

**Senate Bill No. 563**

(By Senators D. Hall)

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[Introduced February 23, 2015; referred to the Committee on Finance.]  
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9 A BILL to amend and reenact §29-22A-7, §29-22A-8, §29-22A-9 and §29-22A-12 of the Code of  
10 West Virginia, 1931, as amended; and to amend and reenact §29-22C-7 and §29-22C-29 of  
11 said code, all relating to eliminating requirement racetracks have agreements with  
12 representatives of local horse owners, trainers, pari-mutuel clerks, breeders and kennel  
13 owners to have video lottery license; eliminating prohibition against having automated teller  
14 machines in gaming area; allowing video lottery play on days when live or televised racing  
15 not conducted at racetrack; eliminating procedure for local option election to eliminate video  
16 lottery; eliminating procedure for local option election to eliminate table games; and allowing  
17 persons under twenty-one who are accompanied by an adult to cross gaming area on path  
18 approved by commission to access food service areas.

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

20 That §29-22A-7, §29-22A-8, §29-22A-9 and §29-22A-12 of the Code of West Virginia,  
21 1931, as amended, be amended and reenacted; and that §29-22C-7 and §29-22C-29 of said code be

1 amended and reenacted, all to read as follows:

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

3 **§29-22A-7. License and permit qualifications; individual qualifications; applicant required**  
4 **to furnish information; waiver of liability; oath or affirmation; duty to provide**  
5 **accurate and material information.**

6 (a) No video lottery license or permit may be granted unless the commission has determined  
7 that the applicant satisfies all of the following qualifications:

8 (1) An applicant for a video lottery license must hold a valid racing license granted by the  
9 West Virginia Racing Commission under provisions of article twenty-three, chapter nineteen of this  
10 code.

11 (2) An applicant must be a person of good character and integrity.

12 (3) An applicant must be a person whose background, including criminal record, reputation  
13 and associations, does not pose a threat to the security and integrity of the lottery or to the public  
14 interest of the state. All new applicants for licenses and permits issued by the commission shall  
15 furnish fingerprints for a national criminal records check by the criminal identification bureau of the  
16 West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be  
17 furnished by all persons required to be named in the application and shall be accompanied by a  
18 signed authorization for the release of information by the criminal investigation bureau and the  
19 Federal Bureau of Investigation. The commission may require any applicant seeking the renewal of  
20 a license or permit to furnish fingerprints for a national criminal records check by the criminal  
21 identification bureau of the West Virginia State Police and the Federal Bureau of Investigation. A

1 person who has been convicted of any violation of article twenty-two of this chapter or of this article  
2 or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible for any  
3 license or permit. The commission shall revoke the license or permit of any person who is convicted  
4 of any such crime after a license or permit is granted.

5 (4) An applicant must be a person who demonstrates the business ability and experience  
6 necessary to establish, operate and maintain the business for which a video lottery license or permit  
7 application is made.

8 (5) An applicant must be a person who has secured adequate financing for the business for  
9 which a video lottery license or permit application is made. The commission shall determine  
10 whether financing is from a source which meets the qualifications of this section and is adequate to  
11 support the successful performance of the duties and responsibilities of the licensed racetrack or  
12 permit holder. An applicant for a video lottery license shall disclose all financing or refinancing  
13 arrangements for the purchase, lease or other acquisition of video lottery terminals and associated  
14 equipment in the degree of detail requested by the commission. A licensed racetrack shall request  
15 commission approval of any change in financing or lease arrangements at least thirty days before the  
16 effective date of the change.

17 ~~(6) A racetrack applying for a video lottery license or a license renewal must present to the~~  
18 ~~commission evidence of the existence of an agreement, regarding the proceeds from video lottery~~  
19 ~~terminals, between the applicant and the representative of a majority of the horse owners and~~  
20 ~~trainers, the representative of a majority of the pari-mutuel clerks and the representative of a majority~~  
21 ~~of the breeders or the representative of a majority of the kennel owners for the applicable racetrack~~

1 ~~who hold permits required by section two, article twenty-three, chapter nineteen of this code.~~

2       (7)(6) A racetrack applying for a video lottery license or a license renewal must file with the  
3 commission a copy of any current or proposed agreement between the applicant and any  
4 manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals, the  
5 electronic computer components of the terminals, the random number generator of the terminals, or  
6 the cabinet in which it is housed. Once filed with the commission, the agreement is a public  
7 document subject to the provisions of article one, chapter twenty-nine-b of this code.

8       (b) No video lottery license or permit may be granted to an applicant until the commission  
9 determines that each person who has control of the applicant meets all applicable qualifications of  
10 subsection (a) of this section. The following persons are considered to have control of an applicant:

11       (1) Each person associated with a corporate applicant, including any corporate holding  
12 company, parent company or subsidiary company of the applicant, but not including a bank or other  
13 licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of  
14 business, who has the ability to control the activities of the corporate applicant or elect a majority  
15 of the board of directors of that corporation.

16       (2) Each person associated with a noncorporate applicant who directly or indirectly holds any  
17 beneficial or proprietary interest in the applicant or who the commission determines to have the  
18 ability to control the applicant.

19       (3) Key personnel of an applicant, including any executive, employee or agent, having the  
20 power to exercise significant influence over decisions concerning any part of the applicant's business  
21 operation.

1 (c) Applicants must furnish all information, including financial data and documents,  
2 certifications, consents, waivers, individual history forms and other materials requested by the  
3 commission for purposes of determining qualifications for a license or permit. No video lottery  
4 license or permit may be granted to an applicant who fails to provide information and documentation  
5 requested by the commission. The burden of proving qualification for any video lottery license or  
6 permit is on the applicant.

7 (d) Each applicant bears all risks of adverse public notice, embarrassment, criticism, damages  
8 or financial loss which may result from any disclosure or publication of any material or information  
9 obtained by the commission pursuant to action on an application. The applicant shall, as a part of  
10 its application, expressly waive any and all claims against the commission, the State of West  
11 Virginia and the employees of either for damages as a result of any background investigation,  
12 disclosure or publication relating to an application for a video lottery license or permit.

13 (e) All application, registration and disclosure forms and other documents submitted to the  
14 commission by or on behalf of the applicant for purposes of determining qualification for a video  
15 lottery license or permit shall be sworn to or affirmed before an officer qualified to administer oaths.

16 (f) An applicant who knowingly fails to reveal any fact material to qualification or who  
17 knowingly submits false or misleading material information is ineligible for a video lottery license  
18 or permit.

19 **§29-22A-8. Form of application; local option elections; issuance of license; notice of**  
20 **incomplete application; notice of license or permit denial, suspension or**  
21 **revocation; procedure for review of license or permit denial, suspension or**

1           **revocation; fees, renewal fees and renewal dates; bonding; renewal of licenses**  
2           **and permits; notice of change affecting license or permit; license or permit not**  
3           **transferrable or assignable.**

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

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

17           On the local option election ballot shall be printed the following:

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

20           [ ] Yes [ ] No

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

1 The ballots shall be counted, returns made and canvassed as in general elections, and the  
2 results certified by the commissioners of election to the county commission. The county commission  
3 shall, without delay, certify the result of the election to the commission.

4 (c) Upon receipt of the results of the election from the county commission, and if a majority  
5 has voted "yes", the commission shall issue the requested license if the applicant is otherwise  
6 qualified for the license. If a majority has voted "no", the commission shall notify the applicant of  
7 the results, the application shall be denied, and another election on the issue shall not be held for a  
8 period of two years: *Provided*, That for purposes of this section, the term "two years" means the  
9 interval between a general election and the next general election, and in no event shall it mean or  
10 encompass a period of time in excess of one hundred four weeks. ~~If a majority has voted "yes",  
11 another local option election on the issue shall not be held for a period of five years. A local option  
12 election may thereafter be held if a written petition of qualified voters residing within the county  
13 equal to at least five percent of the number of persons who were registered to vote in the next  
14 preceding general election is received by the county commission of the county in which the horse  
15 or dog racetrack is located. The petition may be in any number of counterparts.~~

16 The petition shall be in the following form:

17 **Petition For Local Option Election**

18 ~~We, the undersigned legally qualified voters, resident within the county of~~  
19 \_\_\_\_\_, do hereby petition that a special election be held within the county of  
20 \_\_\_\_\_ upon the following question: Shall West Virginia Lottery Commission video  
21 lottery games be permitted within an area at the [name of racetrack] in which pari-mutuel betting is

1 authorized by law?

2       Name \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_  
3   (Post office or street address)

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

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

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

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

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

16           (1) Racetrack: ..... \$1,000

17           (2) Manufacturer: .....\$10,000

18           (3) Service technician: .....\$100

19           (4) Validation manager: .....\$50

20           (5) Floor attendant: .....\$50

21           The fees shall be paid to the commission at the time of license or permit application and on



1 or before July 1, of each year thereafter, at which time the license or permit may be renewed.

2 (i) An applicant for a video lottery license shall, prior to the issuance of the license, post a  
3 bond or irrevocable letter of credit in a manner and in an amount established by the commission.  
4 The bond shall be issued by a surety company authorized to transact business in West Virginia and  
5 the company shall be approved by the Insurance Commissioner of this state as to solvency and  
6 responsibility.

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

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

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

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

5 **§29-22A-9. General duties of all video lottery license and permit holders; duties of permitted**  
6 **manufacturers; duties of permitted service technicians; duties of permitted**  
7 **validation managers; duties of floor attendants; duties of licensed racetracks.**

8 (a) All video lottery license and permit holders shall:

9 (1) Promptly report to the commission any facts or circumstances related to video lottery  
10 operations which constitute a violation of state or federal law;

11 (2) Conduct all video lottery activities and functions in a manner which does not pose a threat  
12 to the public health, safety or welfare of the citizens of this state, and which does not adversely affect  
13 the security or integrity of the lottery;

14 (3) Hold the commission and this state harmless from and defend and pay for the defense of  
15 any and all claims which may be asserted against a license or permit holder, the commission, the  
16 state or the employees thereof, arising from the license or permit holder's participation in the video  
17 lottery system authorized by this article;

18 (4) Assist the commission in maximizing video lottery revenues;

19 (5) Maintain all records required by the commission;

20 (6) Upon request by the commission, provide the commission access to all records and the  
21 physical premises of the business or businesses where the license or permit holder's video lottery

1 activities occur, for the purpose of monitoring or inspecting the license or permit holder's activities  
2 and the video lottery games, video lottery terminals and associated equipment; and

3 (7) Keep current in all payments and obligations to the commission.

4 (b) Manufacturers shall:

5 (1) Manufacture terminals and associated equipment for placement in this state in accordance  
6 with the specifications and procedures specified in sections five and six of this article;

7 (2) Manufacture terminals and associated equipment to ensure timely delivery to licensed  
8 racetracks;

9 (3) Maintain and provide an inventory of spare parts to assure the timely repair and  
10 continuous operation of licensed video lottery terminals intended for placement in this state;

11 (4) Provide to licensed racetracks and permitted service technicians technical assistance and  
12 training in the service and repair of video lottery terminals and associated equipment so as to assure  
13 the continuous authorized operation and play of the video lottery terminals; and

14 (5) Obtain certification of compliance under the provisions of part fifteen of the federal  
15 communication commission rules for all video lottery terminals placed in this state.

16 (c) Service technicians shall:

17 (1) Maintain all skills necessary for the timely repair and service of licensed video lottery  
18 terminals and associated equipment so as to ensure the continued, approved operation of those  
19 terminals;

20 (2) Attend all commission mandated meetings, seminars and training sessions concerning the  
21 repair and maintenance of licensed video lottery terminals and associated equipment; and

1 (3) Promptly notify the commission of any electronic or mechanical video lottery terminal  
2 malfunctions.

3 (d) Validation managers shall:

4 (1) Attend all commission mandated meetings, seminars and training sessions concerning the  
5 validation and redemption of video lottery winning tickets and the operation of all ticket validation  
6 terminals and equipment;

7 (2) Maintain all skills necessary for the accurate validation of video lottery tickets; and

8 (3) Supervise video lottery ticket validation procedures at the applicable licensed racetrack.

9 (e) Floor attendants shall:

10 (1) Provide change and assistance to persons playing video lottery games in a licensed  
11 racetrack video lottery gaming area;

12 (2) Open video lottery terminal access doors to clear ticket paper jams and to insert new  
13 paper ticket tapes into the video lottery terminals; and

14 (3) Open video lottery terminal access doors to clear bill jams from the bill acceptors in video  
15 lottery terminals.

16 (f) The specific duties required of all licensed racetracks are as follows:

17 (1) Acquire video lottery terminals by purchase, lease or other assignment and provide a  
18 secure location for the placement, operation and play of the video lottery terminals;

19 (2) Pay for the installation and operation of commission approved telephone lines to provide  
20 direct dial-up or on-line communication between each video lottery terminal and the commission's  
21 central control computer;

1 (3) Permit no person to tamper with or interfere with the operation of any video lottery  
2 terminal;

3 (4) Ensure that telephone lines from the commission's central control computer to the video  
4 lottery terminals located at the licensed racetrack are at all times connected and prevent any person  
5 from tampering or interfering with the operation of the telephone lines;

6 (5) Ensure that video lottery terminals are within the sight and control of designated  
7 employees of the licensed racetrack;

8 (6) Ensure that video lottery terminals are placed and remain placed in the specific locations  
9 within the licensed racetrack which have been approved by the commission. No video lottery  
10 terminal or terminals at a racetrack shall be relocated without the prior approval of the commission;

11 (7) Monitor video lottery terminals to prevent access to or play by persons who are under the  
12 age of eighteen years or who are visibly intoxicated;

13 (8) Maintain at all times sufficient change and cash in the denominations accepted by the  
14 video lottery terminals;

15 ~~(9) Provide no access by a player to an automated teller machine (ATM) in the area of the~~  
16 ~~racetrack where video lottery games are played, accept no credit card or debit card from a player for~~  
17 ~~the exchange or purchase of video lottery game credits or for an advance of coins or currency to be~~  
18 ~~utilized by a player to play video lottery games, and extend no credit, in any manner, to a player so~~  
19 ~~as to enable the player to play a video lottery game;~~

20 ~~(10)~~ (9) Pay for all credits won upon presentment of a valid winning video lottery ticket;

21 ~~(11)~~ (10) Report promptly to the manufacturer and the commission all video lottery terminal

- 1 malfunctions and notify the commission of the failure of a manufacturer or service technician to  
2 provide prompt service and repair of such terminals and associated equipment;
- 3 ~~(12)~~ (11) Conduct no video lottery advertising and promotional activities without the prior  
4 written approval of the director;
- 5 ~~(13)~~ 12 Install, post and display prominently at locations within or about the licensed  
6 racetrack, signs, redemption information and other promotional material as required by the  
7 commission;
- 8 ~~(14)~~ (13) Permit video lottery to be played only during those hours established and approved  
9 by the commission;
- 10 ~~(15)~~ (14) Maintain general liability insurance coverage for all video lottery terminals in an  
11 amount of at least \$2 million per claim;
- 12 ~~(16)~~ (15) Promptly notify the commission in writing of any breaks or tears to any logic unit  
13 seals;
- 14 ~~(17)~~ (16) Assume liability for lost or stolen money from any video lottery terminal; and
- 15 ~~(18)~~ (17) Submit an audited financial statement, which has been approved by the  
16 commission, to the commission when applying for a license or permit and annually thereafter prior  
17 to the time a license or permit may be renewed.

18 **§29-22A-12. Number and location of video lottery terminals security.**

- 19 (a) A racetrack which has been licensed to conduct video lottery games has the right to install  
20 and operate up to four hundred video lottery terminals at a licensed racetrack. A licensed racetrack  
21 may apply to the commission for authorization to install and operate more than four hundred video

1 lottery terminals. If the commission determines that the installation of additional machines is in the  
2 best interest of the licensed racetrack, the Lottery Commission and the citizens of this state, the  
3 commission may grant permission to install and operate additional machines.

4 (b) All video lottery terminals in licensed racetracks shall be physically located as follows:

5 (1) The video lottery location shall be continuously monitored through the use of a closed  
6 circuit television system capable of recording activity for a continuous 24-hour period. All video  
7 tapes shall be retained for a period of at least thirty days;

8 (2) Access to video lottery terminal locations shall be restricted to persons legally entitled  
9 by age to play video lottery games;

10 (3) The licensed racetrack shall submit for commission approval a floor plan of the area or  
11 areas where video lottery terminals are to be operated showing terminal locations and security  
12 camera mount locations;

13 (4) No video lottery terminal may be relocated without prior approval from the commission;  
14 and

15 (5) Operational video lottery terminals may only be located in the building or structure in  
16 which the grandstand area of the racetrack is located and in the area of the building or structure  
17 where pari-mutuel wagering is permitted under the provisions of article twenty-three, chapter  
18 nineteen of this code: *Provided*, That if the commission, before November 1, 1993, has authorized  
19 any racetrack to operate video lottery terminals and offer video lottery games in a location which  
20 would not conform to the requirements of this subdivision, the racetrack may continue to use video  
21 lottery terminals registered with and approved by the commission at that nonconforming location

1 and to offer the games and any variations or composites of the games as may be approved by the  
2 commission.

3 ~~(c) A licensee shall allow video lottery games to be played only on days when live racing is  
4 being conducted at the racetrack and/or on televised racing days: *Provided*, That this restriction shall  
5 not apply to any racetrack authorized by the commissioner prior to November 1, 1993, to operate  
6 video lottery terminals and conduct video lottery games.~~

7 ~~(c)~~ (c) Security personnel shall be present during all hours of operation at each video lottery  
8 terminal location. Each license holder shall employ the number of security personnel the  
9 commission determines is necessary to provide for safe and approved operation of the video lottery  
10 facilities and the safety and well-being of the players.

11 **ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.**

12 **§29-22C-7. Local option election.**

13 (a) No racetrack may be licensed under this article to operate West Virginia Lottery table  
14 games until a local option election is held in the county in which pari-mutuel wagers are received  
15 at a racetrack licensed under article twenty-three, chapter nineteen of this code and the voters of that  
16 county voting on the question approve having West Virginia Lottery table games at the racetrack.

17 (b) The county commission shall place the question on the ballot upon the receipt of a written  
18 notice from a licensed racetrack located within that county requesting that the question be placed on  
19 the ballot.

20 (c) The county commission of the county in which table games would be located shall give  
21 notice to the public of the election by publication of the notice as a Class II-0 legal advertisement



1 in compliance with the provisions of article three, chapter fifty-nine of this code and the publication  
2 area for the publication shall be the county in which the election is to be held. The date of the last  
3 publication of the notice shall fall on a date at least thirty days preceding the day of the election. A  
4 local option election shall be effective even though the date of the order of the county commission  
5 setting the election or the date of publication of notice of the election is prior to the effective date  
6 of this article if the election is otherwise held in accordance with the provisions of this section.

7 (d) On the local option election ballot shall be printed the following:

8 Shall West Virginia Lottery table games be permitted at the [name of licensed racetrack]?

9  Yes  No

10 (Place a cross mark in the square next to your choice.)

11 (e) The local option election shall be held in conjunction with the next primary or general  
12 election scheduled more than ninety days following receipt by the county commission of the notice  
13 required by this section or at a special election: *Provided*, That upon written request by the licensed  
14 racetrack that a special election be called, the county commission shall order a special election to be  
15 held on the question within ninety days after the receipt by the county commission of that request.  
16 The county commission may require the licensed racetrack to pay the entire cost incurred by the  
17 county to hold the special election. Approval shall be by a majority of the voters casting votes at the  
18 election on the question of approval or disapproval of West Virginia Lottery table games at a  
19 licensed racetrack.

20 (f) If the majority votes against allowing table games at a licensed racetrack, no election on  
21 the issue shall be held for a period of one hundred four weeks. A local option election may thereafter

1 be held in the manner provided in this section. The process to hold another election on the question  
2 shall start anew, as if no prior request for an election on the question had been filed with county  
3 commission and as if there had been no prior election on the question.

4 (g) If the majority votes for allowing West Virginia Lottery table games at a licensed  
5 racetrack facility in a county, the measure is approved. ~~another local option election on the issue~~  
6 ~~shall not be held for a period of five years. A local option election may thereafter be held if a written~~  
7 ~~petition of qualified voters residing within the county equal to at least five percent of the number of~~  
8 ~~persons who were registered to vote in the next preceding general election is received by the county~~  
9 ~~commission of the county in which the horse or dog racetrack is located. The petition may be in any~~  
10 ~~number of counterparts. The petition shall be in the following form:~~

11 ~~Petition For Local Option Election~~

12 ~~We, the undersigned legally qualified voters, resident within the County of~~  
13 ~~\_\_\_\_\_~~, do hereby petition that a special election be held within the County of  
14 ~~\_\_\_\_\_~~ upon the following question: ~~Shall West Virginia Lottery table games be~~  
15 ~~permitted at the [name of racetrack]?~~

16 ~~Name \_\_\_\_\_ Address \_\_\_\_\_ Date \_\_\_\_\_~~

17 ~~(Post office or street address)~~

18 **§29-22C-29. Offenses and penalties.**

19 (a) A racetrack table games licensee is guilty of unlawful operation when:

20 (1) The licensee operates a West Virginia Lottery table game without authority of the  
21 commission to do so;

1           (2) The licensee operates a West Virginia Lottery table game in any location that is not a  
2 designated gaming area approved by the commission;

3           (3) The licensee knowingly conducts, carries on, operates or exposes for play or allows to be  
4 conducted, carried on, operated or exposed for play any table game or other device, equipment or  
5 material that has in any manner been tampered with or placed in a condition or operated in a manner,  
6 the result of which is designed to deceive the public;

7           (4) The licensee employs an individual in a position or to perform duties, for which a license  
8 is required by this article or rules of the commission and the employee does not have a license issued  
9 under the provisions of this article or the licensee continues to employ the individual in a position  
10 or to perform duties, for which a license is required by this article or rules of the commission, after  
11 the employee's license expired, was revoked by the commission or not renewed by the commission;

12           (5) The licensee acts or employs another person to act as if he or she is not an agent or  
13 employee of the licensee in order to encourage participation in a West Virginia Lottery table game  
14 at the licensed racetrack;

15           (6) The licensee knowingly permits an individual under the age of twenty-one years of age  
16 to enter or remain in a designated gaming area or to play racetrack video lottery terminals or West  
17 Virginia Lottery table games at a licensed racetrack authorized under this article to act as the  
18 commission's agent in operating the West Virginia Lottery table games. However, an individual  
19 under the age of twenty-one years accompanied by an adult may cross the gaming area on a path  
20 approved by the commission to get to buffet and food service areas; or

21           (7) The licensee exchanges tokens, chips, electronic media or other forms of credit to be used

1 for wagering at a licensed racetrack authorized under this article to operate West Virginia Lottery  
2 table games, for anything of value except in exchange for money or credits to a player's account.

3 (b) A person is guilty of a misdemeanor when:

4 (1) The person knowingly makes a false statement on any application for a license under this  
5 article or on an application for renewal of a license issued under this article;

6 (2) The person operates, carries on or exposes for play a West Virginia Lottery table game  
7 prior to obtaining a license or after the person's license has expired and prior to actual renewal of  
8 the license or before the West Virginia Lottery table game and the licensee's rules for play of the  
9 game are approved or modified and approved by the commission; or

10 (3) The person works or is employed in a position requiring a license under the provisions  
11 of this article without having the license required by this article.

12 (c) A person is guilty of a felony when:

13 (1) The person offers, promises or gives anything of value or benefit to a person who has an  
14 ownership or financial interest in, is employed by or has a service contract with, a racetrack with  
15 West Virginia Lottery table games or to that person's spouse or any dependent child or dependent  
16 parent, pursuant to an agreement or arrangement, in fact or implied from the circumstances, with  
17 intent that the promise or thing of value or benefit will influence the actions of the person in order  
18 to affect or attempt to affect the outcome of a West Virginia Lottery table game, or to influence  
19 official action of the commission. For the purposes of this subdivision and subdivision (2) of this  
20 subsection, the term "person who is connected with a table games facility" includes, but is not  
21 limited to, a person licensed under this article as well as an officer or employee of a licensee;

1           (2) The person solicits or knowingly accepts or receives a promise of anything of value or  
2 benefit while the person is connected with a racetrack with West Virginia Lottery table games,  
3 pursuant to an understanding or arrangement in fact or implied from the circumstances, with the  
4 intent that the promise or thing of value or benefit will influence the actions of the person to affect  
5 or attempt to affect the outcome of a West Virginia Lottery table game or to influence official action  
6 of the commission; or

7           (3) The person uses or possesses on property owned by the licensed racetrack or on property  
8 contiguous to the licensed racetrack, with the intent to use, an electronic, electrical or mechanical  
9 device that is designed, constructed or programmed to assist the user or another person:

10           (A) In projecting the outcome of a West Virginia Lottery table game;

11           (B) In keeping track of the cards dealt or in play;

12           (C) In analyzing the probability of the occurrence of an event relating to a West Virginia  
13 Lottery table game;

14           (D) In analyzing the strategy for playing or betting to be used in a West Virginia Lottery table  
15 game, except as permitted in writing by the commission; or

16           (E) In obtaining an advantage at playing any West Virginia Lottery table game at a licensed  
17 racetrack authorized under this article to operate West Virginia Lottery table games;

18           (4) The person manufactures, sells or distributes any card, chip, die, game or device, by  
19 whatever name called, that is intended by that person to be used to violate any provision of this  
20 article or the table gaming laws of any other state;

21           (5) The person places a bet after unlawfully acquiring knowledge of the outcome of the West

1 Virginia Lottery table game that is the subject of the bet or aids a person in acquiring that knowledge  
2 for the purpose of placing a bet contingent on the outcome of a West Virginia Lottery table game  
3 authorized under this article;

4 (6) The person claims, collects, takes or attempts to claim, collect or take anything of value  
5 into or from a racetrack with West Virginia Lottery table games, with intent to defraud, without  
6 having made a wager contingent on winning a West Virginia Lottery table game or knowingly  
7 claims, collects or takes an amount of money or thing of value of greater value than the amount won;

8 (7) The person knowingly uses chips, electronic media or tokens that are counterfeit to place  
9 a wager at a racetrack with West Virginia Lottery table games;

10 (8) The person knowingly uses any medium to place a wager at a racetrack licensed under  
11 this article other than tokens, chips, electronic cards or other electronic media, or other method of  
12 credit approved by the commission and issued by the racetrack licensed under this article at which  
13 the wager is placed on a West Virginia Lottery table game;

14 (9) The person, not a licensed racetrack under this article or an employee or agent of a  
15 racetrack licensed under this article acting in furtherance of the licensee's interest, has in his or her  
16 possession on grounds owned by the racetrack licensed under this article or on grounds contiguous  
17 to the licensed racetrack, any device, by whatever name called, intended to be used to violate a  
18 provision of this article or a rule of the commission implementing or explaining a provision of this  
19 article; or

20 (10) The person, not a licensee or employee or agent of a licensee acting in furtherance of  
21 the racetrack table games licensee's interests, has in his or her possession any key or device designed

1 for the purpose of opening, entering or affecting the operation of a West Virginia Lottery table game,  
2 drop box or an electronic or mechanical device connected with or used in connection with a West  
3 Virginia Lottery table game in a licensed racetrack or for removing bills, tokens, chips or other  
4 contents therefrom.

5 (d) Any person who violates any provision of subsection (a) or (b) of this section is guilty of  
6 a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and committed to  
7 a state correctional facility for not more than six months, except that in the case of a person other  
8 than a natural person, the amount of the fine imposed may not be more than \$25,000.

9 (e) Any person who violates any provision of subsection (c) of this section is guilty of a  
10 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000 and  
11 committed to a state correctional facility for a term of imprisonment not less than one year nor more  
12 than five years.

13 (f) With regard to subdivision (3), subsection (c) of this section, each racetrack table games  
14 licensee shall post notice of this prohibition and the penalties of this section in a manner determined  
15 by the commission.

NOTE: The purpose of this bill is to eliminate the requirement the race tracks have agreements with the representatives of local horse owners, trainers, pari-mutuel clerks, breeders and kennel owners, to have a video lottery license. The bill eliminates the prohibition against having automated teller machines in gaming area. The bill allows video lottery play on days when live or televised racing not conducted at racetrack. The bill eliminates a procedure for local option election to eliminate video lottery. The bill eliminates a procedure for local option election to eliminate table games. The bill allows persons under twenty-one who are accompanied by an adult to cross a gaming

area on a path approved by the commission to get to food service areas.

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