

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 478**

5 (SENATORS MILLER, LAIRD, BARNES AND WILLIAMS, *original sponsors*)

6 _____
7 [Passed April 12, 2013; in effect from passage.]
8 _____
9

10 AN ACT to amend and reenact §29-22A-3 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §29-22B-332 of said
12 code; and to amend and reenact §29-25-2 and §29-25-24 of said
13 code, all relating to wagering at video lottery and gaming
14 facilities; deleting those video lottery games that allow
15 players an option to select replacement symbols or numbers or
16 additional symbols or numbers after the game is initiated and
17 in the course of play from the definition of "video lottery
18 game"; deleting prohibition against game themes commonly
19 associated with casino gambling; and permitting certain
20 employees of an historic resort hotel to wager at the gaming
21 facility of that historic hotel.

22 *Be it enacted by the Legislature of West Virginia:*

23 That §29-22A-3 of the Code of West Virginia, 1931, as amended,
24 be amended and reenacted; that §29-22B-332 of said code be amended
25 and reenacted; and that §29-25-2 and §29-25-24 of said code be

1 amended and reenacted, all to read as follows:

2 **ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

3 **§29-22A-3. Definitions.**

4 As used in this article:

5 (a) "Applicant" means any person applying for any video
6 lottery license or permit.

7 (b) "Associated equipment" means any hardware located on a
8 licensed racetrack's premises which is connected to the video
9 lottery system for the purpose of performing communication,
10 validation or other functions, but not including the video lottery
11 terminals or the communication facilities of a regulated public
12 utility.

13 (c) "Background investigation" means a security, criminal and
14 credit investigation of a person, as defined in this section, who
15 has applied for a video lottery license or permit, or who has been
16 granted a video lottery license or permit.

17 (d) "Central computer," "central control computer" or "central
18 site system" means any central site computer provided to and
19 controlled by the commission to which video lottery terminals
20 communicate for purposes of information retrieval and terminal
21 activation and to disable programs.

22 (e) "Commission" or "State Lottery Commission" means the West
23 Virginia Lottery Commission created by article twenty-two of this
24 chapter.

25 (f) "Control" means the authority to direct the management and
26 policies of an applicant or a license or permit holder.

1 (g) "Costs" means the expenses incurred by the commission in
2 the testing and examination of video lottery terminals and the
3 performance of background investigations and other related
4 activities which are charged to and collected from applicants or
5 license or permit holders.

6 (h) "Director" means the individual appointed by the Governor
7 to provide management and administration necessary to direct the
8 State Lottery Office.

9 (i) "Disable" or "terminal disable" means the process of
10 executing a shutdown command from the central control computer
11 which causes video lottery terminals to cease functioning.

12 (j) "Display" means the visual presentation of video lottery
13 game features on a video lottery terminal in the form of video
14 images, actual symbols or both.

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

22 (l) "Floor attendant" means a person, employed by a licensed
23 racetrack, who holds a permit issued by the commission and who
24 corrects paper jams and bill jams in video lottery terminals and
25 also provides courtesy services for video lottery players.

26 (m) "Gross terminal income" means the total amount of cash,

1 vouchers or tokens inserted into the video lottery terminals
2 operated by a licensee, minus the total value of coins and tokens
3 won by a player and game credits which are cleared from the video
4 lottery terminals in exchange for winning redemption tickets.

5 (n) "License" or "video lottery license" means authorization
6 granted by the commission to a racetrack which is licensed by the
7 West Virginia Racing Commission to conduct thoroughbred or
8 greyhound racing meetings pursuant to article twenty-three, chapter
9 nineteen of this code permitting the racetrack to operate video
10 lottery terminals authorized by the commission.

11 (o) "Lottery" means the public gaming systems or games
12 established and operated by the State Lottery Commission.

13 (p) "Manufacturer" means any person holding a permit granted
14 by the commission to engage in the business of designing, building,
15 constructing, assembling or manufacturing video lottery terminals,
16 the electronic computer components of the video lottery terminals,
17 the random number generator of the video lottery terminals, or the
18 cabinet in which it is housed, and whose product is intended for
19 sale, lease or other assignment to a licensed racetrack in West
20 Virginia, and who contracts directly with the licensee for the
21 sale, lease or other assignment to a licensed racetrack in West
22 Virginia.

23 (q) "Net terminal income" means gross terminal income minus an
24 amount deducted by the commission to reimburse the commission for
25 its actual costs of administering racetrack video lottery at the
26 licensed racetrack. No deduction for any or all costs and expenses

1 of a licensee related to the operation of video lottery games shall
2 be deducted from gross terminal income.

3 (r) "Noncash prize" means merchandise which a video lottery
4 player may be given the option to receive in lieu of cash in
5 exchange for a winning redemption ticket and which shall be
6 assigned a redemption value equal to the actual cost of the
7 merchandise to the licensed racetrack.

8 (s) "Own" means any beneficial or proprietary interest in any
9 property or business of an applicant or licensed racetrack.

10 (t) "Pari-mutuel racing facility," "licensed racetrack,"
11 "racetrack" or "track" means a facility where horse or dog race
12 meetings are held and the pari-mutuel system of wagering is
13 authorized pursuant to the provisions of article twenty-three,
14 chapter nineteen of this code: *Provided, That, for the purposes of*
15 *this article, "pari-mutuel racing facility," "licensed racetrack,"*
16 *"racetrack" or "track" includes only a facility which was licensed*
17 *prior to January 1, 1994, to hold horse or dog race meetings, and*
18 *which conducts not less than two hundred twenty live racing dates*
19 *for each horse or dog race meeting or such other number of live*
20 *racing dates as may be approved by the Racing Commission in*
21 *accordance with the provisions of section twelve-b, article twenty-*
22 *three, chapter nineteen of this code.*

23 (u) "Permit" means authorization granted by the commission to
24 a person to function as either a video lottery manufacturer,
25 service technician or validation manager.

26 (v) "Person" means any natural person, corporation,

1 association, partnership, limited partnership, or other entity,
2 regardless of its form, structure or nature.

3 (w) "Player" means a person who plays a video lottery game on
4 a video lottery terminal at a racetrack licensed by the commission
5 to conduct video lottery games.

6 (x) "Service technician" means a person, employed by a
7 licensed racetrack, who holds a permit issued by the commission and
8 who performs service, maintenance and repair on licensed video
9 lottery terminals in this state.

10 (y) "Video lottery game" means a commission approved, owned
11 and controlled electronically simulated game of chance which is
12 displayed on a video lottery terminal and which:

13 (1) Is connected to the commission's central control computer
14 by an on-line or dial-up communication system;

15 (2) Is initiated by a player's insertion of coins, currency,
16 vouchers or tokens into a video lottery terminal, which causes game
17 play credits to be displayed on the video lottery terminal and,
18 with respect to which, each game play credit entitles a player to
19 choose one or more symbols or numbers or to cause the video lottery
20 terminal to randomly select symbols or numbers;

21 (3) Allows the player to win additional game play credits,
22 coins or tokens based upon game rules which establish the random
23 selection of winning combinations of symbols or numbers or both and
24 the number of free play credits, coins or tokens to be awarded for
25 each winning combination of symbols or numbers or both;

26 (4) Is based upon computer-generated random selection of

1 winning combinations based totally or predominantly on chance;

2 (5) Allows a player at any time to simultaneously clear all
3 game play credits and print a redemption ticket entitling the
4 player to receive the cash value of the free plays cleared from the
5 video lottery terminal; and

6 (z) "Validation manager" means a person who holds a permit
7 issued by the commission and who performs video lottery ticket
8 redemption services.

9 (aa) "Video lottery" means a lottery which allows a game to be
10 played utilizing an electronic computer and an interactive computer
11 terminal device, equipped with a video screen and keys, a keyboard
12 or other equipment allowing input by an individual player, into
13 which the player inserts coins, currency, vouchers or tokens as
14 consideration in order for play to be available, and through which
15 terminal device the player may receive free games, coins, tokens or
16 credit that can be redeemed for cash, annuitized payments over
17 time, a noncash prize or nothing, as may be determined wholly or
18 predominantly by chance. "Video lottery" does not include a
19 lottery game which merely utilizes an electronic computer and a
20 video screen to operate a lottery game and communicate the results
21 of the game, such as the game "Travel," and which does not utilize
22 an interactive electronic terminal device allowing input by an
23 individual player.

24 (bb) "Video lottery terminal" means a commission-approved
25 interactive electronic terminal device which is connected with the
26 commission's central computer system, and which is used for the

1 purpose of playing video lottery games authorized by the
2 commission. A video lottery terminal may simulate the play of one
3 or more video lottery games.

4 (cc) "Wager" means a sum of money or thing of value risked on
5 an uncertain occurrence.

6 **ARTICLE 22B. LIMITED VIDEO LOTTERY.**

7 **§29-22B-332. Video lottery game defined.**

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

12 (1) Is connected to the commission's central control computer
13 by an on-line or dial-up communication system;

14 (2) Is initiated by a player's insertion of coins or currency
15 into a video lottery terminal, which causes game play credits to be
16 displayed on the video lottery terminal and, with respect to which,
17 each game play credit entitles a player to choose one or more
18 symbols or numbers or to cause the video lottery terminal to
19 randomly select symbols or numbers;

20 (3) Allows the player to win additional game play credits
21 based upon game rules which establish the random selection of
22 winning combinations of symbols or numbers or both and the number
23 of free-play credits to be awarded for each winning combination of
24 symbols or numbers or both;

25 (4) Is based upon computer-generated random selection of
26 winning combinations based totally or predominantly on chance;

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2 (5) Allows a player at any time to simultaneously clear all
3 game play credits and print a redemption ticket entitling the
4 player to receive the cash value of the free plays cleared from the
5 video lottery terminal; and

6 **ARTICLE 25. AUTHORIZED GAMING FACILITY.**

7 **§29-25-2. Definitions.**

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

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

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

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

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

25 (e) "Controlling interest" means:

26 (1) For a partnership, an interest as a general or limited

1 partner holding more than five percent interest in the entity;

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

4 (3) For any other entity, an ownership interest of more than
5 five percent in the entity.

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

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

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

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

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

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

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

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

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

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

16 (p) "Gross terminal income", as used in this article and as
17 used in article twenty-two-a of this chapter, means the total
18 amount of cash, vouchers or tokens inserted into the video lottery
19 terminals operated by a licensee, minus promotional credits played,
20 and minus the total value of coins and tokens won by a player and
21 game credits which are cleared from the video lottery terminals in
22 exchange for winning redemption tickets.

23 (q) "Historic resort hotel" means a resort hotel registered
24 with the United States Department of the Interior as a national
25 historic landmark in its National Registry of Historic Places
26 having not fewer than five hundred guest rooms under common

1 ownership and having substantial recreational guest amenities in
2 addition to the gaming facility.

3 (r) "Historic Resort Hotel Fund" means the special fund in the
4 State Treasury created in section twenty-two of this article.

5 (s) "Human Resource Benefit Fund" means the special fund in
6 the State Treasury created in section twenty-two-a of this article.

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

9 (u) "License" means a license issued by the commission,
10 including:

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

12 (2) A license to supply gaming devices and supplies to a
13 gaming facility;

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

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

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

21 (w) "Licensed gaming facility supplier" means a person who is
22 licensed by the commission to engage in the business of supplying
23 gaming devices and gaming supplies to a gaming facility.

24 (x) "Licensee" means a gaming licensee, a licensed gaming
25 facility supplier or a licensed gaming facility employee.

26 (y) "Manufacturer" means any person holding a license granted

1 by the commission to engage in the business of designing, building,
2 constructing, assembling or manufacturing video lottery terminals,
3 the electronic computer components of the video lottery terminals,
4 the random number generator of the video lottery terminals, or the
5 cabinet in which it is housed, and whose product is intended for
6 sale, lease or other assignment to a licensed gaming facility in
7 West Virginia and who contracts directly with the licensee for the
8 sale, lease or other assignment to a licensed gaming facility in
9 West Virginia.

10 (z) "Net terminal income" means gross terminal income minus an
11 amount deducted by the commission to reimburse the commission for
12 its actual cost of administering video lottery at the licensed
13 gaming facility. No deduction for any or all costs and expenses of
14 a licensee related to the operation of video lottery games shall be
15 deducted from gross terminal income.

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

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

24 (cc) "Promotional credits" means credits given by the licensed
25 gaming facility or licensed racetrack to players allowing limited
26 free play of video lottery terminals in total amounts and under

1 conditions approved in advance by the commission.

2 (dd) "Video lottery game", as used in this article and as used
3 in article twenty-two-a of this chapter, means a commission-
4 approved, -owned and -controlled electronically simulated game of
5 chance which is displayed on a video lottery terminal and which:

6 (1) Is connected to the commission's central control computer
7 by an online or dial-up communication system;

8 (2) Is initiated by a player's insertion of cash, vouchers or
9 tokens into a video lottery terminal, which causes game play
10 credits to be displayed on the video lottery terminal and, with
11 respect to which, each game play credits entitles a player to
12 choose one or more symbols or numbers or to cause the video lottery
13 terminal to randomly select symbols or numbers;

14 (3) Allows the player to win additional game play credits,
15 coins or tokens based upon game rules which establish the random
16 selection of winning combinations of symbols or numbers or both and
17 the number of free play credits, coins or tokens to be awarded for
18 each winning combination of symbols or numbers or both;

19 (4) Is based upon a computer-generated random selection of
20 winning combinations based totally or predominantly on chance;

21 (5) Allows a player at any time to simultaneously clear all
22 game play credits and print a redemption ticket entitling the
23 player to receive the cash value of the free plays cleared from the
24 video lottery terminal; and

25 (ee) "Wager" means a sum of money or thing of value risked on
26 an uncertain occurrence.

1 (ff) "West Virginia Lottery table game" means any game played
2 with cards, dice or any mechanical, electromechanical or electronic
3 device or machine for money, credit or any representative of value,
4 including, but not limited to, baccarat, blackjack, poker, craps,
5 roulette, wheel of fortune or any variation of these games similar
6 in design or operation and expressly authorized by rule of the
7 commission, including multiplayer electronic table games, machines
8 and devices, but excluding video lottery, punchboards, faro,
9 numbers tickets, push cards, jar tickets, pull tabs or similar
10 games.

11 **§29-25-24. Individual gaming restrictions.**

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

14 (1) Is either;

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

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

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

1 (2) Is at least twenty-one years of age;

2 (3) Is not visibly intoxicated;

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

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

9 (b) Notwithstanding any provisions of this code to the
10 contrary, no employee of the commission or any member of his or her
11 immediate household may wager at the gaming facility, and no
12 licensed limited gaming facility employee may wager on any table
13 game at the limited gaming facility.