

SB 761

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



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SENATE BILL NO. 761

(By Senator CRAIG, ET AL)



PASSED MARCH 12, 1998

In Effect From Passage

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OFFICE OF THE CLERK
SECRETARY OF STATE

ENROLLED

Senate Bill No. 761

(BY SENATORS CRAIGO, ANDERSON, BAILEY, CHAFIN, HELMICK,
JACKSON, LOVE, MACNAUGHTAN, PLYMALE, PREZIOSO, SHARPE,
WALKER, BOLEY, DUGAN, MCKENZIE, MINEAR AND SPROUSE)

[Passed March 12, 1998; in effect from passage.]

AN ACT to amend and reenact section ten, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to distribution of proceeds from net terminal income of racetrack video lottery proceeds; funding of veterans memorial archives, restoration and maintenance of monuments; funding the construction and maintenance of a parking garage on the state capitol complex; and funding maintenance and repairs of the Morris square properties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§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.

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

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

26 (c) Net terminal income shall be divided as set out in this
27 subsection. The licensed racetrack's share shall be in lieu

28 of all lottery agent commissions and is considered to cover
29 all costs and expenses required to be expended by the
30 licensed racetrack in connection with video lottery
31 operations. The division shall be made as follows:

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

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

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

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

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

63 purses, in addition to other amounts provided for in
64 subdivision (2) of this subsection and article twenty-three,
65 chapter nineteen of this code;

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

72 (7) A licensee shall receive forty-seven percent of net
73 terminal income;

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

77 (9) The veterans memorial program shall receive one
78 percent of the net terminal income until sufficient moneys
79 have been received to complete the veterans memorial on
80 the grounds of the state capitol complex in Charleston,
81 West Virginia. The moneys shall be deposited in the state
82 treasury in the division of culture and history special fund
83 created under section three, article one-i, chapter
84 twenty-nine of this code: *Provided*, That only after
85 sufficient moneys have been deposited in the fund to
86 complete the veterans memorial and to pay in full the
87 annual bonded indebtedness on the veterans memorial,
88 not more than twenty thousand dollars of the one percent
89 of net terminal income provided for in this subdivision
90 shall be deposited into a special revenue fund in the state
91 treasury, to be known as the "John F. 'Jack' Bennett
92 Fund". The moneys in this fund shall be expended by the
93 division of veterans affairs to provide for the placement of
94 markers for the graves of veterans in perpetual cemeteries
95 in this state. The division of veterans affairs shall promul-
96 gate legislative rules pursuant to the provisions of article
97 three, chapter twenty-nine-a of this code specifying the
98 manner in which the funds are spent, determine the ability

99 of the surviving spouse to pay for the placement of the
100 marker, and setting forth the standards to be used to
101 determine the priority in which the veterans grave mark-
102 ers will be placed in the event that there are not sufficient
103 funds to complete the placement of veterans grave mark-
104 ers in any one year, or at all. Upon payment in full of the
105 bonded indebtedness on the veteran's memorial, one
106 hundred thousand dollars of the one percent of net
107 terminal income provided for in this subdivision shall be
108 deposited in the special fund in the division of culture and
109 history created under section three, article one-i, chapter
110 twenty-nine of this code and be expended by the division
111 of culture and history to establish a West Virginia veter-
112 ans memorial archives within the cultural center to serve
113 as a repository for the documents and records pertaining
114 to the veterans memorial, to restore and maintain the
115 monuments and memorial on the capitol grounds, and not
116 more than twenty thousand dollars be deposited in the
117 "John F. 'Jack' Bennett Fund": *Provided, however*, That
118 five hundred thousand dollars of the one percent of net
119 terminal income shall be deposited in the state treasury in
120 a special fund of the department of administration,
121 created under section five, article four, chapter five-a of
122 this code to be used for construction and maintenance of
123 a parking garage on the state capitol complex, and:
124 *Provided further*, That the remainder of the one percent of
125 net terminal income shall be deposited in a special fund of
126 the department of administration created under section
127 five, article four, chapter five-a of this code to be used to
128 maintain and make repairs to the Morris square proper-
129 ties.

130 (d) Each licensed racetrack shall maintain in its account
131 an amount equal to or greater than the gross terminal
132 income from its operation of video lottery machines, to be
133 electronically transferred by the commission on dates
134 established by the commission. Upon a licensed
135 racetrack's failure to maintain this balance, the commis-

136 sion may disable all of a licensed racetrack's video lottery
137 terminals until full payment of all amounts due is made.
138 Interest shall accrue on any unpaid balance at a rate
139 consistent with the amount charged for state income tax
140 delinquency under chapter eleven of this code, which
141 interest shall begin to accrue on the date payment is due
142 to the commission.

143 (e) The commission's central control computer shall keep
144 accurate records of all income generated by each video
145 lottery terminal. The commission shall prepare and mail
146 to the licensed racetrack a statement reflecting the gross
147 terminal income generated by the licensee's video lottery
148 terminals. Each licensed racetrack must report to the
149 commission any discrepancies between the commission's
150 statement and each terminal's mechanical and electronic
151 meter readings. The licensed racetrack is solely responsi-
152 ble for resolving income discrepancies between actual
153 money collected and the amount shown on the accounting
154 meters or on the commission's billing statement.

155 (f) Until an accounting discrepancy is resolved in favor
156 of the licensed racetrack, the commission may make no
157 credit adjustments. For any video lottery terminal
158 reflecting a discrepancy, the licensed racetrack shall
159 submit to the commission the maintenance log which
160 includes current mechanical meter readings and the audit
161 ticket which contains electronic meter readings generated
162 by the terminal's software. If the meter readings and the
163 commission's records cannot be reconciled, final disposi-
164 tion of the matter shall be determined by the commission.
165 Any accounting discrepancies which cannot be otherwise
166 resolved shall be resolved in favor of the commission.

167 (g) Licensed racetracks shall remit payment by mail if
168 the electronic transfer of funds is not operational or the
169 commission notifies licensed racetracks that remittance by
170 this method is required. The licensed racetracks shall
171 report an amount equal to the total amount of cash

172 inserted into each video lottery terminal operated by a
173 licensee, minus the total value of game credits which are
174 cleared from the video lottery terminal in exchange for
175 winning redemption tickets, and remit such amount as
176 generated from its terminals during the reporting period.
177 The remittance shall be sealed in a properly addressed and
178 stamped envelope and deposited in the United States mail
179 no later than noon on the day when the payment would
180 otherwise be completed through electronic funds transfer.

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

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

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

Ray Schoonover
.....
Chairman Senate Committee.

Nick Fantasia
.....
Chairman House Committee

Originated in the Senate.

In effect from passage

Darrell E. Jones
.....
Clerk of the Senate

Gregory A. Ginn
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

John A. E. ...
.....
Speaker House of Delegates

The within *approved* this the *27th*
March
day of, 1998.

Earl Ray Tomblin
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/24/98

Time

3:20 pm