

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

H. B. 2140

(By Delegate Sumner)

[Introduced January 12, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §29-22A-8 of the Code of West Virginia, 1931, as amended, relating to establishing an additional annual license fee of \$1,000 for the privilege of holding a license to operate video lottery terminals at race tracks; and to provide that the moneys collected are paid to the State Teachers Retirement System Benefit Fund.

Be it enacted by the Legislature of West Virginia:

That §29-22A-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-8. Form of application; local option elections; issuance of license; notice of incomplete application; notice of license or permit denial, suspension or revocation; procedure for review of license or permit

1 **denial, suspension or revocation; fees, renewal fees**
2 **and renewal dates; bonding; renewal of licenses and**
3 **permits; notice of change affecting license or**
4 **permit; license or permit not transferrable or**
5 **assignable; additional fees collected to fund State**
6 **Teachers Retirement System.**

7 (a) The commission shall determine the form of applications to
8 be used and ~~shall~~ may not consider incomplete applications. The
9 commission may consider an application when the applicant has
10 completed and executed all forms and documents required by the
11 commission and all application fees and costs have been paid.

12 (b) The question of whether video lottery games shall be
13 permitted at pari-mutuel racetracks shall be determined by local
14 option election in each county in which a pari-mutuel racetrack is
15 located. The local option election on this question may be placed
16 on the ballot in each county at any general election. The county
17 commission of the county in which the racetrack is located shall
18 give notice to the public of the election by publication of the
19 notice as a Class II-0 legal advertisement in compliance with the
20 provisions of article three, chapter fifty-nine of this code, and
21 the publication area for the publication shall be the county in
22 which the election is to be held. The date of the last publication
23 of the notice shall fall on a date within ~~the period of the~~

1 fourteen consecutive days next preceding the election.

2 On the local option election ballot shall be printed the
3 following:

4 Shall West Virginia Lottery Commission video lottery games be
5 permitted within an area at the [name of racetrack] in which pari-
6 mutuel betting is authorized by law?

7 [] Yes [] No

8 (Place a cross mark in the square opposite your choice.)

9 The ballots shall be counted, returns made and canvassed as in
10 general elections, and the results certified by the commissioners
11 of election to the county commission. The county commission shall,
12 without delay, certify the result of the election to the
13 commission.

14 (c) Upon receipt of the results of the election from the
15 county commission, and if a majority has voted "yes", the
16 commission shall issue the requested license if the applicant is
17 otherwise qualified for the license. If a majority has voted "no",
18 the commission shall notify the applicant of the results, the
19 application shall be denied, and another election on the issue
20 shall not be held for a period of two years. ~~Provided, That~~ For
21 purposes of this section, the term "two years" means the interval
22 between a general election and the next general election, and in no
23 event shall it mean ~~or encompass~~ a period of time in excess of one
24 hundred four weeks. If a majority has voted "yes", another local

1 option election on the issue ~~shall~~ may not be held for a period of
2 five years. A local option election may thereafter be held if a
3 written petition of qualified voters residing within the county
4 equal to at least five percent of the number of persons who were
5 registered to vote in the next preceding general election is
6 received by the county commission of the county in which the horse
7 or dog racetrack is located. The petition may be in any number of
8 counterparts.

9 The petition shall be in the following form:

10 Petition For Local Option Election

11 We, the undersigned legally qualified voters, resident within
12 the county of _____, do hereby petition that a special
13 election be held within the county of _____ upon the
14 following question:

15 Shall West Virginia Lottery Commission video lottery games be
16 permitted within an area at the [name of racetrack] in which pari-
17 mutuel betting is authorized by law?

18 Name Address Date
19 (Post office or street address)

20 (d) The commission may not issue any license or permit until
21 background investigations are concluded. The commission shall make
22 an affirmative determination that the applicant is qualified and
23 the applicable license or permit fees have been paid prior to
24 issuing any license or permit.

1 (e) The commission shall notify the applicant if an
2 application is incomplete and the notification shall state the
3 deficiencies in the application.

4 (f) The commission shall notify applicants in writing of the
5 denial, suspension or revocation of a permit or license and the
6 reasons for the denial, suspension or revocation in accordance with
7 the provisions of section fifteen of this article.

8 (g) An applicant may request a hearing to review a license or
9 permit denial, suspension or revocation in accordance with section
10 fifteen of this article.

11 (h) The following license or permit fees shall be paid
12 annually by each licensed racetrack, or permitted manufacturer,
13 service technician, floor attendant or validation manager:

- 14 (1) Racetrack: \$1,000
- 15 (2) Manufacturer:\$10,000
- 16 (3) Service technician:\$100
- 17 (4) Validation manager:\$50
- 18 (5) Floor attendant:\$50

19 The fees shall be paid to the commission at the time of
20 license or permit application and on or before July 1 of each year
21 thereafter, at which time the license or permit may be renewed.

22 (i) An applicant for a video lottery license shall, prior to
23 the issuance of the license, post a bond or irrevocable letter of
24 credit in a manner and in an amount established by the commission.

1 The bond shall be issued by a surety company authorized to transact
2 business in West Virginia and the company shall be approved by the
3 Insurance Commissioner of this state as to solvency and
4 responsibility.

5 (j) The commission shall renew video lottery licenses and
6 permits annually as of July 1 of each year, if each person seeking
7 license or permit renewal submits the applicable renewal fee,
8 completes all renewal forms provided by the commission, and
9 continues to meet all qualifications for a license or permit.

10 (k) License and permit holders shall notify the commission of
11 any proposed change of ownership or control of the license or
12 permit holder and of all other transactions or occurrences relevant
13 to license or permit qualification. In order for a license or
14 permit to remain in effect, commission approval is required prior
15 to completion of any proposed change of ownership or control of a
16 license or permit holder.

17 (l) A license or permit is a privilege personal to the license
18 or permit holder and is not a legal right. A license or permit
19 granted or renewed pursuant to this article may not be transferred
20 or assigned to another person, nor may a license or a permit be
21 pledged as collateral. The purchaser or successor of any license
22 or permit holder shall independently qualify for a license or
23 permit. The sale of more than five percent of a license or permit
24 holder's voting stock, or more than five percent of the voting

1 stock of a corporation which controls the license or permit holder
2 or the sale of a license or permit holder's assets, other than
3 those bought and sold in the ordinary course of business, or any
4 other interest, ~~therein~~ to any person not already determined to
5 have met the qualifications of section seven of this article voids
6 the license unless the sale has been approved in advance by the
7 commission.

8 (m) In addition to the fees provided in subsection (h) of this
9 section for the privilege of holding a license to install and
10 operate video lottery terminals, the video lottery licensees shall
11 pay an annual fee to the commission of \$1,000 for each authorized
12 video lottery terminal the license is issued. This fee shall be
13 paid to the commission at the time of license or application and on
14 or before July 1 of each year for the number of video lottery
15 terminals a person is authorized to own or lease. All fees imposed
16 by this subsection shall be transferred by the commission to the
17 State Teachers Retirement System Benefit Fund established by
18 section eighteen-c, article seven-a, chapter eighteen of this code.

NOTE: The purpose of this bill is to add a new section to require racetracks who are licensed to operate video lottery terminals to pay a fee of \$1,000 for each machine which it is licensed to operate and it provides that the revenue from these additional fees are to be transferred to the benefit fund of the State Teachers Retirement System.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.