ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 478
(Senators Miller, Laird, Barnes and Williams, original sponsors)
[Passed April 12, 2013; in effect from passage.]
AN ACT to amend and reenact §29-22A-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22B-332 of said code; and to amend and reenact §29-25-2 and §29-25-24 of said code, all relating to wagering at video lottery and gaming facilities; deleting those video lottery games that allow players an option to select replacement symbols or numbers or additional symbols or numbers after the game is initiated and in the course of play from the definition of “video lottery game”; deleting prohibition against game themes commonly associated with casino gambling; and permitting certain employees of an historic resort hotel to wager at the gaming facility of that historic hotel.

Be it enacted by the Legislature of West Virginia:

That §29-22A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §29-22B-332 of said code be amended and reenacted; and that §29-25-2 and §29-25-24 of said code be amended and reenacted, all to read as follows:
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 controlled 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 functioning.

(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 commission 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.

(l) "Floor attendant" means a person, employed by a licensed racetrack, who holds a permit issued by the commission 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 terminals 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) "Noncash 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 January 1, 1994, 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) 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

(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
noncash 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.
ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-332. Video lottery game defined.

"Video lottery game" means an electronically simulated game of chance that is approved, owned and controlled under this article by the commission, which is displayed on the screen or video monitor of a video lottery terminal and that:

(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 or currency 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 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 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) 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
ARTICLE 25. AUTHORIZED GAMING FACILITY.


As used in this article, unless the context otherwise requires, the following words and phrases have meanings indicated:

(a) "Applicant" means any person or entity applying for a license.

(b) "Adjusted gross receipts" means the gross receipts of a gaming facility from West Virginia Lottery table games less winnings paid to wagerers in such games.

(c) "Annual average gross receipts of the pari-mutuel racetracks with table games licenses" means the amount obtained by adding the adjusted gross receipts of all West Virginia pari-mutuel racetracks with table games licenses and then dividing that calculation by the number of West Virginia pari-mutuel racetracks with table games licenses.

(d) "Background investigation" means a security, criminal and credit investigation of an applicant who has applied for the issuance or renewal or a license pursuant to this article or a licensee who holds a current license.

(e) "Controlling interest" means:

(1) For a partnership, an interest as a general or limited partner holding more than five percent interest in the entity;

(2) For a corporation, an interest of more than five percent of the stock in the corporation; and
(3) For any other entity, an ownership interest of more than five percent in the entity.

(f) "Controlling person" means, with respect to another person, any person directly or indirectly owning or holding a controlling interest in that other person.

(g) "Commission" means the State Lottery Commission created in section four, article twenty-two of this chapter.

(h) "Designated gaming area" means one or more specific floor areas of a licensed gaming facility within which the commission has authorized operation of video lottery terminals or West Virginia Lottery table games, or the operation of both video lottery terminals and West Virginia Lottery table games.

(i) "Director" means the Director of the State Lottery Commission.

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

(k) "Fringe benefits" means sickness and accident benefits and benefits relating to medical and pension coverage.

(l) "Gaming devices and supplies" mean gaming tables for all West Virginia Lottery table games, roulette wheels, wheels of fortune, video lottery terminals, cards, dice, chips,
tokens, markers or any other mechanical, electronic or other
device, mechanism or equipment or related supplies utilized
in the operation of a West Virginia Lottery table game.

(m) "Gaming facility" means a designated area on the
premises of an existing historic resort hotel in which West
Virginia Lottery table games are conducted by a gaming
licensee.

(n) "Gaming licensee" means the licensed operator of a
gaming facility.

(o) "Gross receipts" means the total amount of money
exchanged for the purchase of chips, tokens or electronic
cards by patrons of a gaming facility reduced by gross
terminal income to the extent gross terminal income is
included in the amount of money exchanged.

(p) "Gross terminal income", as used in this article and as
used in article twenty-two-a of this chapter, means the total
amount of cash, vouchers or tokens inserted into the video
lottery terminals operated by a licensee, minus promotional
credits played, and 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.

(q) "Historic resort hotel" means a resort hotel registered
with the United States Department of the Interior as a
national historic landmark in its National Registry of Historic
Places having not fewer than five hundred guest rooms under
common ownership and having substantial recreational guest
amenities in addition to the gaming facility.

(r) "Historic Resort Hotel Fund" means the special fund
in the State Treasury created in section twenty-two of this
article.
'84 (s) "Human Resource Benefit Fund" means the special
85 fund in the State Treasury created in section twenty-two-a of
86 this article.

87 (t) "Human Resource Benefit Advisory Board" or
88 "board" means the advisory board created in section twenty-
89 two-a of this article.

90 (u) "License" means a license issued by the commission,
91 including:

92 (1) A license to operate a gaming facility;

93 (2) A license to supply gaming devices and supplies to a
94 gaming facility;

95 (3) A license to be employed in connection with the
96 operation of a gaming facility; or

97 (4) A license to provide management services under a
98 contract to a gaming facility under this article.

99 (v) "Licensed gaming facility employee" means any
100 individual licensed to be employed by a gaming licensee in
101 connection with the operation of a gaming facility.

102 (w) "Licensed gaming facility supplier" means a person
103 who is licensed by the commission to engage in the business
104 of supplying gaming devices and gaming supplies to a
105 gaming facility.

106 (x) "Licensee" means a gaming licensee, a licensed
107 gaming facility supplier or a licensed gaming facility
108 employee.
(y) "Manufacturer" means any person holding a license 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 gaming facility in West Virginia and who contracts directly with the licensee for the sale, lease or other assignment to a licensed gaming facility in West Virginia.

(z) "Net terminal income" means gross terminal income minus an amount deducted by the commission to reimburse the commission for its actual cost of administering video lottery at the licensed gaming facility. 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.

(aa) "Person" means any natural person, corporation, association, partnership, limited partnership, limited liability company or other entity, regardless of its form, structure or nature.

(bb) "Premises of an existing historic resort hotel" means the historic resort hotel, attachments of the historic resort hotel, and the traditional, immediate grounds of the historic resort hotel.

(cc) "Promotional credits" means credits given by the licensed gaming facility or licensed racetrack to players allowing limited free play of video lottery terminals in total amounts and under conditions approved in advance by the commission.
(dd) "Video lottery game", as used in this article and as used in article twenty-two-a of this chapter, 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 online or dial-up communication system;

2. Is initiated by a player’s insertion of cash, 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 credits 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 a computer-generated random selection of winning combinations based totally or predominantly on chance;

5. 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

(ee) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
(ff) "West Virginia Lottery table game" means any game played with cards, dice or any mechanical, electromechanical or electronic device or machine for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette, wheel of fortune or any variation of these games similar in design or operation and expressly authorized by rule of the commission, including multiplayer electronic table games, machines and devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar tickets, pull tabs or similar games.


(a) An individual may enter a designated gaming area or remain in a designated gaming area only if the individual:

(1) Is either:

(A) A registered overnight guest at the historic resort hotel on whose premises the gaming facility is located;

(B) A person who is not a registered overnight guest, but is a registered participant at a convention or event being held at the historic resort hotel: Provided, That this paragraph does not apply on any calendar day when less than four hundred guest rooms are occupied at the historic resort hotel; or

(C) A member of a homeowner or facility association that entitles members to substantial privileges at the historic resort hotel on whose premises the gaming facility is located or an overnight guest of such a member: Provided, That the association was in existence as of April 1, 2009;

(2) Is at least twenty-one years of age;
(3) Is not visibly intoxicated;

(4) Has not been determined by the gaming facility operator or the commission to be unruly, disruptive or otherwise interfering with operation of the gaming facility; or to be likely to commit, or to attempt to commit, a violation of this article; and

(5) Has not been barred by the commission from entering a gaming facility.

(b) Notwithstanding any provisions of this code to the contrary, no employee of the commission or any member of his or her immediate household may wager at the gaming facility, and no licensed limited gaming facility employee may wager on any table game at the limited gaming facility.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Member - Chairman - Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Chairman House Committee

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within bill approved this the 3rd Day of May, 2013.

Governor