

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

2 **§29-22A-3. Definitions.**

3 As used in this article:

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

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

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

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

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

24 (f) "Control" means the authority to direct the management and

1 policies of an applicant or a license or permit holder.

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

7 (h) "Director" means the individual appointed by the Governor
8 to provide management and administration necessary to direct the
9 state lottery office.

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

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

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

23 (l) "Floor attendant" means a person, employed by a licensed
24 racetrack, who holds a permit issued by the commission and who

1 corrects paper jams and bill jams in video lottery terminals and
2 also provides courtesy services for video lottery players.

3 (m) "Gross terminal income" means the total amount of cash,
4 vouchers or tokens inserted into the video lottery terminals
5 operated by a licensee, minus the total value of coins and tokens
6 won by a player and game credits which are cleared from the video
7 lottery terminals in exchange for winning redemption tickets.

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

14 (o) "Lottery" means the public gaming systems or games
15 established and operated by the state Lottery Commission.

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

1 Virginia.

2 (q) "Net terminal income" means gross terminal income minus an
3 amount deducted by the commission to reimburse the commission for
4 its actual costs of administering racetrack video lottery at the
5 licensed racetrack. No deduction for any or all costs and expenses
6 of a licensee related to the operation of video lottery games shall
7 be deducted from gross terminal income.

8 (r) "Noncash prize" means merchandise which a video lottery
9 player may be given the option to receive in lieu of cash in
10 exchange for a winning redemption ticket and which shall be
11 assigned a redemption value equal to the actual cost of the
12 merchandise to the licensed racetrack.

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

15 (t) "Pari-mutuel racing facility," "licensed racetrack,"
16 "racetrack" or "track" means a facility where horse or dog race
17 meetings are held and the pari-mutuel system of wagering is
18 authorized pursuant to the provisions of article twenty-three,
19 chapter nineteen of this code: *Provided, That, for the purposes of*
20 *this article, "pari-mutuel racing facility," "licensed racetrack,"*
21 *"racetrack" or "track" includes only a facility which was licensed*
22 *prior to January 1, 1994, to hold horse or dog race meetings, and*
23 *which conducts not less than two hundred twenty live racing dates*
24 *for each horse or dog race meeting or such other number of live*

1 racing dates as may be approved by the Racing Commission in
2 accordance with the provisions of section twelve-b, article twenty-
3 three, chapter nineteen of this code.

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

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

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

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

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

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

22 (2) Is initiated by a player's insertion of coins, currency,
23 vouchers or tokens into a video lottery terminal, which causes game
24 play credits to be displayed on the video lottery terminal and,

1 with respect to which, each game play credit entitles a player to
2 choose one or more symbols or numbers or to cause the video lottery
3 terminal to randomly select symbols or numbers;

4 (3) Allows the player to win additional game play credits,
5 coins or tokens based upon game rules which establish the random
6 selection of winning combinations of symbols or numbers or both and
7 the number of free play credits, coins or tokens to be awarded for
8 each winning combination of symbols or numbers or both;

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

11 ~~(5) In the case of a video lottery game which allows the
12 player an option to select replacement symbols or numbers or
13 additional symbols or numbers after the game is initiated and in
14 the course of play, either: (A) Signals the player, prior to any
15 optional selection by the player of randomly generated replacement
16 symbols or numbers, as to which symbols or numbers should be
17 retained by the player to present the best chance, based upon
18 probabilities, that the player may select a winning combination;
19 (B) signals the player, prior to any optional selection by the
20 player of randomly generated additional symbols or numbers, as to
21 whether such additional selection presents the best chance, based
22 upon probabilities, that the player may select a winning
23 combination; or (C) randomly generates additional or replacement
24 symbols and numbers for the player after automatically selecting~~

~~1 the symbols and numbers which should be retained to present the
2 best chance, based upon probabilities, for a winning combination,
3 so that in any event, the player is not permitted to benefit from
4 any personal skill, based upon a knowledge of probabilities, before
5 deciding which optional numbers or symbols to choose in the course
6 of video lottery game play;~~

7 ~~(6)~~ (5) Allows a player at any time to simultaneously clear
8 all game play credits and print a redemption ticket entitling the
9 player to receive the cash value of the free plays cleared from the
10 video lottery terminal; and

11 ~~(7)~~ (6) Does not use the following game themes commonly
12 associated with casino gambling: Roulette, dice, or baccarat card
13 games: *Provided*, That games having a display with symbols which
14 appear to roll on drums to simulate a classic casino slot machine,
15 game themes of other card games and keno may be used.

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

19 (aa) "Video lottery" means a lottery which allows a game to be
20 played utilizing an electronic computer and an interactive computer
21 terminal device, equipped with a video screen and keys, a keyboard
22 or other equipment allowing input by an individual player, into
23 which the player inserts coins, currency, vouchers or tokens as
24 consideration in order for play to be available, and through which

1 terminal device the player may receive free games, coins, tokens or
2 credit that can be redeemed for cash, annuitized payments over
3 time, a noncash prize or nothing, as may be determined wholly or
4 predominantly by chance. "Video lottery" does not include a
5 lottery game which merely utilizes an electronic computer and a
6 video screen to operate a lottery game and communicate the results
7 of the game, such as the game "Travel," and which does not utilize
8 an interactive electronic terminal device allowing input by an
9 individual player.

10 (bb) "Video lottery terminal" means a commission-approved
11 interactive electronic terminal device which is connected with the
12 commission's central computer system, and which is used for the
13 purpose of playing video lottery games authorized by the
14 commission. A video lottery terminal may simulate the play of one
15 or more video lottery games.

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

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

19 **§29-22B-332. Video lottery game defined.**

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

24 (1) Is connected to the commission's central control computer

1 by an on-line or dial-up communication system;

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

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

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

15 ~~(5) In the case of a video lottery game which allows the
16 player an option to select replacement symbols or numbers or
17 additional symbols or numbers after the game is initiated and in
18 the course of play, either: (A) Signals the player, prior to any
19 optional selection by the player of randomly generated replacement
20 symbols or numbers, as to which symbols or numbers should be
21 retained by the player to present the best chance, based upon
22 probabilities, that the player may select a winning combination;
23 (B) signals the player, prior to any optional selection by the
24 player of randomly generated additional symbols or numbers, as to~~

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

11 ~~(6)~~ (5) Allows a player at any time to simultaneously clear
 12 all game play credits and print a redemption ticket entitling the
 13 player to receive the cash value of the free plays cleared from the
 14 video lottery terminal; and

15 ~~(7)~~ (6) Does not use game themes of roulette, dice or baccarat
 16 card games commonly associated with casino gambling: *Provided,*
 17 That games having a video display depicting symbols that appear to
 18 roll on drums to simulate a classic casino slot machine, game
 19 themes of other card games and keno may be used.

20 **ARTICLE 25. AUTHORIZED GAMING FACILITY.**

21 **§29-25-2. Definitions.**

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

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

1 license.

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

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

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

15 (e) "Controlling interest" means:

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

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

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

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

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

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

8 (i) "Director" means the Director of the state Lottery
9 Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (y) "Manufacturer" means any person holding a license granted
23 by the commission to engage in the business of designing, building,
24 constructing, assembling or manufacturing video lottery terminals,

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

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

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

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

22 (cc) "Promotional credits" means credits given by the licensed
23 gaming facility or licensed racetrack to players allowing limited
24 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) In the case of a video lottery game which allows the~~
22 ~~player an option to select replacement symbols or numbers or~~
23 ~~additional symbols or numbers after the game is initiated and in~~
24 ~~the course of play, either:~~

1 ~~(A) Signals the player, prior to any optional selection by the~~
2 ~~player of randomly generated replacement symbols or numbers, as to~~
3 ~~which symbols or numbers should be retained by the player to~~
4 ~~present the best chance, based upon probabilities, that the player~~
5 ~~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 such additional selection presents the best chance, based~~
9 ~~upon probabilities, that the player may select a winning~~
10 ~~combination; or~~

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

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

23 ~~(7)~~ (6) Does not use the following game themes commonly
24 associated with casino gambling: Roulette, dice or baccarat card

1 games: *Provided*, That games having a display with symbols which
2 appear to roll on drums to simulate a classic casino slot machine,
3 game themes of other card games and keno may be used.

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

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

16 **§29-25-24. Individual gaming restrictions.**

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

19 (1) Is either;

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

22 (B) A person who is a not a registered overnight guest, but is
23 a registered participant at a convention or event being held at the
24 historic resort hotel: *Provided*, That this paragraph does not

1 apply on any calendar day when less than four hundred guest rooms
2 are occupied at the historic resort hotel; or

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

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

9 (3) Is not visibly intoxicated;

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

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

16 (b) Notwithstanding any provisions of this code to the
17 contrary, no employee of the commission ~~or employee of the historic~~
18 ~~resort hotel~~ or any member of his or her immediate household may
19 wager at the gaming facility.

NOTE: The purpose of this bill is to delete those video lottery games which 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." The bill, thus, removes the autohold restrictions on video lottery games. The bill also permits

employees of an historic resort hotel to wager at the gaming facility of that historic hotel.

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