

SB 362

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

Committee Substitute for
SENATE BILL NO. 362

(By Senator Sharpe, et al)



PASSED March 10, 2000
In Effect ninety days from Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 362

(SENATORS SHARPE, MINARD, MINEAR,
SNYDER AND EDGELL, *original sponsors*)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections seven and twelve, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to racetrack video lottery generally; requiring a national crime records check for licensure; and reducing required number of video lottery terminals.

Be it enacted by the Legislature of West Virginia:

That sections seven and twelve, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine

hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-7. License and permit qualifications; individual qualifications; applicant required to furnish information; waiver of liability; oath or affirmation; duty to provide accurate and material information.

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

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

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

10 (3) An applicant must be a person whose background,
11 including criminal record, reputation and associations,
12 does not pose a threat to the security and integrity of the
13 lottery or to the public interest of the state. All new
14 applicants for licenses and permits issued by the commis-
15 sion shall furnish fingerprints for a national criminal
16 records check by the criminal identification bureau of the
17 West Virginia state police and the federal bureau of
18 investigation. The fingerprints shall be furnished by all
19 persons required to be named in the application and shall
20 be accompanied by a signed authorization for the release
21 of information by the criminal investigation bureau and
22 the federal bureau of investigation. The commission may
23 require any applicant seeking the renewal of a license or
24 permit to furnish fingerprints for a national criminal
25 records check by the criminal identification bureau of the
26 West Virginia state police and the federal bureau of

27 investigation. A person who has been convicted of any
28 violation of article twenty-two of this chapter or of this
29 article or of any crime related to theft, bribery, gambling
30 or involving moral turpitude is not eligible for any license
31 or permit. The commission shall revoke the license or
32 permit of any person who is convicted of any such crime
33 after a license or permit is granted.

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

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

53 (6) A racetrack applying for a video lottery license or a
54 license renewal must present to the commission evidence
55 of the existence of an agreement, regarding the proceeds
56 from video lottery terminals, between the applicant and
57 the representative of a majority of the horse owners and
58 trainers, the representative of a majority of the
59 pari-mutuel clerks and the representative of a majority of the
60 breeders or the representative of a majority of the
61 kennel owners for the applicable racetrack who hold

62 permits required by section two, article twenty-three,
63 chapter nineteen of this code.

64 (7) A racetrack applying for a video lottery license or a
65 license renewal must file with the commission a copy of
66 any current or proposed agreement between the applicant
67 and any manufacturer for the sale, lease or other assign-
68 ment to the racetrack of video lottery terminals, the
69 electronic computer components of the terminals, the
70 random number generator of the terminals, or the cabinet
71 in which it is housed. Once filed with the commission, the
72 agreement is a public document subject to the provisions
73 of article one, chapter twenty-nine-b of this code.

74 (b) No video lottery license or permit may be granted to
75 an applicant until the commission determines that each
76 person who has control of the applicant meets all applica-
77 ble qualifications of subsection (a) of this section. The
78 following persons are considered to have control of an
79 applicant:

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

88 (2) Each person associated with a noncorporate appli-
89 cant who directly or indirectly holds any beneficial or
90 proprietary interest in the applicant or who the commis-
91 sion determines to have the ability to control the appli-
92 cant.

93 (3) Key personnel of an applicant, including any execu-
94 tive, employee or agent, having the power to exercise

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

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

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

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

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

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

1 (a) A racetrack which has been licensed to conduct video
2 lottery games has the right to install and operate up to
3 four

4 hundred video lottery terminals at a licensed racetrack. A
5 licensed racetrack may apply to the commission for
6 authorization to install and operate more than four
7 hundred video lottery terminals. If the commission
8 determines that the installation of additional machines is
9 in the best interest of the licensed racetrack, the lottery
10 commission and the citizens of this state, the commission
11 may grant permission to install and operate additional
12 machines.

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

15 (1) The video lottery location shall be continuously
16 monitored through the use of a closed circuit television
17 system capable of recording activity for a continuous 24-
18 hour period. All video tapes shall be retained for a period
19 of at least thirty days;

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

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

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

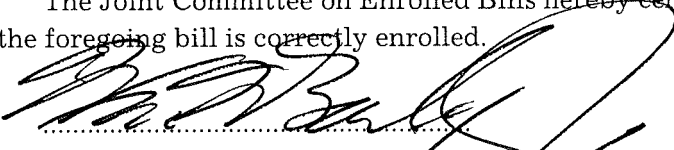
29 (5) Operational video lottery terminals may only be
30 located in the building or structure in which the grand-
31 stand area of the racetrack is located and in the area of the
32 building or structure where pari-mutuel wagering is

33 permitted under the provisions of article twenty-three,
34 chapter nineteen of this code: *Provided*, That if the
35 commission, before the first day of November, one thou-
36 sand nine hundred ninety-three, has authorized any
37 racetrack to operate video lottery terminals and offer
38 video lottery games in a location which would not conform
39 to the requirements of this subdivision, the racetrack may
40 continue to use video lottery terminals registered with and
41 approved by the commission at that nonconforming
42 location and to offer the games and any variations or
43 composites of the games as may be approved by the
44 commission.

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

53 (d) Security personnel shall be present during all hours
54 of operation at each video lottery terminal location. Each
55 license holder shall employ the number of security person-
56 nel the commission determines is necessary to provide for
57 safe and approved operation of the video lottery facilities
58 and the safety and well-being of the players.

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



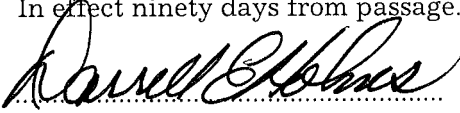
Chairman Senate Committee



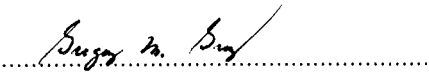
Chairman House Committee

Originating in the Senate.

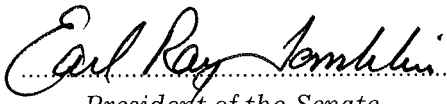
In effect ninety days from passage.



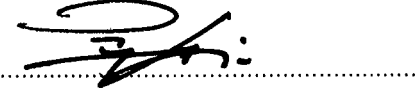
Clerk of the Senate



Clerk of the House of Delegates



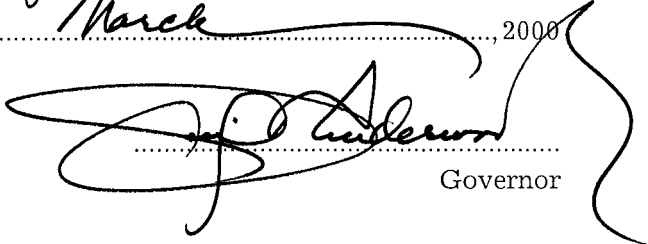
President of the Senate



Speaker House of Delegates

The within..... *approved* this the *22nd*

Day of *March*, 2000



Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/00

Time 12:22pm