WEST VIRGINIA LEGISLATURE
Fifth Extraordinary Session

ENROLLED

SENATE BILL NO. 5002

(By Senators Tomblin, Mr. President, and Sprouse, By Request of the Executive)

PASSED September 15, 2001

In Effect from Passage
AN ACT to amend and reenact section six, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections five hundred four and one thousand nine hundred one, article twenty-two-b of said chapter, all relating to state lotteries; restoring language which allows coin or token payouts from racetrack video lottery terminals and which was inadvertently and unintentionally deleted when section six, article twenty-two-a, chapter twenty-nine of said code of the racetrack video lottery act was amended and reenacted earlier this year; eliminating prohibition that limited video lottery retailers may not also be licensed under the state lottery act; and eliminating effective date references in section one thousand nine hundred one, article twenty-two-b, chapter twenty-nine of said code of the limited video lottery act.

Be it enacted by the Legislature of West Virginia:
That section six, 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; and that sections five hundred four and one thousand nine hundred one, article twenty-two-b of said chapter be amended and reenacted, all to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§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
(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 shall be approved by the commission prior to use on any video lottery terminal in this state.

(6) Access to the interior of a 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 considered 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 allow up to five 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 shall 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 commu-
nicate with the commission’s central computer system by
use of a communications protocol provided by the commis-
sion to each permitted manufacturer, which protocol shall
include information retrieval and terminal activation and
disable programs, and the commission may require each
licensed racetrack to pay the cost of a central site com-
puter as a part of the licensing requirement.

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

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

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

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

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

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

(c) Each video lottery terminal shall meet the following maximum and minimum theoretical percentage payout during the expected lifetime of the 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 shall be obtained prior to applying for testing of the 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.

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-504. Additional qualifications for an applicant for a
limited video lottery retailer's license.

No limited video lottery retailer's license or license
renewal may be granted unless the lottery commission has
determined that, in addition to the general requirements
set forth in section 22B-502, the applicant satisfies all of
the following qualifications:

(1)(A) If the applicant is an individual, the applicant has
been a citizen of the United States and a resident of this
state for the four-year period immediately preceding the
application;

(B) If the applicant is a corporation, partnership or other
business entity, the chief executive officer and the major-
ity of the officers, directors, members and partners (to the
extent each of these groups exists with respect to a partic-
ular business organization), both in number and percent-
age of ownership interest, have been citizens of the United
States and residents of this state for the four-year period
immediately preceding the application;
(2) The applicant has disclosed to the lottery commission the identity of each person who has control of the applicant, as control is described in section 22B-507;

(3) The applicant holds either: (A) A valid license issued under article 60-7-1, et seq., of this code to operate a private club; (B) a valid Class A license issued under article 11-16-1, et seq., of this code to operate a business where nonintoxicating beer is sold for consumption on the premises; or (C) both licenses;

(4) The applicant has demonstrated the training, education, business ability and experience necessary to establish, operate and maintain the business for which the license application is made;

(5) The applicant has secured any necessary financing for the business for which the license application is made and the financing: (A) Is from a source that meets the qualifications of this section; and (B) is adequate to support the successful performance of the duties and responsibilities of the licensee;

(6) The applicant has disclosed all financing or refinancing arrangements for placement on the applicant’s premises of video lottery terminals and associated equipment in the degree of detail requested by the lottery commission;

(7) The applicant has filed with the lottery commission a copy of any current or proposed agreement between the applicant and a licensed operator for the placement on the applicant’s premises of video lottery terminals;

(8) The applicant has filed with the lottery commission a copy of any current or proposed agreement between the applicant and a licensed operator or other person for the servicing and maintenance of video lottery terminals by licensed service technicians; and

(9) The applicant does not hold any other license under this article, article 19-23-1, et seq., of this code or articles
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52 22A or 25 of this chapter except that an applicant may
53 also be licensed as a service technician.

PART XIX. MISCELLANEOUS PROVISIONS.

§29-22B-1901. Effect of this article on certain taxes.

1 (a) Notwithstanding any provision of this code to the
2 contrary, persons who hold a current operator's license or
3 a current limited video lottery retailer's license issued
4 under this article shall be exempt from paying the taxes
5 imposed by articles 11-15-1, et seq., and 11-15A-1, et seq.,
6 of this code on their purchases of video lottery terminals
7 and video lottery games.

8 (b) Notwithstanding any provision of this code to the
9 contrary, the consideration paid by a patron of a restricted
10 access adult-only facility to play video lottery games shall
11 be exempt from the tax imposed by article 11-15-1, et seq.,
12 of this code.

13 (c) Notwithstanding the provisions of section 8-13-4 of
14 this code to the contrary, municipalities may not impose
15 the license fees imposed by this article on manufacturers,
16 operators, limited video lottery retailers and service
17 technicians. Municipalities may continue to impose any
18 other license fees they are allowed to impose under this
19 code.

20 (d) Notwithstanding any provision of this code to the
21 contrary, municipalities may not impose the municipal
22 business and occupation taxes imposed pursuant to section
23 8-13-5 of this code or an amusement tax imposed pursuant
24 to section 8-13-6 of this code on the income of a permittee
25 of video lottery terminals from income derived directly
26 from activities conducted pursuant to the provisions of
27 this article.

28 (e) Notwithstanding any provision of this code to the
29 contrary, municipalities may not impose the municipal
30 business and occupation taxes imposed pursuant to section
31 8-13-5 of this code on payments a limited video lottery
32 retailer receives from an operator of video lottery termi-
33 nals for activities conducted pursuant to the provisions of
34 this article.
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The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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Governor
PRESENTED TO THE
GOVERNOR
Date... 2/4/10
Time... 4:15