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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002

ENROLLED

Committee Substitute for
SENATE BILL NO. 649

(By Senator Sharpe, et al)

PASSED March 9, 2002

In Effect July 1, 2002 ~~Message~~

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 649

(SENATORS SHARPE, EDGELL, MINARD, ROSS, ANDERSON,
BOWMAN AND KESSLER, *original sponsors*)

[Passed March 9, 2002; to take effect July 1, 2002.]

AN ACT to amend and reenact section ten, article twenty-two, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing licensed lottery sales agent commissions to seven percent of gross sales.

Be it enacted by the Legislature of West Virginia:

That section ten, article twenty-two, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 22. STATE LOTTERY ACT.

§29-22-10. Licensed lottery sales agents; restrictions; annual license and fee; factors; application; bond; age;

nonassignable license; organizations qualified; commissions; display of license; geographic distribution; monopoly prohibited; lottery retailers; preprinted instant type lottery tickets; fee; certificate of authority; security; bond.

1 (a) The commission shall propose rules for legislative
2 approval in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code for the licensing of
4 lottery sales agents for the sale and dispensing of lottery
5 tickets, materials and lottery games, and the operations of
6 electronic computer terminals therefor, subject to the
7 following:

8 (1) The commission shall issue its annual license to the
9 lottery sales agents for each lottery outlet and for a fee
10 established by the commission to cover its costs, but not to
11 exceed one thousand dollars. Application for licensing as
12 a lottery sales agent shall be on forms prescribed and
13 furnished by the director;

14 (2) No licensee may engage in business exclusively as a
15 lottery sales agent;

16 (3) The commission shall ensure geographic distribution
17 of lottery sales agents throughout the state;

18 (4) Before issuance of a license to an applicant, the
19 commission shall consider factors such as the financial
20 responsibility, security, background, accessibility of the
21 place of business or activity to the public, public convenience and the volume of expected sales;

23 (5) No person under the age of twenty-one may be
24 licensed as an agent. No licensed agent may employ any
25 person under the age of eighteen for sales or dispensing of
26 lottery tickets or materials or operation of a lottery
27 terminal;

28 (6) A license is valid only for the premises stated on the
29 license;

30 (7) The director may issue a temporary license when
31 determined necessary;

32 (8) A license is not assignable or transferable;

33 (9) Before a license is issued, an agent shall be bonded
34 for an amount and in the form and manner determined by
35 the director, or shall provide other security, in an amount,
36 form and manner determined by the director, that will
37 ensure the performance of the agent's duties and responsi-
38 bilities as a licensed lottery agent or the indemnification
39 of the commission;

40 (10) The commission may issue licenses to any legitimate
41 business, organization, person or entity, including, but not
42 limited to, civic or fraternal organizations; parks and
43 recreation commissions or similar authorities; senior
44 citizen centers, state-owned stores, persons lawfully
45 engaged in nongovernmental business on state property,
46 persons lawfully engaged in the sale of alcoholic bever-
47 ages; political subdivisions or their agencies or depart-
48 ments, state agencies, commission-operated agencies;
49 persons licensed under the provisions of article twenty-
50 three, chapter nineteen of this code; and religious, charita-
51 ble or seasonal businesses;

52 (11) Licensed lottery sales agents shall receive seven
53 percent of gross sales as commission for the performance
54 of their duties: *Provided*, That a portion of the commission
55 not to exceed one and one quarter percent of gross sales
56 may be paid from unclaimed prize moneys accumulated
57 under section sixteen of this article. In addition, the
58 commission may promulgate a bonus-incentive plan as
59 additional compensation not to exceed one percent of
60 annual gross sales. The method and time of payment shall
61 be determined by the commission;

62 (12) Licensed lottery sales agents shall prominently
63 display the license on the premises where lottery sales are
64 made; and

65 (13) No person or entity or subsidiary, agent or subcon-
66 tractor of that person or entity may receive or hold more
67 than twenty-five percent of the licenses to act as licensed
68 lottery sales agent in any one county or municipality nor
69 more than five percent of the licenses issued throughout
70 this state: *Provided*, That the limitations of twenty-five
71 percent and five percent in this subdivision do not apply if
72 it is determined by the commission that there are not a
73 sufficient number of qualified applicants for licenses to
74 comply with these requirements.

75 (b) The commission shall propose rules for legislative
76 approval in accordance with the provisions of article three,
77 chapter twenty-nine-a of this code specifying the terms
78 and conditions for contracting with lottery retailers for
79 sale of preprinted instant type lottery tickets and may
80 provide for the dispensing of the tickets through machines
81 and devices. Tickets may be sold or dispensed in any
82 public or private store, operation or organization, without
83 limitation. The commission may establish an annual fee
84 not to exceed fifty dollars for those persons, per location
85 or site, and shall issue a certificate of authority to act as a
86 lottery retailer to them. The commission shall establish
87 procedures to ensure the security, honesty and integrity of
88 the lottery and distribution system. The commission shall
89 establish the method of payment, commission structure,
90 methods of payment of winners, including payment in
91 merchandise and tickets, and may require prepayment by
92 lottery retailers, require bond or security for payment and
93 require deposit of receipts in accounts established there-
94 for. Retailers shall prominently display the certificate of
95 authority issued by the commission on the premises where
96 lottery sales are made.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2002.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *3rd*
Day of *April*, 2002.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/02

Time 11:30am