

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2931

BY DELEGATE SUMMERS

[Introduced February 8, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §29-22-9 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §61-10-1 of said code, all relating to nonlottery games, clarifying that
 3 the State Lottery Commission has no authority over nonlottery games, and clarifying that
 4 criminal penalties only extend to gaming tables and devices which involve consideration,
 5 prize and chance.

Be it enacted by the Legislature of West Virginia:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

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 on-line 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 §60-7-1 et seq.~~ of this code, (B) retail licensees licensed in accordance with ~~the~~
22 ~~provisions of §60-3A-1 et seq.~~ of this code, and (C) in the facilities of class A licensees which are
23 licensed in accordance with ~~the provisions of §11-16-9~~ of this code, in which facility at least
24 seventy-five percent of the nonintoxicating beer sold by the class A licensee in the preceding year
25 was sold for consumption on the premises: *Provided*, That if sales information is not available for
26 the preceding year, the commission in its discretion may base any issuance or denial of an annual
27 license upon a reasonable projection of the volume of sales of nonintoxicating beer for
28 consumption on the premises as a percentage of the total sales of nonintoxicating beer.

29 (6) Selection of the winner must be predicted totally on chance.

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

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

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

37 (10) All claims for prizes shall be examined and no prize shall be paid as a result of altered,
38 stolen or counterfeit tickets or materials, or which fail to meet validation rules ~~or regulations~~

39 established for a lottery. No prize ~~shall~~ may be paid more than once, and, in the event of a binding
40 determination by the commission that more than one person is entitled to a particular prize, the
41 sole remedy of the claimants shall be the award to each of them of an equal share in the single
42 prize.

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

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

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

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

62 (15) The commission has no authority over nonlottery games, such as free-to-play games,
63 games lacking a prize, or games lacking an element of chance.

64 (c) The commission shall proceed with operation of such additional lottery games,

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

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-1. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine or device; forfeiture of money used in such gaming.

1 Any person who ~~shall keep or exhibit~~ keeps or exhibits a gaming table, commonly called
 2 A.B.C. or E.O. table, or faro bank, or keno table, or any slot machine, multiple coin console
 3 machine, multiple coin console slot machine or device in the nature of a slot machine, or any other
 4 gaming table or device of like kind, under any denomination, or which has no name, whether the
 5 game, table, bank, machine or device be played with cards, dice or otherwise, or ~~shall be~~ is a
 6 partner, or concerned in interest, in keeping or exhibiting such table, bank, machine or gaming
 7 device of any character, ~~shall be~~ is guilty of a misdemeanor and, upon conviction, shall be
 8 confined in jail not less than two nor more than 12 months and be fined not less than \$100 nor
 9 more than \$1,000. Any such table, faro bank, machine or gaming device, and all money staked
 10 or exhibited to allure persons to bet at such table, or upon such gaming device, may be seized by
 11 order of a court, or under the warrant of a ~~justice~~ magistrate, and the money so seized shall be
 12 forfeited to the county and paid into the treasury of the county in which such seizure is made, and
 13 the table, faro bank, machine or gaming device shall be completely destroyed: *Provided, however,*
 14 That the provisions of this section ~~shall not~~ may only extend to ~~coin-operated nonpayout machines~~
 15 ~~with free play feature or to automatic weighing, measuring, musical and vending machines which~~
 16 ~~are so constructed as to give a certain uniform and fair return in value or services for each coin~~

- 17 ~~deposited therein and in which there is no element of chance~~ devices or gaming tables by which
18 a person, for a consideration, is permitted to receive a prize, as may be determined predominately
19 by chance.

NOTE: The purpose of this bill is to clarify that the State Lottery Commission does not have authority over nonlottery games, and that criminal penalties associated with unauthorized gaming tables or devices apply only to gaming tables or devices which involve consideration, prize and chance.

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