

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 478**

4 (By Senators Miller, Laird, Barnes and Williams)

5 _____
6 [Originating in the Committee on Judiciary;

7 reported March 27, 2013.]
8 _____

9
10 A BILL 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 deleting those video lottery games that
14 allow players an option to select replacement symbols or
15 numbers or additional symbols or numbers after the game is
16 initiated and in the course of play from the definition of
17 "video lottery game"; deleting prohibition against game themes
18 commonly associated with casino gambling; and permitting
19 certain employees of an historic resort hotel to wager at the
20 gaming facility of that historic hotel.

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

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

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

1 **§29-22A-3. Definitions.**

2 As used in this article:

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

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

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

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

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

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

25 (g) "Costs" means the expenses incurred by the commission in
26 the testing and examination of video lottery terminals and the

1 performance of background investigations and other related
2 activities which are charged to and collected from applicants or
3 license or permit holders.

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

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

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

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

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

24 (m) "Gross terminal income" means the total amount of cash,
25 vouchers or tokens inserted into the video lottery terminals
26 operated by a licensee, minus the total value of coins and tokens

1 won by a player and game credits which are cleared from the video
2 lottery terminals in exchange for winning redemption tickets.

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

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

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

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

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

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

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

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

24 (v) "Person" means any natural person, corporation,
25 association, partnership, limited partnership, or other entity,
26 regardless of its form, structure or nature.

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

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

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

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

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

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

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

26 ~~(5) In the case of a video lottery game which allows the~~

~~1 player an option to select replacement symbols or numbers or
2 additional symbols or numbers after the game is initiated and in
3 the course of play, either: (A) Signals the player, prior to any
4 optional selection by the player of randomly generated replacement
5 symbols or numbers, as to which symbols or numbers should be
6 retained by the player to present the best chance, based upon
7 probabilities, that the player may select a winning combination;
8 (B) signals the player, prior to any optional selection by the
9 player of randomly generated additional symbols or numbers, as to
10 whether such additional selection presents the best chance, based
11 upon probabilities, that the player may select a winning
12 combination; or (C) randomly generates additional or replacement
13 symbols and numbers for the player after automatically selecting
14 the symbols and numbers which should be retained to present the
15 best chance, based upon probabilities, for a winning combination,
16 so that in any event, the player is not permitted to benefit from
17 any personal skill, based upon a knowledge of probabilities, before
18 deciding which optional numbers or symbols to choose in the course
19 of video lottery game play;~~

20 ~~(6)~~ (5) Allows a player at any time to simultaneously clear
21 all game play credits and print a redemption ticket entitling the
22 player to receive the cash value of the free plays cleared from the
23 video lottery terminal; and

24 ~~(6)~~ Does not use the following game themes commonly associated
25 with casino gambling: ~~Roulette, dice, or baccarat card games:~~
26 Provided, That games having a display with symbols which appear to

1 ~~roll on drums to simulate a classic casino slot machine, game~~
2 ~~themes of other card games and keno may be used.~~

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

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

21 (bb) "Video lottery terminal" means a commission-approved
22 interactive electronic terminal device which is connected with the
23 commission's central computer system, and which is used for the
24 purpose of playing video lottery games authorized by the
25 commission. A video lottery terminal may simulate the play of one
26 or more video lottery games.

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

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

4 **§29-22B-332. Video lottery game defined.**

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

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

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

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

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

24 ~~(5) In the case of a video lottery game which allows the~~
25 ~~player an option to select replacement symbols or numbers or~~
26 ~~additional symbols or numbers after the game is initiated and in~~

1 ~~the course of play, either: (A) Signals the player, prior to any~~
2 ~~optional selection by the player of randomly generated replacement~~
3 ~~symbols or numbers, as to which symbols or numbers should be~~
4 ~~retained by the player to present the best chance, based upon~~
5 ~~probabilities, that the player may select a winning combination;~~
6 ~~(B) signals the player, prior to any optional selection by the~~
7 ~~player of randomly generated additional symbols or numbers, as to~~
8 ~~whether the additional selection presents the best chance, based~~
9 ~~upon probabilities, that the player may select a winning~~
10 ~~combination; or (C) randomly generates additional or replacement~~
11 ~~symbols and numbers for the player after automatically selecting~~
12 ~~the symbols and numbers which should be retained to present the~~
13 ~~best chance, based upon probabilities, for a winning combination,~~
14 ~~so that in any event, the player is not permitted to benefit from~~
15 ~~any personal skill, based upon a knowledge of probabilities, before~~
16 ~~deciding which optional numbers or symbols to choose in the course~~
17 ~~of video lottery game play;~~

18 ~~(6)~~ (5) Allows a player at any time to simultaneously clear
19 all game play credits and print a redemption ticket entitling the
20 player to receive the cash value of the free plays cleared from the
21 video lottery terminal; and

22 ~~(6)~~ ~~Does not use game themes of roulette, dice or baccarat~~
23 ~~card games commonly associated with casino gambling: *Provided,*~~
24 ~~That games having a video display depicting symbols that appear to~~
25 ~~roll on drums to simulate a classic casino slot machine, game~~
26 ~~themes of other card games and keno may be used.~~

1 **ARTICLE 25. AUTHORIZED GAMING FACILITY.**

2 **§29-25-2. Definitions.**

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

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

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

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

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

20 (e) "Controlling interest" means:

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

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

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

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

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

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

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

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

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

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

1 operation of a West Virginia Lottery table game.

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

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

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

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

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

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

26 (s) "Human Resource Benefit Fund" means the special fund in

1 the State Treasury created in section twenty-two-a of this article.

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

4 (u) "License" means a license issued by the commission,
5 including:

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

7 (2) A license to supply gaming devices and supplies to a
8 gaming facility;

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

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

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

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

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

21 (y) "Manufacturer" means any person holding a license granted
22 by the commission to engage in the business of designing, building,
23 constructing, assembling or manufacturing video lottery terminals,
24 the electronic computer components of the video lottery terminals,
25 the random number generator of the video lottery terminals, or the
26 cabinet in which it is housed, and whose product is intended for

1 sale, lease or other assignment to a licensed gaming facility in
2 West Virginia and who contracts directly with the licensee for the
3 sale, lease or other assignment to a licensed gaming facility in
4 West Virginia.

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

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

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

19 (cc) "Promotional credits" means credits given by the licensed
20 gaming facility or licensed racetrack to players allowing limited
21 free play of video lottery terminals in total amounts and under
22 conditions approved in advance by the commission.

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

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

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

9 (3) Allows the player to win additional game play credits,
10 coins or tokens based upon game rules which establish the random
11 selection of winning combinations of symbols or numbers or both and
12 the number of free play credits, coins or tokens to be awarded for
13 each winning combination of symbols or numbers or both;

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

16 ~~(5) In the case of a video lottery game which allows the
17 player an option to select replacement symbols or numbers or
18 additional symbols or numbers after the game is initiated and in
19 the course of play, either:~~

20 ~~(A) Signals the player, prior to any optional selection by the
21 player of randomly generated replacement symbols or numbers, as to
22 which symbols or numbers should be retained by the player to
23 present the best chance, based upon probabilities, that the player
24 may select a winning combination;~~

25 ~~(B) Signals the player, prior to any optional selection by the
26 player of randomly generated additional symbols or numbers, as to~~

1 ~~whether such additional selection presents the best chance, based~~
2 ~~upon probabilities, that the player may select a winning~~
3 ~~combination; or~~

4 ~~(C) Randomly generates additional or replacement symbols and~~
5 ~~numbers for the player after automatically selecting the symbols~~
6 ~~and numbers which should be retained to present the best chance,~~
7 ~~based upon probabilities, for a winning combination, so that in any~~
8 ~~event, the player is not permitted to benefit from any personal~~
9 ~~skill, based upon a knowledge of probabilities, before deciding~~
10 ~~which optional numbers or symbols to choose in the course of video~~
11 ~~lottery game play;~~

12 ~~(6)~~ (5) Allows a player at any time to simultaneously clear
13 all game play credits and print a redemption ticket entitling the
14 player to receive the cash value of the free plays cleared from the
15 video lottery terminal; and

16 ~~(6) Does not use the following game themes commonly associated~~
17 ~~with casino gambling: Roulette, dice or baccarat card games:~~
18 ~~Provided, That games having a display with symbols which appear to~~
19 ~~roll on drums to simulate a classic casino slot machine, game~~
20 ~~themes of other card games and keno may be used.~~

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

23 (ff) "West Virginia Lottery table game" means any game played
24 with cards, dice or any mechanical, electromechanical or electronic
25 device or machine for money, credit or any representative of value,
26 including, but not limited to, baccarat, blackjack, poker, craps,

1 roulette, wheel of fortune or any variation of these games similar
2 in design or operation and expressly authorized by rule of the
3 commission, including multiplayer electronic table games, machines
4 and devices, but excluding video lottery, punchboards, faro,
5 numbers tickets, push cards, jar tickets, pull tabs or similar
6 games.

7 **§29-25-24. Individual gaming restrictions.**

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

10 (1) Is either;

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

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

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

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

24 (3) Is not visibly intoxicated;

25 (4) Has not been determined by the gaming facility operator or
26 the commission to be unruly, disruptive or otherwise interfering

1 with operation of the gaming facility; or to be likely to commit,
2 or to attempt to commit, a violation of this article; and

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

5 (b) Notwithstanding any provisions of this code to the
6 contrary, no employee of the commission ~~or employee of the historic~~
7 ~~resort hotel~~ or any member of his or her immediate household may
8 wager at the gaming facility, and no licensed limited gaming
9 facility employee may wager on any table game at the limited gaming
10 facility.