

HB 3029

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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



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

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OFFICE OF THE CLERK
STATE OF WEST VIRGINIA

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H. B. 3029

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

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

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,
- 2 control and custody of the capitol buildings and in this connec-
- 3 tion he or she shall:

4 (1) Furnish janitorial services, which are to be provided by
5 employees of the department of administration for the main
6 capitol building, including east and west wings, together with
7 all the departments in the building, or connected with the
8 building, regardless of the budget or budgets, departmental or
9 otherwise, from which the janitorial services are paid, and shall
10 furnish janitorial supplies, light, heat and ventilation for all the
11 rooms and corridors of the buildings: *Provided*, That nothing in
12 this section shall be construed to prohibit contracts for janitorial
13 services with sheltered workshops. The president of the Senate
14 and speaker of the House of Delegates, or their respective
15 designees, have charge of the halls and committee rooms of
16 their respective houses and any other quarters at the state
17 capitol provided for the use of the Legislature or its staff, and
18 shall keep the areas properly cleaned, warmed and in good
19 order, and shall do and perform any other duties in relation to
20 the areas as either house may require;

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

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

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

35 (c) There is created in the state treasury a special revenue
36 account to be named the "capitol dome and capitol improve-
37 ments fund." The fund shall consist of moneys received under
38 section ten, article twenty-two-a, chapter twenty-nine of this
39 code and funds from any other source. Moneys in the fund shall
40 be expended for maintenance and repairs of the capitol dome

41 and other capital improvements and repairs to state-owned
42 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.**

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

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

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

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

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

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

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

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

23 (7) Upon any other property now or hereafter owned by the
24 state and used for parking purposes in conjunction with the state
25 capitol or state office buildings numbers three and four,
26 including the Laidley field complex: *Provided*, That the
27 secretary shall present to the joint committee on government
28 and finance for its suggestions, on or before the first day of

29 July, one thousand nine hundred ninety-eight, plans for the
30 construction of a state capitol parking garage to be constructed,
31 on property owned by the state or to be purchased by the state,
32 no later than the thirtieth day of June, one thousand nine
33 hundred ninety-nine. The submitted plans shall include propos-
34 als for general public parking, including the estimated use and
35 cost; relocation of parking for official state vehicles; and state
36 employee parking, including the estimated use and cost.

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

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

60 (e) There is created in the department of administration a
61 special fund to be named the "Parking Garage Fund" in which
62 shall be deposited funds that are appropriated and funds from
63 other sources to be used for the construction and maintenance
64 of a parking garage on the state capitol complex.

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-3. Commission on the arts.

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

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

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

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

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

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

31 (c) The commission has the following powers:

32 (1) To advise the commissioner and the director of the arts
33 section concerning the accomplishment of the purposes of that

34 section and to establish a state plan with respect to the arts
35 section;

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

39 (3) To request, accept or expend federal funds to accom-
40 plish the purposes of the arts section when federal law or
41 regulations would prohibit the same by the commissioner or
42 section director, but would permit the same to be done by the
43 commission on the arts;

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

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

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

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

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-3. Definitions.

1 As used in this article:

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

4 (b) "Associated equipment" means any hardware located on
5 a licensed racetrack's premises which is connected to the video

6 lottery system for the purpose of performing communication,
7 validation or other functions, but not including the video lottery
8 terminals or the communication facilities of a regulated public
9 utility.

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

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

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

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

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

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

32 (i) "Disable" or "terminal disable" means the process of
33 executing a shutdown command from the central control
34 computer which causes video lottery terminals to cease func-
35 tioning.

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

39 (k) "EPROM" and "erasable programmable read-only
40 memory chips" means the electronic storage medium on which

41 the operation software for all games playable on a video lottery
42 terminal resides and which can also be in the form of CD-ROM,
43 flash RAM or other new technology medium that the commis-
44 sion may from time to time approve for use in video lottery
45 terminals. All electronic storage media are considered to be the
46 property of the state of West Virginia.

47 (l) "Floor attendant" means a person, employed by a
48 licensed racetrack, who holds a permit issued by the commis-
49 sion and who corrects paper jams and bill jams in video lottery
50 terminals and also provides courtesy services for video lottery
51 players.

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

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

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

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

76 (q) "Net terminal income" means gross terminal income
77 minus an amount deducted by the commission to reimburse the

78 commission for its actual costs of administering racetrack video
79 lottery at the licensed racetrack. No deduction for any or all
80 costs and expenses of a licensee related to the operation of
81 video lottery games shall be deducted from gross terminal
82 income.

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

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

90 (t) "Pari-mutuel racing facility", "licensed racetrack",
91 "racetrack" or "track" means a facility where horse or dog race
92 meetings are held and the pari-mutuel system of wagering is
93 authorized pursuant to the provisions of article twenty-three,
94 chapter nineteen of this code: *Provided*, That, for the purposes
95 of this article, "pari-mutuel racing facility", "licensed race-
96 track", "racetrack" or "track" includes only a facility which was
97 licensed prior to the first day of January, one thousand nine
98 hundred ninety-four, to hold horse or dog race meetings, and
99 which conducts not less than two hundred twenty live racing
100 dates for each horse or dog race meeting or such other number
101 of live racing dates as may be approved by the racing commis-
102 sion in accordance with the provisions of section twelve-b,
103 article twenty-three, chapter nineteen of this code.

104 (u) "Permit" means authorization granted by the commis-
105 sion to a person to function as either a video lottery manufac-
106 turer, service technician or validation manager.

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

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

113 (x) "Service technician" means a person, employed by a
114 licensed racetrack, who holds a permit issued by the commis-
115 sion and who performs service, maintenance and repair on
116 licensed video lottery terminals in this state.

117 (y) "Video lottery game" means a commission approved,
118 owned and controlled electronically simulated game of chance
119 which is displayed on a video lottery terminal and which:

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

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

129 (3) Allows the player to win additional game play credits,
130 coins or tokens based upon game rules which establish the
131 random selection of winning combinations of symbols or
132 numbers or both and the number of free play credits, coins or
133 tokens to be awarded for each winning combination of symbols
134 or numbers or both;

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

138 (5) In the case of a video lottery game which allows the
139 player an option to select replacement symbols or numbers or
140 additional symbols or numbers after the game is initiated and in
141 the course of play, either: (A) Signals the player, prior to any
142 optional selection by the player of randomly generated replace-
143 ment symbols or numbers, as to which symbols or numbers
144 should be retained by the player to present the best chance,
145 based upon probabilities, that the player may select a winning
146 combination; (B) signals the player, prior to any optional
147 selection by the player of randomly generated additional
148 symbols or numbers, as to whether such additional selection

149 presents the best chance, based upon probabilities, that the
150 player may select a winning combination; or (C) randomly
151 generates additional or replacement symbols and numbers for
152 the player after automatically selecting the symbols and
153 numbers which should be retained to present the best chance,
154 based upon probabilities, for a winning combination, so that in
155 any event, the player is not permitted to benefit from any
156 personal skill, based upon a knowledge of probabilities, before
157 deciding which optional numbers or symbols to choose in the
158 course of video lottery game play;

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

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

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

172 (aa) "Video lottery" means a lottery which allows a game
173 to be played utilizing an electronic computer and an interactive
174 computer terminal device, equipped with a video screen and
175 keys, a keyboard or other equipment allowing input by an
176 individual player, into which the player inserts coins, currency,
177 vouchers or tokens as consideration in order for play to be
178 available, and through which terminal device the player may
179 receive free games, coins, tokens or credit that can be redeemed
180 for cash, annuitized payments over time, a non-cash prize or
181 nothing, as may be determined wholly or predominantly by
182 chance. "Video lottery" does not include a lottery game which
183 merely utilizes an electronic computer and a video screen to
184 operate a lottery game and communicate the results of the
185 game, such as the game "Travel", and which does not utilize an

186 interactive electronic terminal device allowing input by an
187 individual player.

188 (bb) "Video lottery terminal" means a commission-ap-
189 proved interactive electronic terminal device which is con-
190 nected with the commission's central computer system, and
191 which is used for the purpose of playing video lottery games
192 authorized by the commission. A video lottery terminal may
193 simulate the play of one or more video lottery games.

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

**§29-22A-6. Video lottery terminal hardware and software re-
quirements; 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.**

1 (a) The commission may approve video lottery terminals
2 and in doing so shall take into account advancements in
3 computer technology, competition from nearby states and the
4 preservation of jobs in the West Virginia pari-mutuel racing
5 industry. In approving video lottery terminals licensed for
6 placement in this state the commission shall ensure that the
7 terminals meet the following hardware specifications:

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

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

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

21 (4) The operation of each video lottery terminal may not be
22 adversely affected by any static discharge or other electromag-
23 netic interference.

24 (5) A minimum of one electronic or mechanical coin
25 acceptor or other means accurately and efficiently to establish
26 credits shall be installed on each video lottery terminal. Each
27 video lottery terminal may also contain bill acceptors for one or
28 more of the following: One dollar bills, five dollar bills, ten
29 dollar bills and twenty dollar bills. All coin and bill acceptors
30 must be approved by the commission prior to use on any video
31 lottery terminal in this state.

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

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

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

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

46 (10) Each video lottery terminal shall contain a single
47 printing mechanism capable of printing an original ticket and
48 retaining an exact legible copy within the video lottery terminal
49 or other means of capturing and retaining an electronic copy of
50 the ticket data as approved by the commission: *Provided*, That
51 such printing mechanism is optional on any video lottery
52 terminal which is designed and equipped exclusively for coin

53 or token payouts. The following information shall be recorded
54 on the ticket when credits accrued on a video lottery terminal
55 are redeemed for cash:

- 56 (i) The number of credits accrued;
- 57 (ii) Value of the credits in dollars and cents displayed in
58 both numeric and written form;
- 59 (iii) Time of day and date;
- 60 (iv) Validation number; and
- 61 (v) Any other information required by the commission.

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

- 65 (i) Manufacturer of the video lottery terminal;
- 66 (ii) Serial number of the terminal; and
- 67 (iii) Model number of the terminal.

68 (12) The rules of play for each game shall be displayed on
69 the video lottery terminal face or screen. The commission may
70 reject any rules of play which are incomplete, confusing,
71 misleading or inconsistent with game rules approved by the
72 commission. For each video lottery game, there shall be a
73 display detailing the credits awarded for the occurrence of each
74 possible winning combination of numbers or symbols. A video
75 lottery terminal may not allow more than two dollars to be
76 wagered on a single game. All information required by this
77 subdivision shall be displayed under glass or another transpar-
78 ent substance. No stickers or other removable devices may be
79 placed on the video lottery terminal screen or face without the
80 prior approval of the commission.

81 (13) Communication equipment and devices shall be
82 installed to enable each video lottery terminal to communicate
83 with the commission's central computer system by use of a
84 communications protocol provided by the commission to each
85 permitted manufacturer, which protocol shall include informa-

86 tion retrieval and terminal activation and disable programs, and
87 the commission may require each licensed racetrack to pay the
88 cost of a central site computer as a part of the licensing require-
89 ment.

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

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

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

102 (2) Runs test. Each symbol or number may not produce a
103 significant statistic with regard to producing patterns of
104 occurrences. Each symbol or number is random if it meets the
105 ninety-nine percent confidence level with regard to the "runs
106 test" for the existence of recurring patterns within a set of data.

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

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

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

120 (1) Video lottery games shall pay out no less than eighty
121 percent and no more than ninety-five percent of the amount

122 wagered. The theoretical payout percentage will be determined
123 using standard methods of probability theory.

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

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

133 (d) Each video lottery terminal shall be capable of continu-
134 ing the current game with all current game features after a video
135 lottery terminal malfunction is cleared. If a video lottery
136 terminal is rendered totally inoperable during game play, the
137 current wager and all credits appearing on the video lottery
138 terminal screen prior to the malfunction shall be returned to the
139 player.

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

146 (1) Number of coins inserted by players or the coin equiva-
147 lent if a bill acceptor is being used or tokens or vouchers are
148 used;

149 (2) Number of credits wagered;

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

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

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

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

154 (7) Number of times the cash door was accessed;

155 (8) Number of credits wagered in the current game;

156 (9) Number of credits won in the last complete video lottery
157 game; and

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

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

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

170 (h) The commission shall directly or through a contract
171 with a third party vendor other than the video lottery licensee,
172 maintain a central site system of monitoring the lottery termi-
173 nals, utilizing an on-line or dial-up inquiry. The central site
174 system shall be capable of monitoring the operation of each
175 video lottery game or video lottery terminal operating pursuant
176 to this article and, at the direction of the director, immediately
177 disable and cause not to operate, any video lottery game and
178 video lottery terminal. As provided in this section, the commis-
179 sion may require the licensed racetrack to pay the cost of a
180 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.

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

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

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

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

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

38 (3) The county where the video lottery terminals are located
39 shall receive two percent of the net terminal income: *Provided*,
40 That (A) beginning the first day of July, one thousand nine
41 hundred ninety-nine, and thereafter, any amount in excess of
42 the two percent received during fiscal year one thousand nine
43 hundred ninety-nine by a county in which a racetrack is located
44 that has participated in the West Virginia thoroughbred devel-
45 opment fund since on or before the first day of January, one
46 thousand nine hundred ninety-nine shall be divided as follows:

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

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

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

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

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

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

70 (4) One half of one percent of net terminal income shall be
71 paid for and on behalf of all employees of the licensed racing
72 association by making a deposit into a special fund to be

73 established by the racing commission to be used for payment
74 into the pension plan for all employees of the licensed racing
75 association;

76 (5) The West Virginia thoroughbred development fund
77 created under section thirteen-b, article twenty-three, chapter
78 nineteen of this code and the West Virginia greyhound breeding
79 development fund created under section ten, article
80 twenty-three, chapter nineteen of this code shall receive an
81 equal share of a total of not less than one and one-half percent
82 of the net terminal income: *Provided*, That for any racetrack
83 which does not have a breeder's program supported by the
84 thoroughbred development fund or the greyhound breeding
85 development fund, the one and one-half percent provided for in
86 this subdivision shall be deposited in the special fund estab-
87 lished by the licensee and used for payment of regular purses,
88 in addition to other amounts provided for in subdivision (2) of
89 this subsection and article twenty-three, chapter nineteen of this
90 code;

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

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

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

101 (9) The veterans memorial program shall receive one
102 percent of the net terminal income until sufficient moneys have
103 been received to complete the veterans memorial on the
104 grounds of the state capitol complex in Charleston, West
105 Virginia. The moneys shall be deposited in the state treasury in
106 the division of culture and history special fund created under
107 section three, article one-i, chapter twenty-nine of this code:
108 *Provided*, That only after sufficient moneys have been depos-

109 ited in the fund to complete the veterans memorial and to pay
110 in full the annual bonded indebtedness on the veterans memo-
111 rial, not more than twenty thousand dollars of the one percent
112 of net terminal income provided for in this subdivision shall be
113 deposited into a special revenue fund in the state treasury, to be
114 known as the "John F. 'Jack' Bennett Fund". The moneys in
115 this fund shall be expended by the division of veterans affairs
116 to provide for the placement of markers for the graves of
117 veterans in perpetual cemeteries in this state. The division of
118 veterans affairs shall promulgate legislative rules pursuant to
119 the provisions of article three, chapter twenty-nine-a of this
120 code specifying the manner in which the funds are spent,
121 determine the ability of the surviving spouse to pay for the
122 placement of the marker, and setting forth the standards to be
123 used to determine the priority in which the veterans grave
124 markers will be placed in the event that there are not sufficient
125 funds to complete the placement of veterans grave markers in
126 any one year, or at all. Upon payment in full of the bonded
127 indebtedness on the veteran's memorial, one hundred thousand
128 dollars of the one percent of net terminal income provided for
129 in this subdivision shall be deposited in the special fund in the
130 division of culture and history created under section three,
131 article one-i, chapter twenty-nine of this code and be expended
132 by the division of culture and history to establish a West
133 Virginia veterans memorial archives within the cultural center
134 to serve as a repository for the documents and records pertain-
135 ing to the veterans memorial, to restore and maintain the
136 monuments and memorial on the capitol grounds, and not more
137 than twenty thousand dollars be deposited in the "John F. 'Jack'
138 Bennett Fund": *Provided, however,* That five hundred thousand
139 dollars of the one percent of net terminal income shall be
140 deposited in the state treasury in a special fund of the depart-
141 ment of administration, created under section five, article four,
142 chapter five-a of this code to be used for construction and
143 maintenance of a parking garage on the state capitol complex:
144 *Provided further,* That the remainder of the one percent of net
145 terminal income shall be deposited in equal amounts in the
146 capitol dome and improvements fund created under section two,
147 article four, chapter five-a of this code and the grants for

148 competitive arts program fund created under section three
149 article one, chapter twenty-nine of this code.

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

162 (e) The commission's central control computer shall keep
163 accurate records of all income generated by each video lottery
164 terminal. The commission shall prepare and mail to the licensed
165 racetrack a statement reflecting the gross terminal income
166 generated by the licensee's video lottery terminals. Each
167 licensed racetrack must report to the commission any discrep-
168 ancies between the commission's statement and each terminal's
169 mechanical and electronic meter readings. The licensed
170 racetrack is solely responsible for resolving income discrepan-
171 cies between actual money collected and the amount shown on
172 the accounting meters or on the commission's billing statement.

173 (f) Until an accounting discrepancy is resolved in favor of
174 the licensed racetrack, the commission may make no credit
175 adjustments. For any video lottery terminal reflecting a discrep-
176 ancy, the licensed racetrack shall submit to the commission the
177 maintenance log which includes current mechanical meter
178 readings and the audit ticket which contains electronic meter
179 readings generated by the terminal's software. If the meter
180 readings and the commission's records cannot be reconciled,
181 final disposition of the matter shall be determined by the
182 commission. Any accounting discrepancies which cannot be
183 otherwise resolved shall be resolved in favor of the commis-
184 sion.

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

198 (h) Licensed racetracks may, upon request, receive addi-
199 tional reports of play transactions for their respective video
200 lottery terminals and other marketing information not consid-
201 ered confidential by the commission. The commission may
202 charge a reasonable fee for the cost of producing and mailing
203 any report other than the billing statements.

204 (i) The commission has the right to examine all accounts,
205 bank accounts, financial statements and records in a licensed
206 racetrack's possession, under its control or in which it has an
207 interest and the licensed racetrack must authorize all third
208 parties in possession or in control of the accounts or records to
209 allow examination of any of those accounts or records by the
210 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.**

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

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

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

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

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

12 (b) Each licensed racetrack shall designate validation
13 managers and employees authorized to redeem tickets and to
14 sell and redeem tokens during the business hours of operation.
15 Credits shall be immediately paid in cash, by check, by
16 annuitized payments over time or in the form of a non-cash
17 prize, when a player presents a valid ticket for payment.

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

23 (d) All tickets redeemed by a licensed racetrack shall be
24 defaced in a manner which prevents any subsequent present-
25 ment and payment.

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

§29-22A-19. Compulsive gambling treatment fund.

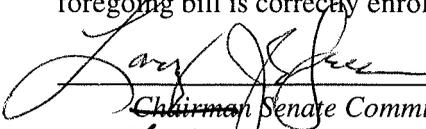
1 There is hereby created and established a separate special
2 account to be known as the "Compulsive Gambling Treatment
3 Fund". Such fund shall be appropriated from the commission's
4 administrative expense account and shall be not less than one
5 hundred fifty thousand dollars nor more than five hundred
6 thousand dollars per fiscal year, as determined by the commis-
7 sion, to provide funds for compulsive gambling treatment
8 programs in the state.

9 The department of health & human resources shall develop
10 criteria which a treatment program for compulsive gamblers

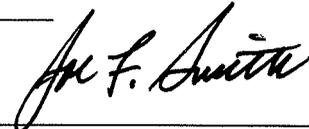
11 must meet in order to become eligible for a grant from the
12 funds made available for such treatment programs pursuant to
13 this provision. The department, in conjunction with the com-
14 mission, shall develop a formula for the distribution of avail-
15 able funds which will result in an equitable distribution among
16 programs submitted which meet the eligibility criteria for grants
17 as developed by the department.

18 The Commission shall report annually to the Legislature the
19 number and amounts of grants distributed and the number of
20 people served by such programs.

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

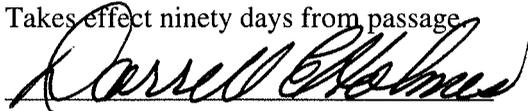


Chairman Senate Committee
Member

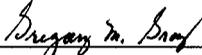


Chairman House Committee

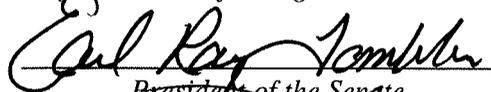
Originating in the House.

Takes effect ninety days from passage


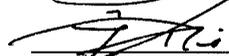
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within _____ this the _____
day of _____, 1999.

Governor

PRESENTED TO THE

GOVERNOR

Date 3/19/99

Time 5:50pm