

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4409

**FISCAL
NOTE**

BY DELEGATES WESTFALL, HOUSEHOLDER, BARRETT,

MOORE, LANE AND BYRD

[Introduced February 2, 2018; Referred
to the Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §29-22-9 of the Code of West Virginia, 1931, as amended, relating
2 to removing restrictions on where certain traditional lottery games may be played.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. STATE LOTTERY ACT.

§29-22-9. Initiation and operation of lottery; restrictions; prohibited themes, games, machines or devices; distinguishing numbers; winner selection; public drawings; witnessing of results; testing and inspection of equipment; price of tickets; claim for and payment of prizes; invalid, counterfeit tickets; estimated prizes and odds of winning; participant bound by lottery rules and validation procedures; security procedures; additional games; electronic and computer systems.

1 (a) The commission shall initiate operation of the state lottery on a continuous basis at the
2 earliest feasible and practical time, first initiating operation of the preprinted instant winner type
3 lottery. The lottery shall be initiated and shall continue to be operated so as to produce the
4 maximum amount of net revenues to benefit the public purpose described in this article consonant
5 with the public good. Other state government departments, boards, commissions, agencies and
6 their officers shall cooperate with the Lottery Commission so as to aid the Lottery Commission in
7 fulfilling these objectives.

8 (b) The commission shall promulgate rules and regulations specifying the types of lottery
9 games to be conducted by the lottery: Provided, That:

10 (1) No lottery may use the results of any amateur or professional sporting event, dog race,
11 or horse race to determine the winner.

12 (2) Electronic video lottery systems must include a central site system of monitoring the
13 lottery terminals utilizing an online or dial-up inquiry.

14 (3) In a lottery utilizing a ticket, each ticket shall bear a unique number distinguishing it
15 from each other ticket.

16 (4) No lottery utilizing a machine may use machines which dispense coins or currency.

17 ~~(5) A lottery game which utilizes an electronic computer and a video screen to operate a~~
18 ~~lottery game and communicate the results thereof, such as the game "Travel", and which does~~
19 ~~not utilize an interactive electronic terminal device allowing input by an individual player, may only~~
20 ~~be made available by the commission in (A) private clubs licensed in accordance with the~~
21 ~~provisions of article seven, chapter sixty of this code, (B) retail licensees licensed in accordance~~
22 ~~with the provisions of article three-a of said chapter sixty, and (C) in the facilities of class A~~
23 ~~licensees which are licensed in accordance with the provisions of section nine, article sixteen,~~
24 ~~chapter eleven of this code, in which facility at least seventy-five percent of the nonintoxicating~~
25 ~~beer sold by the class A licensee in the preceding year was sold for consumption on the premises:~~
26 ~~Provided, That if sales information is not available for the preceding year, the commission in its~~
27 ~~discretion may base any issuance or denial of an annual license upon a reasonable projection of~~
28 ~~the volume of sales of nonintoxicating beer for consumption on the premises as a percentage of~~
29 ~~the total sales of nonintoxicating beer~~

30 ~~(6)~~ (5) Selection of the winner must be predicted totally on chance.

31 ~~(7)~~ (6) Any drawings or winner selections shall be held in public and witnessed by an
32 independent accountant designated by the director for such purposes.

33 ~~(8)~~ (7) All lottery equipment and materials shall be regularly inspected and tested, before
34 and after any drawings or winner selections, by independent qualified technicians.

35 ~~(9)~~ (8) The director shall establish the price for each lottery and determine the method of
36 selecting winners and the manner of payment of prizes, including providing for payment by the
37 purchase of annuities for prizes payable in installments.

38 ~~(10)~~ (9) All claims for prizes shall be examined and no prize shall be paid as a result of
39 altered, stolen or counterfeit tickets or materials, or which fail to meet validation rules or
40 regulations established for a lottery. No prize shall be paid more than once, and, in the event of a
41 binding determination by the commission that more than one person is entitled to a particular
42 prize, the sole remedy of the claimants shall be the award to each of them of an equal share in

43 the single prize.

44 ~~(14)~~ (10) A detailed tabulation of the estimated number of prizes of each particular prize
45 denomination that are expected to be awarded in each lottery, or the estimated odds of winning
46 such prizes shall be printed on any lottery ticket, where feasible, or in descriptive materials, and
47 shall be available at the offices of the commission.

48 ~~(12)~~ (11) No prizes shall be paid which are invalid and not contemplated by the prize
49 structure of the lottery involved.

50 ~~(13)~~ (12) By purchasing a ticket or participation in a lottery, a participant agrees to abide
51 by, and be bound by, the lottery rules which apply to the lottery or game play involved. An
52 abbreviated form of such rules may appear on tickets and shall appear on descriptive materials
53 and shall be available at the offices of the commission. A participant in a lottery agrees that the
54 determination of whether the participant is a valid winner is subject to the lottery or game play
55 rules and the winner validation tests established by the commission. The determination of the
56 winner by the commission shall be final and binding upon all participants in a lottery and shall not
57 be subject to review or appeal.

58 ~~(14)~~ (13) The commission shall institute such security procedures as it deems necessary
59 to ensure the honesty and integrity of the winner selection process for each lottery. All such
60 security and validation procedures and techniques shall be, and remain, confidential, and shall
61 not be subject to any discovery procedure in any civil, judicial, administrative or other proceeding,
62 nor subject to the provisions of §29B-1-1 *et seq.* of this code.

63 (c) The commission shall proceed with operation of such additional lottery games,
64 including the implementation of games utilizing a variety of existing or future technological
65 advances at the earliest feasible date. The commission may operate lottery games utilizing
66 electronic computers and electronic computer terminal devices and systems, which systems must
67 include a central site system of monitoring the lottery terminals utilizing direct communication
68 systems, or other technological advances and procedures, ensuring honesty and integrity in the

69 operation of the lottery.

NOTE: The purpose of this bill is to remove restrictions on where KENO theme lottery games may be played as these are truly traditional lottery products and games. Removing this restriction allows them to be sold in the same manner and locations as other traditional lottery games like in other jurisdictions; West Virginia will sell these products in locations consistent with industry standards by removing restrictions on this particular type of traditional game [KENO]. This bill shall be effective from passage.

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