ENROLLED

House Bill No. 3029

(By Delegates Michael, Doyle, Leach, Campbell, Kelley, Proudfoot and Miller)

Passed March 13, 1999

In Effect Ninety Days from Passage
ENROLLED

H. B. 3029

(BY DELEGATES MICHAEL, DOYLE, LEACH, CAMPBELL, KELLEY, PROUDFOOT AND MILLER)

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[Passed March 13, 1999; in effect ninety days from passage.]

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AN ACT to amend and reenact sections two and five, article four, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three, article one, chapter twenty-nine of said code; to amend and reenact sections three, six, ten, and thirteen article twenty-two-a of said chapter; and to further amend said article by adding a new section, designated section nineteen, all relating to distribution of proceeds from net terminal income of racetrack video lottery proceeds; creating a capitol dome and capitol improvements fund; eliminating the morris square repair fund; creating the grants for competitive arts program fund; providing that a portion of the net terminal income from racetrack video lottery be deposited into the created funds; relating to the operation of video lottery games at licensed horse and dog racetracks; redefining certain terms; authorizing lottery commission to approve video lottery terminals and in doing so requiring that certain matters be taken into consideration; modifying requirement that printing mechanisms be contained in video lottery terminals in certain circumstances; approving changes in video lottery terminals; permitting winnings to be paid by non-cash prizes, annuitized payments over time, coins, vouchers or tokens in connection with video lottery games;
permitting the display of actual symbols on video lottery terminals; requiring electronic accounting meter in video lottery terminals that record use of coins and tokens; and dividing certain amounts of net terminal income between counties and certain municipalities; and creation of compulsive gambling treatment fund; source of funding; criteria for distribution of funding; and reports to the Legislature operation of video lottery games at licensed horse and dog racetracks; redefining certain terms; authorizing lottery commission to approve video lottery terminals and in doing so requiring that certain matters be taken into consideration; modifying requirement that printing mechanisms be contained in video lottery terminals in certain circumstances; approving changes in video lottery terminals; permitting winnings to be paid by non-cash prizes, annuitized payments over time, coins, vouchers or tokens in connection with video lottery games; permitting the display of actual symbols on video lottery terminals; requiring electronic accounting meter in video lottery terminals that record use of coins and tokens; and dividing certain amounts of net terminal income between counties and certain municipalities; and creation of compulsive gambling treatment fund; source of funding; criteria for distribution of funding; and reports to the Legislature.

**Be it enacted by the Legislature of West Virginia:**

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

**ARTICLE 4. GENERAL SERVICES DIVISION.**

§5A-4-2. Care, control and custody of capitol buildings and grounds.

1 (a) The director has the full responsibility for the care, control and custody of the capitol buildings and in this connection he or she shall:
(1) Furnish janitorial services, which are to be provided by employees of the department of administration for the main capitol building, including east and west wings, together with all the departments in the building, or connected with the building, regardless of the budget or budgets, departmental or otherwise, from which the janitorial services are paid, and shall furnish janitorial supplies, light, heat and ventilation for all the rooms and corridors of the buildings: *Provided*, That nothing in this section shall be construed to prohibit contracts for janitorial services with sheltered workshops. The president of the Senate and speaker of the House of Delegates, or their respective designees, have charge of the halls and committee rooms of their respective houses and any other quarters at the state capitol provided for the use of the Legislature or its staff, and shall keep the areas properly cleaned, warmed and in good order, and shall do and perform any other duties in relation to the areas as either house may require;

(2) Landscape and take care of the lawns and gardens; and

(3) Direct the making of all minor repairs to and alterations of the capitol buildings and governor’s mansion and the grounds of the buildings and mansion. Major repairs and alterations shall be made under the supervision of the director, subject to the direction of the secretary.

(b) The offices of the assistants and employees appointed to perform these duties shall be located where designated by the secretary, except that they shall not be located in any of the legislative chambers, offices, rooms or halls. Office hours shall be arranged so that emergency or telephone service is available at all times. The hours shall be arranged so that janitorial service shall not interfere with other employment during regular office hours.

(c) There is created in the state treasury a special revenue account to be named the “capitol dome and capitol improvements fund.” The fund shall consist of moneys received under section ten, article twenty-two-a, chapter twenty-nine of this code and funds from any other source. Moneys in the fund shall be expended for maintenance and repairs of the capitol dome
and other capital improvements and repairs to state-owned buildings.

§5A-4-5. Regulation of parking on state-owned property in Charleston; construction of parking garage for general public; penalties; jurisdiction; creation of funds.

(a) It is the intent of the Legislature to provide a parking facility for the general public and to direct the secretary of the department of administration to plan and construct a parking garage at the state capitol complex that will provide sufficient and additional parking for the general public.

(b) The secretary may regulate the parking of motor vehicles in accordance with the provisions of this section with regard to the following state-owned property in the city of Charleston, Kanawha County:

(1) The east side of Greenbrier street between Kanawha boulevard and Washington street, east;

(2) The west side of California avenue between Kanawha boulevard and Washington street, east;

(3) Upon the state-owned grounds upon which state office building no. 3 is located;

(4) Upon the state-owned grounds which state office building no. 4, 112 California avenue, is located;

(5) In the state-owned parking garage at 212 California avenue and upon the state-owned grounds upon which such parking garage is located;

(6) Upon the state-owned property at Michigan avenue and Virginia terrace; and

(7) Upon any other property now or hereafter owned by the state and used for parking purposes in conjunction with the state capitol or state office buildings numbers three and four, including the Laidley field complex: Provided, That the secretary shall present to the joint committee on government and finance for its suggestions, on or before the first day of
July, one thousand nine hundred ninety-eight, plans for the
construction of a state capitol parking garage to be constructed,
on property owned by the state or to be purchased by the state,
no later than the thirtieth day of June, one thousand nine
hundred ninety-nine. The submitted plans shall include propos-
als for general public parking, including the estimated use and
cost; relocation of parking for official state vehicles; and state
employee parking, including the estimated use and cost.

(c) The secretary shall propose rules for promulgation
respecting parking and to allocate parking spaces to public
officers and employees of the state upon all of the property set
forth in subsection (a) of this section: Provided, That during
sessions of the Legislature, including regular, extended,
extraordinary and interim sessions, parking on the east side of
Greenbrier street between Kanawha boulevard and Washington
street, east, in the science and culture center parking lot, on the
north side of Kanawha boulevard between Greenbrier street and
California avenue, and on the west side of California avenue
between Kanawha boulevard and Washington street, east, is
subject to rules promulgated jointly by the speaker of the House
of Delegates and the president of the Senate. Any person
parking any vehicle contrary to the rules promulgated under
authority of this subsection is subject to a fine of not less than
one dollar nor more than twenty-five dollars for each offense.
In addition, the secretary or the Legislature, as the case may be,
may cause the removal at owner expense of any vehicle that is
parked in violation of the rules. Magistrates in Kanawha County
have jurisdiction of all the offenses.

(d) The secretary may employ the persons as may be
necessary to enforce the parking rules promulgated under the
provisions of this section.

(e) There is created in the department of administration a
special fund to be named the “Parking Garage Fund” in which
shall be deposited funds that are appropriated and funds from
other sources to be used for the construction and maintenance
of a parking garage on the state capitol complex.
ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-3. Commission on the arts.

(a) The commission on the arts is continued and shall be composed of fifteen appointed members.

(b)(1) The governor shall appoint, by and with the advice and consent of the Senate, the members of the commission for staggered terms of three years. A person appointed to fill a vacancy shall be appointed only for the remainder of that term.

(2) No more than eight members may be of the same political party. Members of the commission shall be appointed so as to fairly represent both sexes, the ethnic and cultural diversity of the state and the geographic regions of the state.

(3) The commission shall elect one of its members as chair. It shall meet at the times specified by the chair. Notice of each meeting shall be given to each member by the chair in compliance with the open meetings laws of the state. A majority of the members constitute a quorum for the transaction of business. The director of the arts section shall be an ex officio nonvoting member of the commission and shall serve as secretary. The director or a majority of the members may also call a meeting upon notice as provided in this section.

(4) Each member or ex officio member of the commission shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of the duties of the office; except that in the event the expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the case may be, shall not be reimbursed by the state.

(5) Upon recommendation of the commissioner, the governor may also appoint those officers of the state that are appropriate to serve on the commission as ex officio nonvoting members.

(c) The commission has the following powers:

(1) To advise the commissioner and the director of the arts section concerning the accomplishment of the purposes of that
section and to establish a state plan with respect to the arts section;

(2) To approve and distribute grants-in-aid and awards from federal and state funds relating to the purposes of the arts section;

(3) To request, accept or expend federal funds to accomplish the purposes of the arts section when federal law or regulations would prohibit the same by the commissioner or section director, but would permit the same to be done by the commission on the arts;

(4) To otherwise encourage and promote the purposes of the arts section;

(5) To approve rules concerning the professional policies and functions of the section as promulgated by the director of the arts section; and

(6) To advise and consent to the appointment of the director by the commissioner.

(d) There is created in the state treasury a special revenue account to be named the "grants for competitive arts program fund." The fund shall consist of moneys received under section ten, article twenty-two-a, chapter twenty-nine of this code and funds from any other source. Moneys in the fund shall be expended for the grants for competitive arts program: Provided, That the commission shall make a women's veterans memorial statue a priority when expending the funds: Provided, however, That the commission shall submit the plans for the statue to the secretary of administration for his or her approval.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.


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 a 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 controled by the commission to which video lottery
terminals communicate for purposes of information retrieval
and terminal activation and to 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 func-
tioning.

(j) "Display" means the visual presentation of video lottery
game features on a video lottery terminal in the form of video
images, actual symbols or both.

(k) "EPROM" and "erasable programmable read-only
memory chips" means the electronic storage medium on which
the operation software for all games playable on a video lottery
terminal resides and which can also be in the form of CD-ROM,
flash RAM or other new technology medium that the commis-
sion may from time to time approve for use in video lottery
terminals. All electronic storage media are considered to be the
property of the state of West Virginia.

(I) “Floor attendant” means a person, employed by a
licensed racetrack, who holds a permit issued by the commis-
sion and who corrects paper jams and bill jams in video lottery
terminals and also provides courtesy services for video lottery
players.

(m) “Gross terminal income” means the total amount of
cash, vouchers or tokens inserted into the video lottery termi-
nals operated by a licensee, minus the total value of coins and
tokens won by a player and game credits which are cleared
from the video lottery terminals in exchange for winning
redemption tickets.

(n) “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.

(o) “Lottery” means the public gaming systems or games
established and operated by the state lottery commission.

(p) “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 of
the video lottery terminals, the random number generator of the
video lottery terminals, 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.

(q) “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.

(r) “Non-cash prize” means merchandise which a video lottery player may be given the option to receive in lieu of cash in exchange for a winning redemption ticket and which shall be assigned a redemption value equal to the actual cost of the merchandise to the licensed racetrack.

(s) “Own” means any beneficial or proprietary interest in any property or business of an applicant or licensed racetrack.

(t) “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.

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

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

(w) “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.
(x) "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.

(y) "Video lottery game" means a commission approved, owned and controlled electronically simulated game of chance which is displayed on 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, currency, vouchers or tokens 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, coins or tokens 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, coins or tokens to be awarded for each winning combination of symbols or numbers or both;

(4) Is based upon 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, or baccarat
card games: Provided, That games having a display with
symbols which appear to roll on drums to simulate a classic
casino slot machine, game themes of other card games and keno
may be used.

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

(aa) “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 the player inserts coins, currency,
vouchers or tokens as consideration in order for play to be
available, and through which terminal device the player may
receive free games, coins, tokens or credit that can be redeemed
for cash, annuitized payments over time, a non-cash prize 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 of the
game, such as the game “Travel”, and which does not utilize an
interactive electronic terminal device allowing input by an individual player.

(bb) "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.

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

§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) The commission may approve video lottery terminals and in doing so shall take into account advancements in computer technology, competition from nearby states and the preservation of jobs in the West Virginia pari-mutuel racing industry. In approving video lottery terminals licensed for placement in this state the commission shall ensure that the terminals 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: Provided, That such printing mechanism is optional on any video lottery terminal which is designed and equipped exclusively for coin
or token payouts. 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 informa-
tion 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 require-
ment.

(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 ex-
pected 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 or tokens or vouchers are used;

(2) Number of credits wagered;

(3) Number of total credits, coins and tokens won;

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

(5) Number of coins or tokens won, if applicable;

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

(7) Number of times the cash door was accessed;
(8) Number of credits wagered in the current game;
(9) Number of credits won in the last complete video lottery game; and
(10) 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-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. Provided, that (A) beginning the first day of July, one thousand nine hundred ninety-nine, and thereafter, any amount in excess of the two percent received during fiscal year one thousand nine hundred ninety-nine by a county in which a racetrack is located that has participated in the West Virginia thoroughbred development fund since on or before the first day of January, one thousand nine hundred ninety-nine shall be divided as follows:

   (i) The county shall receive fifty percent of the excess amount; and
   
   (ii) The municipalities of the county shall receive fifty percent of the excess amount, said fifty percent to be divided among the municipalities on a per capita basis as determined by the most recent decennial United States census of population; and

   (B) Beginning the first day of July, one thousand nine hundred ninety-nine, and thereafter, any amount in excess of the two percent received during fiscal year one thousand nine hundred ninety-nine by a county in which a racetrack other than a racetrack described in paragraph (A) of this proviso is located and where the racetrack has been located in a municipality within the county since on or before the first day of January, one thousand nine hundred ninety-nine, shall be divided, if applicable, as follows:

   (i) The county shall receive fifty percent of the excess amount; and

   (ii) The municipality shall receive fifty percent of the excess amount; and

   (C) This proviso shall not affect the amount to be received under this subdivision by any county other than a county described in paragraph (A) or (B) of this proviso;

(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 moneys shall be deposited in the state treasury in the division of culture and history special fund created under section three, article one-i, chapter twenty-nine of this code: Provided, That only after sufficient moneys have been depos-
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itted in the fund to complete the veterans memorial and to pay
in full the annual bonded indebtedness on the veterans memo-
rial, not more than twenty thousand dollars of the one percent
of net terminal income provided for in this subdivision shall be
deposited into a special revenue fund in the state treasury, to be
known as the “John F. ‘Jack’ Bennett Fund”. The moneys in
this fund shall be expended by the division of veterans affairs
to provide for the placement of markers for the graves of
veterans in perpetual cemeteries in this state. The division of
veterans affairs shall promulgate legislative rules pursuant to
the provisions of article three, chapter twenty-nine-a of this
code specifying the manner in which the funds are spent,
determine the ability of the surviving spouse to pay for the
placement of the marker, and setting forth the standards to be
used to determine the priority in which the veterans grave
markers will be placed in the event that there are not sufficient
funds to complete the placement of veterans grave markers in
any one year, or at all. Upon payment in full of the bonded
indebtedness on the veteran’s memorial, one hundred thousand
dollars of the one percent of net terminal income provided for
in this subdivision shall be deposited in the special fund in the
division of culture and history created under section three,
article one-i, chapter twenty-nine of this code and be expended
by the division of culture and history to establish a West
Virginia veterans memorial archives within the cultural center
to serve as a repository for the documents and records pertaining
to the veterans memorial, to restore and maintain the
monuments and memorial on the capitol grounds, and not more
than twenty thousand dollars be deposited in the “John F. ‘Jack’
Bennett Fund”: Provided, however, That five hundred thousand
dollars of the one percent of net terminal income shall be
deposited in the state treasury in a special fund of the depart-
ment of administration, created under section five, article four,
chapter five-a of this code to be used for construction and
maintenance of a parking garage on the state capitol complex:
Provided further, That the remainder of the one percent of net
terminal income shall be deposited in equal amounts in the
capitol dome and improvements fund created under section two,
article four, chapter five-a of this code and the grants for
competitive arts program fund created under section three
article one, chapter twenty-nine 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 discrepan-
cies between the commission’s statement and each terminal’s
mechanical and electronic meter readings. The licensed
racetrack is solely responsible for resolving income discrepan-
cies 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 discrep-
ancy, 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 commis-


(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-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 and to sell and redeem tokens during the business hours of operation. Credits shall be immediately paid in cash, by check, by annuitized payments over time or in the form of a non-cash prize, when a player presents a valid ticket for payment.

(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 presentation 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.


There is hereby created and established a separate special account to be known as the “Compulsive Gambling Treatment Fund”. Such fund shall be appropriated from the commission’s administrative expense account and shall be not less than one hundred fifty thousand dollars nor more than five hundred thousand dollars per fiscal year, as determined by the commission, to provide funds for compulsive gambling treatment programs in the state.

The department of health & human resources shall develop criteria which a treatment program for compulsive gamblers
must meet in order to become eligible for a grant from the funds made available for such treatment programs pursuant to this provision. The department, in conjunction with the commission, shall develop a formula for the distribution of available funds which will result in an equitable distribution among programs submitted which meet the eligibility criteria for grants as developed by the department.

The Commission shall report annually to the Legislature the number and amounts of grants distributed and the number of people served by such programs.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within __________________ this the __________________

day of ____________________________, 1999.

Governor