which does not adversely affect the security or integrity of the lottery.

(3) Hold the commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against a license or permit holder, the commission, the state or the employees thereof, arising from the license or permit holder's participation in the video lottery system authorized by this article.

(4) Assist the commission in maximizing video lottery revenues.

(5) Maintain all records required by the commission.

(6) Upon request by the commission, provide the commission access to all records and the physical premises of the business or businesses where the license or permit holder's video lottery activities occur, for the purpose of monitoring or inspecting the license or permit holder's activities and the video lottery games, video lottery terminals and associated equipment.

(7) Keep current in all payments and obligations to the commission.

(b) The specific duties required of manufacturers are as follows:

(1) Manufacture terminals and associated equipment for placement in this state in accordance with the specifications and procedures specified in sections five and six of this article.

(2) Manufacture terminals and associated equipment to ensure timely delivery to licensed racetracks.

(3) Maintain and provide an inventory of spare parts to assure the timely repair and continuous operation of licensed video lottery terminals intended for placement in this state.

(4) Provide to licensed racetracks and permitted service technicians technical assistance and training in the service and repair of video lottery terminals and associated equipment so as to assure the continuous authorized operation and play of such video lottery terminals.

(5) Obtain certification of compliance under the provisions of part fifteen of the federal communication commission rules for all video lottery terminals placed in this state.

(c) The specific duties required of service technicians are as follows:

(1) Maintain all skills necessary for the timely repair and service of licensed video lottery terminals and associated equipment so as to ensure the continued, approved operation of those terminals.

(2) Attend all commission mandated meetings, seminars and training sessions concerning the repair and maintenance of licensed video lottery terminals and associated equipment.

(3) Promptly notify the commission of any electronic or mechanical video lottery terminal malfunctions.

(d) The specific duties required of validation managers are as follows:

(1) Attend all commission mandated meetings, seminars and training sessions concerning 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 ticket validation procedures at the applicable licensed racetrack.

(e) The specific duties required of all licensed racetracks are as follows:

(1) Acquire video lottery terminals by purchase, lease or other assignment and provide a secure location for the placement, operation and play of the video lottery terminals.

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

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

(4) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the licensed racetrack are at all times connected and prevent any person from tampering or interfering with the operation of the telephone lines.

(5) Ensure that video lottery terminals are within the sight and control of designated employees of the licensed racetrack.

(6) Ensure that video lottery terminals are placed and remain placed in the specific locations within the licensed racetrack

which have been approved by the commission. No video lottery terminal or terminals at a racetrack shall be relocated without the prior approval of the commission.

(7) Monitor video lottery terminals to prevent access to or play by persons who are under the age of eighteen years or who are visibly intoxicated.

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

(9) Provide no access by a player to an automated teller machine (ATM) in the area of the racetrack 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.

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

(11) Report promptly to the manufacturer and the commission all video lottery terminal malfunctions and notify the commission of the failure of a manufacturer or service technician to provide prompt service and repair of such terminals and associated equipment.

(12) Conduct no video lottery advertising and promotional activities without the prior written approval of the director.

(13) Install, post and display prominently at locations within or about the licensed racetrack, signs, redemption information and other promotional material as required by the commission.

(14) Permit video lottery to be played only during those hours established and approved by the commission.

(15) Maintain general liability insurance coverage for all video lottery terminals in an amount of at least two million dollars per claim.

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

(17) Assume liability for lost or stolen money from any video lottery terminal.

(18) Submit an audited financial statement, which has been approved by the commission, to the commission when applying for a license or permit and annually thereafter prior to the time a license or permit may be renewed.

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

(a) The commission shall provide to manufacturers, or applicants applying for a manufacturer's permit, the protocol documentation data necessary to enable the respective manufacturer's video lottery terminals to communicate with the commission's central computer for transmitting auditing program information and for activation and disabling of video lottery terminals.

(b) The gross terminal income of a licensed racetrack shall be remitted to the commission through the electronic transfer of funds. Licensed racetracks shall furnish to the commission all information and bank authorizations required to facilitate the timely transfer of moneys to the commission. Licensed racetracks must provide the commission thirty days' advance notice of any proposed account changes in order to assure the uninterrupted electronic transfer of funds. From the gross terminal income remitted by the licensee to the commission, the commission shall deduct an amount sufficient to reimburse the commission for its actual costs and expenses incurred in administering racetrack video lottery at the licensed racetrack, and the resulting amount after such deduction shall be the net terminal income. The amount deducted for administrative costs and expenses of the commission may not exceed four percent of gross terminal income.

(c) Net terminal income shall be divided as set out in this subsection. The licensed racetrack's share shall be in lieu of all lottery agent commissions and is considered to cover all costs and expenses required to be expended by the licensed

racetrack in connection with video lottery operations. The division shall be made as follows:

(1) The commission shall receive thirty percent of net terminal income, which shall be paid into the general revenue fund of the state to be appropriated by the Legislature;

(2) Fourteen percent of net terminal income at a licensed racetrack shall be deposited in the special fund established by the licensee, and used for payment of regular purses in addition to other amounts provided for in article twenty-three, chapter nineteen of this code;

(3) The county where the video lottery terminals are located shall receive two percent of the net terminal income;

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

(5) The West Virginia thoroughbred development fund created under section thirteen-b, article twenty-three, chapter nineteen of this code and the West Virginia greyhound breeding development fund created under section ten, article twenty-three, chapter nineteen of this code shall receive an equal share of a total of not less than one and one-half percent of the net terminal income: *Provided*, That for any racetrack which does not have a breeder's program supported by the thoroughbred development fund

or the greyhound breeding development fund, the one and one-half percent provided for in this subdivision shall be deposited in the special fund established by the licensee and used for payment of regular purses, in addition to other amounts provided for in subdivision (2) of this subsection and article twenty-three, chapter nineteen of this code.

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

(7) A licensee shall receive forty-seven percent of net terminal income.

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

(9) The veterans memorial program shall receive one percent of the net terminal income until sufficient moneys have been received to complete the veterans memorial on the grounds of the state capitol complex in Charleston, West Virginia. The money shall be deposited in the state treasury in the special department of culture and history fund created under section three, article one-i, chapter twenty-nine of this code: *Provided,* That after sufficient moneys have been deposited in the fund to complete the veterans memorial, the one percent of net terminal income provided for in this subdivision shall be deposited in the

special fund established by the licensee and used for payment of regular purses, in addition to other amounts provided for in subdivision (2) of this subsection and article twenty-three, chapter nineteen of this code.

(d) Each licensed racetrack shall maintain in its account an amount equal to or greater than the gross terminal income from its operation of video lottery machines, to be electronically transferred by the commission on dates established by the commission. Upon a licensed racetrack's failure to maintain this balance, the commission may disable all of a licensed racetrack's video lottery terminals until full payment of all amounts due is made. Interest shall accrue on any unpaid balance at a rate consistent with the amount charged for state income tax delinquency under chapter eleven of this code, which interest shall begin to accrue on the date payment is due to the commission.

(e) The commission's central control computer shall keep accurate records of all income generated by each video lottery terminal. The commission shall prepare and mail to the licensed racetrack a statement reflecting the gross terminal income generated by the licensee's video lottery terminals. Each licensed racetrack must report to the commission any discrepancies between the commission's statement and each terminal's mechanical and electronic meter readings. The licensed racetrack is solely responsible for resolving income discrepancies between actual money collected and the amount shown

on the accounting meters or on the commission's billing statement.

(f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the commission may make no credit adjustments. For any video lottery terminal reflecting a discrepancy, the licensed racetrack shall submit to the commission the maintenance log which includes current mechanical meter readings and the audit ticket which contains electronic meter readings generated by the terminal's software. If the meter readings and the commission's records cannot be reconciled, final disposition of the matter shall be determined by the commission. Any accounting discrepancies which cannot be otherwise resolved shall be resolved in favor of the commission.

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

(h) Licensed racetracks may, upon request, receive additional reports of play transactions for their respective video lottery terminals and other marketing information not considered confidential by the commission. The commission may charge a reasonable fee for the cost of producing and mailing any report other than the billing statements.

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

§29-22A-11. Maintenance of video lottery terminals; manufacturers required to provide training; notice of availability of training; reports and certificates of training programs; terminals to be maintained in the condition approved; maintenance log required; keys to video lottery terminals; notice of repairs to the logic area; notice of broken seals on logic board.

(a) No video lottery terminal may be placed in operation in this state until the manufacturer provides training in the service and repair of each approved video lottery terminal model and service technicians complete such training. Manufacturers

must submit to the commission the following information on each training program conducted:

- (1) An outline of the training curriculum;
- (2) A list of the instructors and their qualifications;
- (3) Instructional materials; and
- (4) The time, dates and location of the training programs.

(b) Manufacturers shall notify all licensed racetracks who have purchased or leased that manufacturer's video lottery terminals of all scheduled training programs. Training programs must be scheduled at convenient locations within this state to facilitate attendance by service technicians. Manufacturers must inform licensed racetracks of any new developments in the service and repair of video lottery terminals and provide appropriate subsequent training programs.

(c) The manufacturers shall issue training certificates to each person upon successful completion of a video lottery training program. The certificate shall include the name of the person who completed the training program and the date and the location of the training program. A person who successfully completes training is eligible for a service technician's permit. No person may conduct maintenance on any video lottery terminal or associated equipment unless the commission has issued a service technician permit to that person.

(d) Each manufacturer shall file with the commission the following information within two weeks after the completion of a training program:

(1) The name of each person who attended and completed the training program;

(2) The name of the manufacturer offering the course;

(3) The manufacturer's video lottery terminal models on which training for service and repair was provided;

(4) The date and location of the training program; and

(5) Copies of all certificates of completion.

(e) A written maintenance log shall be kept within the main cabinet access area in each video lottery terminal. Every person, including lottery personnel, who gains entry into any internal space of a video lottery terminal must sign the log, record the time and date of entry, record the mechanical meter readings and list the areas inspected or repaired. The maintenance log forms shall be retained by licensed racetracks for a period of three years from the date of the last entry. The maintenance logs shall be available upon request for inspection by the commission.

(f) Licensed racetracks shall provide the commission with a master key for access into the main cabinet door of each video lottery terminal placed in operation. A logic box seal shall be provided by the commission. The seal shall be affixed by commission personnel to prevent unauthorized access to the video lottery terminal logic unit.

(g) No repairs to, or replacement of, the logic board or circuitry within the logic area may occur unless authorized commission personnel are present and observe the repairs or

replacement. The logic area seal shall not be broken by anyone other than authorized commission personnel. Each service technician shall submit a written report within twenty-four hours after the repairs or replacement are completed and the report shall include the serial number of any replacement board and the new logic area seal number.

(h) The software eeproms on the logic board of each video lottery terminal shall be tested by the commission prior to sealing the logic area. Licensed racetracks or permit holders shall notify the commission in writing of any discovered damage, tears or breaks in the logic area seal and, upon notice, the video lottery terminal shall be disabled. The video lottery terminal shall remain disabled until completion by the commission of an investigation of the seal damage.

§29-22A-12. Number and location of video lottery terminals; security.

(a) A racetrack which has been licensed to conduct video lottery games has the right to install and operate up to four hundred video lottery terminals at a licensed racetrack. A licensed racetrack may apply to the commission for authorization to install and operate more than four hundred video lottery terminals. If the commission determines that the installation of additional machines is in the best interest of the licensed racetrack, the lottery commission and the citizens of this state, the commission may grant permission to install and operate additional machines.

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

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

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

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

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

(5) Operational video lottery terminals may only be located in the building or structure in which the grandstand area of the racetrack is located and in the area of such building or structure where pari-mutuel wagering is permitted under the provisions of article twenty-three, chapter nineteen of this code: *Provided*, That if the commission, before the first day of November, one thousand nine hundred ninety-three, has authorized any racetrack to operate video lottery terminals and offer video lottery games in a location which would not conform to the requirements of this subdivision, the racetrack may continue to

use video lottery terminals registered with and approved by the commission at that nonconforming location and to offer such games and any variations or composites of such games as may be approved by the commission: *Provided, however,* That after the tenth day of May, one thousand nine hundred ninety-four, for each video lottery terminal located in a nonconforming location, the racetrack shall locate and operate one video lottery terminal in the building or structure in which the grandstand area of the racetrack is located and in the area of such building or structure where pari-mutuel wagering is permitted.

(c) A licensee shall allow video lottery games to be played only on days when live racing is being conducted at the racetrack and/or on televised racing days: *Provided,* That this restriction shall not apply to any racetrack authorized by the commissioner prior to the first day of November, one thousand nine hundred ninety-three to operate video lottery terminals and conduct video lottery games.

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

§29-22A-13. Payment of credits; no state liability; method of payment; restrictions on payment of credits;

**redeemed tickets required to be defaced; liability
for video lottery terminal malfunction.**

(a) No payment for credits awarded on a video lottery terminal may be made unless the ticket meets the following requirements:

(1) The ticket is fully legible and printed on paper approved by the commission and the ticket contains all information required by this article;

(2) The ticket is not mutilated, altered, unreadable or tampered with in any manner;

(3) The ticket is not counterfeit, in whole or in part; and

(4) The ticket is presented by a person authorized to play video lottery pursuant to this article.

(b) Each licensed racetrack shall designate validation managers and employees authorized to redeem tickets during the business hours of operation. Credits shall be immediately paid in cash or by check when a player presents a valid ticket for payment. No credits may be paid in tokens, chips or merchandise.

(c) Licensed racetracks shall not redeem tickets for credits awarded on video lottery terminals which are not located on its premises. A ticket must be presented for payment no later than ten days after the date the ticket is printed. The commission is not liable for the payment of any video lottery ticket credits.

(d) All tickets redeemed by a licensed racetrack shall be defaced in a manner which prevents any subsequent presentment and payment.

(e) The commission is not responsible for any video lottery terminal malfunction which causes a credit to be wrongfully awarded or denied to players. The licensed racetrack is solely responsible for any wrongful award or denial of credits.

§29-22A-14. Transportation and registration of video lottery.

(a) Trucking companies or common carriers shipping video lottery terminals shall be bonded and shall ship all terminals in sealed trailers.

(b) A manufacturer transporting one or more video lottery terminals into this state shall, prior to shipment, provide the commission with the following information on forms prescribed by the commission:

(1) The full name, address and permit number of the person shipping the video lottery terminals;

(2) The method of shipment and the name of the carrier;

(3) The full name, address and license number of the licensed racetrack to which the video lottery terminals are being sent and the destination of the terminals if different from the address;

(4) The number of video lottery terminals in the shipment;

(5) The serial number of each video lottery terminal in the shipment;

(6) The model number and description of each video lottery terminal in the shipment; and

(7) The expected arrival date of the video lottery terminals at their respective destination within this state.

(c) A licensed racetrack which purchases or leases a video lottery terminal shall, upon receipt of the terminal, provide the commission with the following information on forms prescribed by the commission:

(1) The full name, address and license number of the licensed racetrack receiving the video lottery terminal;

(2) The full name, address and permit number of the manufacturer from whom the video lottery terminal was received;

(3) The serial number of each video lottery terminal received;

(4) The model number and description of each video lottery terminal received;

(5) The expected date and time of video lottery terminal arrival; and

(6) The expected date and time of video lottery terminal installation, and if a video lottery terminal is not placed in operation, the licensed racetrack must notify the commission of the location where the terminal is stored.

(d) Any person transporting a video lottery terminal from one location to another in this state, other than for repair or servicing purposes, shall notify the commission in writing prior to the transportation of the terminal and provide the following information on forms required by the commission:

(1) The full name, address and license number of the person or entity transporting the video lottery terminal;

(2) The reason for transporting the video lottery terminal;

(3) The full name, address and license number of the person or entity to whom the terminal is being sent and the destination of the video lottery terminal if it is different from the address;

(4) The serial and model number of the video lottery terminal;

(5) The video lottery terminal license number, if affixed;

(6) The manufacturer of the video lottery terminal; and

(7) The expected date and time of video lottery terminal installation or reinstallation.

(e) Any person shipping video lottery terminals to a destination outside of this state shall, prior to the shipment, provide the commission with the following information on forms prescribed by the commission:

(1) The full name, address and license or permit number of the person shipping the video lottery terminals;

(2) The method of shipment and the name of the carrier;

(3) The full name and address of the person to whom the video lottery terminals are being sent and the destination of the video lottery terminals if different from the address;

(4) The serial number of each video lottery terminal being shipped;

(5) The model number and description of the video lottery terminal being shipped;

(6) The video lottery terminal control number, if affixed;

(7) The manufacturer of the video lottery terminal being shipped; and

(8) The expected date and time of the shipment.

(f) Each video lottery terminal placed in operation in this state must have a commission registration decal permanently affixed, with a video lottery terminal registration control number placed thereon. A decal registration fee is hereby imposed. The amount of the fee shall equal six percent of the total consideration paid to the manufacturer for the use and, or the ownership of the video lottery terminal. The fee shall be paid by the manufacturer to the commission prior to the receipt of the registration decal. The registration decal fee shall be collected by the commission and deposited to the credit of the general revenue fund of the state. No person other than authorized commission personnel shall affix or remove a registration control number. The affixing of the commission decal on a video lottery terminal evidences that the decal registration fee has been paid and that the terminal has been registered, inspected and approved for operation in this state. No terminal may be transported out of this state until authorized commission personnel have removed the commission registration control number.

§29-22A-15. Hearing and appeal procedure; order refusing license or permit or suspending or revoking same; petition for hearing; petition requirements; cost of hearings; subpoenas and subpoenas duces tecum; no

stay of suspension or revocation order; hearing date; place of hearing; continuances; absence of petitioner; hearing; argument and briefs; evidence admissible at hearing; record of proceedings; commission's decision; appeal to circuit court.

(a) If the commission refuses to issue a license or permit, or suspends or revokes a license or permit, it shall make and enter an order to that effect including a statement of the reasons for that action and shall, by certified mail, return receipt requested, mail a copy of the order to the applicant, or the license or permit holder, or serve the same in the manner provided for the service of legal process.

(b) Any applicant or license or permit holder adversely affected by such order has the right to a hearing thereon before the commission or a person designated as hearing examiner, if a petition in writing requesting a hearing is served upon the commission within ten days following the receipt of the order by such applicant, or license or permit holder.

(c) The petition for a hearing shall be in writing and shall include an original and one copy. The petition must contain the following:

(1) A clear and concise statement of each error which the petitioner alleges to have been committed by the commission in refusing to issue a license or permit, or suspending or revoking a license or permit, with each assignment of error being shown in separately numbered paragraphs.

(2) A clear and concise statement of fact upon which the petitioner relies as sustaining each assignment of error.

(3) A prayer setting forth the relief sought.

(4) The signature of the petitioner.

(5) Verification by the petitioner.

(d) The person demanding a hearing shall give security for the cost of the hearing in the amount of three hundred dollars in the form of certified check, cashier's check or money order, which shall accompany the petition demanding a hearing.

(e) In all hearings held under this article, oral and documentary evidence may be required through the use of subpoenas and subpoenas duces tecum. Subpoenas or subpoenas duces tecum may be issued by either the commission or its duly appointed hearing examiner and the following provisions shall govern and control:

(1) Every subpoena or subpoena duces tecum must be served at least five days before the return date thereof, either by personal service made by any person eighteen years of age or older, or by registered or certified mail, but a return acknowledgment signed by the person to whom the subpoena or subpoena duces tecum is directed is required to prove service by registered or certified mail.

(2) All subpoenas and subpoenas duces tecum shall be issued in the name of the commission. Service of subpoenas and subpoenas duces tecum issued at the insistence of the commission are the responsibility of the commission, but any party

requesting issuance of a subpoena or subpoena duces tecum is responsible for service of any such subpoena. Any person who serves a subpoena or subpoena duces tecum is entitled to the same fee as sheriffs who serve witness subpoenas for the circuit courts of this state and fees for the attendance and travel of witnesses shall be the same as for witnesses before the circuit courts of this state.

(3) All fees shall be paid by the commission if the subpoena or subpoena duces tecum is issued, without the request of an interested party, at the insistence of the commission.

(4) All fees related to any subpoenas or subpoena duces tecum issued at the insistence of an interested party shall be paid by the interested party.

(5) All requests by an interested party for a subpoena and subpoena duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay such fees.

(6) Any person receiving a subpoena or subpoena duces tecum issued hereunder shall honor the same as though it were issued by a circuit court of this state and shall appear as a witness or produce such books, records or papers as are requested in response to a subpoena or subpoena duces tecum. In case of disobedience or neglect of any subpoena or subpoena duces tecum served on any person or the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, the circuit court of the county in which the

hearing is being held, or the judge thereof in vacation, shall, upon application by the commission, compel obedience by contempt proceedings as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from the circuit court or a refusal to testify therein.

(f) The service of a petition for hearing upon the commission shall not operate to suspend the execution of any suspension or revocation of a video lottery license or permit with respect to which a hearing is being demanded.

(g) The commission shall set a date for any hearing demanded and notify the person demanding a hearing not later than seven days before the hearing date of the date and time of the hearing, which hearing shall be held within thirty days after receipt of the petition.

(h) Hearings may not be delayed by a motion for continuance made less than ten days before the date set for the hearing.

(i) The commission may designate a hearing examiner to conduct any hearing.

(j) The petitioner may appear individually, or by legal counsel.

(k) The petitioner, or his duly authorized representative, may, with the approval of the commission, waive the right to a hearing and agree to submit the case for decision upon the petition and record, with or without a written brief. Waivers and agreements must be in writing or upon the record.

(l) The petitioner shall be given an opportunity for argument within the time limits fixed by the commission following submission of evidence. The commission, upon request of the petitioner, shall accept briefs in addition to or in lieu of argument. Briefs must be filed within ten days after the hearing date.

(m) The commission may admit any relevant evidence, except that it shall observe the rules of privilege recognized by law. A finding is to be supported by the kind of evidence commonly relied upon by reasonably prudent men in the conduct of their affairs, whether or not the evidence would be admissible before a jury. The commission may exclude any evidence which is irrelevant, unduly repetitious or lacking in substantial probative effect.

(n) There shall be a record made of all hearings held pursuant to this article.

(o) After the conclusion of the hearing and within ten days of receipt of the transcript thereof and receipt of any briefs, the person designated by the commission as hearing examiner shall prepare a recommended decision, supported by findings of fact and conclusions of law, affirming, modifying or vacating the earlier order of the commission. Thereafter, the commission, within ten days of receipt of the recommended decision, shall either accept or reject the recommended decision, and if it accepts the decision, it shall cause the director to sign and acknowledge the recommended decision as its own, after having reviewed the

transcript and all exhibits attached and affixed thereto; and if it shall reject the same, it shall within ten days of receipt of the recommended decision prepare a decision setting forth its own findings of fact and conclusions of law. In either event, the decision shall be final unless vacated or modified upon judicial review thereof. A copy of the decision shall be served upon each party to the hearing and their attorney of record, if any, in person or by registered or certified mail.

(p) A petition for appeal by an applicant, licensee or permit holder may be filed with the circuit court of Kanawha County, West Virginia, or with the circuit court of the county in which the racetrack is located, if filed no later than thirty days after the date upon which the petitioner receives notice of the final decision of the commission.

§29-22A-16. Offenses and penalties.

(a) A licensee who places a video lottery game or video lottery terminal into play without authority of the commission to do so is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year and fined not more than five thousand dollars, except that in the case of a person other than a natural person, the amount of the fine imposed may be not more than twenty-five thousand dollars.

(b) A person who operates, carries on or exposes for play a video lottery game or video lottery terminal after the person's license has expired and prior to the actual renewal thereof is guilty of a misdemeanor, and, upon conviction thereof, shall be

confined in jail not more than one year and fined not more than five thousand dollars, except that in the case of a person other than a natural person, the amount of the fine imposed may be not more than twenty-five thousand dollars.

(c) A licensee who possesses any video lottery terminal or other device, equipment or material which the person knows has been manufactured, distributed, sold, tampered with or serviced in violation of the provisions of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year and fined not more than five thousand dollars, except that in the case of a person other than a natural person, the amount of the fine imposed may be not more than twenty-five thousand dollars.

(d) A licensee who knowingly conducts, carries on, operates or exposes for play, or allows to be conducted, carried on, operated or exposed for play any video lottery game, video lottery terminal, or other device, equipment or material which has in any manner been tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive the public or tends to alter the normal random selection of characteristics or the normal chance of the video lottery game which could determine or alter the result of the game is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year and fined not more than five thousand dollars, except that in the case of a person other than

a natural person, the amount of the fine imposed may be not more than fifty thousand dollars.

(e) A licensee who employs or continues to employ an individual, not issued a permit under the provisions of this article, in a position with duties which would require a permit under the provisions of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year and fined not more than five thousand dollars, except that in the case of a person other than a natural person, the amount of the fine imposed may be not more than twenty-five thousand dollars.

(f) A person who, without obtaining the requisite permit as provided for in this article, works or is employed in a position with duties which would require a permit under the provisions of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year and fined not more than ten thousand dollars.

(g) A person who, while a video lottery game is being played at a licensed racetrack, uses, or assists another in the use of, an electronic, electrical, or mechanical device which is designed, constructed, or programmed specifically for use in obtaining an advantage at playing any video lottery game is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than six months or fined not more than one thousand dollars, or both.

(h) A person who knowingly violates a provision of this article, or the rules of play or game rules of a video lottery game and who profits thereby in an amount equal to one thousand dollars or more, is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than ten years, or, in the discretion of the court, be confined in jail not more than one year and shall be fined not more than two thousand five hundred dollars. If the person profits thereby in an amount less than one thousand dollars, such person is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail for a term not to exceed one year or fined not to exceed two thousand five hundred dollars, or both.

(i) A person who fails to perform any of the duties or obligations created and imposed upon them by the provisions of this article shall be subject to a civil penalty as may be determined by the commission, not to exceed ten thousand dollars.

§29-22A-17. Disagreement as to duties of racing commission and lottery commission.

In the event of a disagreement between the racing commission and the lottery commission with regard to their respective duties or responsibilities in carrying out the purposes of this article, such disagreement shall be resolved by the secretary of the department of tax and revenue in a manner not inconsistent with the provisions of this article, article twenty-two-a of this chapter and article twenty-three, chapter nineteen of this code.

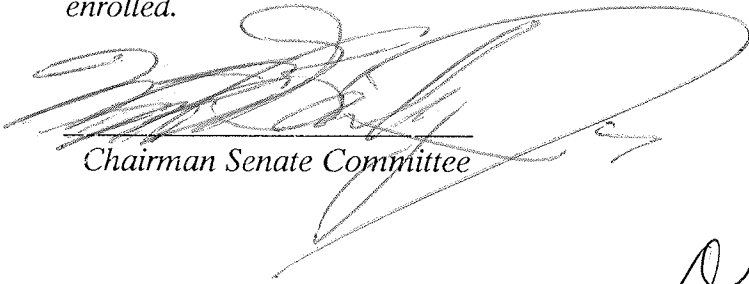
§29-22A-18. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable.

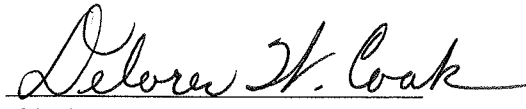
§29-22A-19. Termination.

This article terminates and shall be of no further force and effect on and after the thirtieth day of June, one thousand nine hundred ninety-seven.

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



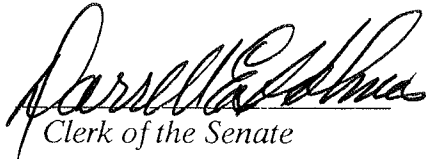
Chairman Senate Committee



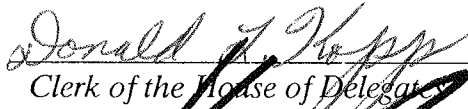
Chairman House Committee

Originating in the House.

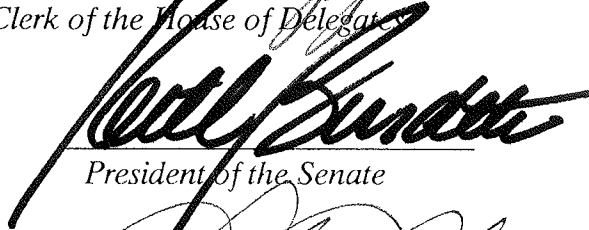
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

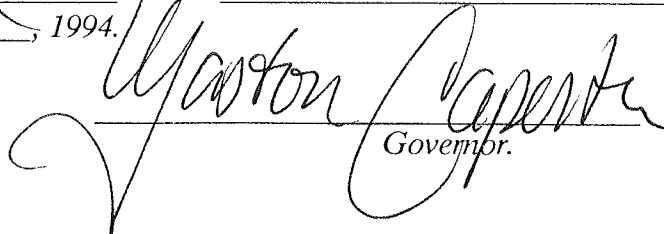


President of the Senate



Speaker House of Delegates

The within is approved this the 18th day of March, 1994.



Governor.

PRESENTED TO THE

GOVERNOR

Date 3/18/94

Time 3:36 pm