

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 3154

By Delegates Criss and Maynor

[Originating in the Committee on the Judiciary;

Reported March 14, 2025]

1 A BILL to amend and reenact §29-22B-402, §29-22B-702 and §29-22B-706 of the Code of West
2 Virginia, 1931, as amended, relating to advertising by licensed limited video lottery
3 retailers and licensed limited video lottery permittees; rulemaking authority of the Lottery
4 Commission relating to advertising; and authorizing advertising by licensed limited video
5 lottery retailers and licensed limited video lottery permittees to be consistent with other
6 code provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-402. Powers and duties of the state Lottery Commission.

1 In addition to any other powers and duties set forth in this article or article 22 of this chapter,
2 the Lottery Commission has the following powers and duties:

3 (1) To propose legislative rules for promulgation by the Legislature in accordance with the
4 ~~provisions of article §29A-3-1, et seq.,~~ of this code, governing the licensing, conduct, and
5 operation of limited video lottery that may be necessary to carry out the purposes of this article.
6 The Lottery Commission may propose legislative rules governing the advertising and promotional
7 activities of licensed limited video lottery retailers and licensed video lottery permittees, provided
8 such rules are consistent with §29-22A-1 et seq., §29-22C-1 et seq., §29-22D-1 et seq., §29-22E-
9 1 et seq., and §29-25-1 et seq. of this code: *Provided*, That all advertising and promotional
10 activities must receive prior approval from the Director before being published or otherwise
11 released by a permittee, its agents, or affiliates: *Provided, however*, That any legislative rules
12 previously promulgated by the Legislature to restrict the advertising or promotional activities of
13 licensed limited video lottery retailers or licensed video lottery permittees shall have no effect upon
14 enactment of the amendments to this section during the 2025 Regular Session of the Legislature.
15 The director shall prepare and submit to the Lottery Commission written recommendations
16 concerning proposed legislative rules for this purpose;

17 (2) To propose other rules for promulgation as provided in ~~article §29A-3-1, et seq.,~~ of this

code not inconsistent with this article which the commission in its discretion believes to be necessary. The Lottery Commission may propose legislative rules governing the advertising and promotional activities of licensed limited video lottery retailers and licensed video lottery permittees, provided such rules are consistent with §29-22A-1 et seq., §29-22C-1 et seq., §29-22D-1 et seq., §29-22E-1 et seq., and §29-25-1 et seq. of this code: *Provided*, That all advertising and promotional activities must receive prior approval from the Director before being published or otherwise released by a permittee, its agents, or affiliates: *Provided, however*, That any legislative rules previously promulgated by the Legislature to restrict the advertising or promotional activities of licensed limited video lottery retailers or licensed video lottery permittees shall have no effect upon enactment of the amendments to this section during the 2025 Regular Session of the Legislature. Authority to propose rules includes the authority to propose amendments to rules and to propose repealing rules;

(3) Notwithstanding any other provision of this code to the contrary, proposed legislative rules for this article filed in the state register by August 1, 2001, may be filed as emergency rules.

(4) To conduct hearings upon complaints charging violations of this article or applicable rules, and to conduct other hearings as may be required by this article or rules of the Lottery Commission;

(5) To enter into written agreements with the State Police and local law-enforcement agencies for the conduct of identification and investigation of applicants, licensees or employees in accordance with the provisions of this article, including, but not limited to, (A) performing background investigations and criminal records checks and (B) investigating possible violations that may be discovered as a result of an investigatory process or discovered by the Tax Commissioner, the Alcohol Beverage Control Commissioner or the Lottery Commission in the course of conducting their respective business. Disclosure to the State Police or other law-enforcement officials of a possible violation of this article and material facts related thereto shall not be deemed to be an unauthorized disclosure of information under ~~section~~ §11-10-5d of this

code. Nothing in this section prevents or impairs the State Police or local law-enforcement agencies from engaging in the activities set forth in this subdivision on their own initiative;

(6) To conduct a continuous study and investigation of limited video lottery throughout the state (A) to ascertain any defects in this article or in legislative rules that may conflict with the purposes of this article, (B) to discover any abuses in the administration, control and oversight of limited video lottery or (C) to discover any violation of this article or applicable legislative rules;

(7) To formulate and recommend proposed legislation amending this article or any applicable legislative rule so as to increase the efficiency and effectiveness of this article;

(8) To report immediately to the Governor, the Speaker of the House of Delegates, the President of the Senate, the minority leaders of both houses, and such other state officers as the Lottery Commission deems appropriate concerning any laws which it determines may require immediate amendment to prevent abuses and violations of this article or any applicable rule or to remedy undesirable conditions in connection with the administration or the operation of limited video lottery;

(9) To require such special reports from the director as it considers necessary;

(10) To issue licenses to those involved in the ownership, participation, or conduct of limited video lottery;

(11) To delegate to the director the authority to issue or deny licenses and renewals under criteria established by the commission;

(12) Upon complaint, or upon its own motion, to levy civil penalties and to suspend or revoke licenses that the Lottery Commission has issued for failure to comply with any applicable provision of this article or rule of the commission;

(13) To establish and collect fees upon persons, licenses, and gaming devices used in, or participating in, limited video lottery as provided in this article or rule of the commission;

(14) To obtain all information from licensees and other persons and agencies which the Lottery Commission deems necessary or desirable in the conduct of its business;

(15) To issue subpoenas for the appearance or production of persons, records, and things in connection with applications before the Lottery Commission or in connection with disciplinary or contested cases considered by the Lottery Commission;

(16) To apply for injunctive or declaratory relief to enforce the provisions of this article and any rules promulgated pursuant to this article;

(17) To impose and collect civil penalties as provided for under this article;

(18) To inspect and examine without notice all premises wherein limited video lottery is conducted or devices or equipment used in limited video lottery are located, manufactured, sold, or distributed, and to summarily seize, remove, and impound, without notice or hearing from such premises any equipment, devices, supplies, books, or records for the purpose of examination or inspection;

(19) To exercise other incidental powers as may be necessary to ensure the safe and orderly regulation of limited gaming and the secure collection of all revenues, including, but not limited to, taxes, fees, civil penalties and other moneys due the commission;

(20) To establish internal control procedures for licensees, including accounting procedures, reporting procedures, and personnel policies;

(21) To establish and collect fees for performing background checks on all applicants for licenses and on all persons with whom the commission may agree with or contract with for the providing of goods or services, as the commission deems appropriate;

(22) To establish and collect fees for performing, or having performed, tests on equipment and devices to be used in limited video lottery;

(23) To demand, at any time when business is being conducted, access to and inspection, examination, photocopying, and auditing of all papers, books, and records of applicants and licensees, on their premises or elsewhere as practicable by authorized employees or agents of the commission and in the presence of the licensee or his or her agent, pertaining to the gross income produced by any licensed gaming establishment and to require verification of income, and all other

matters affecting the enforcement of the policies of the Lottery Commission or any provision of this article; and to impound or remove all papers, books, and records of applicants and licensees, without hearing, for inspection or examination; and

(24) To prescribe voluntary alternative methods for the making, filing, signing, subscribing, verifying, transmitting, receiving, or storing of returns, writings or other documents.

§29-22B-702. Additional duties of limited video lottery retailers.

In addition to the general duties imposed on all licensees in §29-22B-701 of this code, a limited video lottery retailer shall:

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

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

(3) Supervise video lottery operations and ticket validation procedures at the applicable location;

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

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

(6) Ensure that video lottery terminals are within the sight and control of designated employees of the limited video lottery retailer;

(7) Ensure that video lottery terminals are placed and remain placed in the specific locations which have been approved by the commission. A video lottery terminal in a restricted access adult-only facility may not be relocated within the facility without the prior written approval of the commission;

(8) Monitor video lottery terminals to prevent access to or play by persons who are under

the age of 21 years or who are visibly intoxicated;

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

(10) Provide no access by a player to an automated teller machine (ATM) in the restricted access adult-only facility where video lottery games are played, accept no credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins or currency to be utilized by a player to play video lottery games, and extend no credit, in any manner, to a player so as to enable the player to play a video lottery game;

(11) Pay for all credits won upon presentment of a valid winning video lottery ticket;

(12) Report promptly in writing to the operator and the commission all video lottery terminal malfunctions and notify the commission in writing of the failure of an operator or service technician to provide prompt service and repair of the terminals and associated equipment;

~~(13) Conduct any video lottery advertising or promotional activities only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code~~ Conduct video lottery advertising and promotional activities in accordance, and consistent, with the allowances for advertising and promotional activities provided in §29-22A-1 et seq., §29-22C-1 et seq., §29-22D-1 et seq., §29-22E-1 et seq., and §29-25-1 et seq. of this code, as well as legislative rules promulgated pursuant to § 29A-3-1 et seq. of this code: *Provided*, That all advertising and promotional activities must receive prior approval from the Director before being published or otherwise released by a licensee, retailer, permittee, or their agents or affiliates.;

(14) Install, post, and display prominently within or about the approved location signs, redemption information and other promotional material as required by the commission;

(15) Permit video lottery to be played only during those hours established and approved by the commission: *Provided*, That the limited video lottery retailer shall not permit video lottery to be played beyond the hour during which liquor may be served;

(16) Contract with no more than one licensed operator for the placement of video lottery

terminals at the licensed location;

(17) Maintain insurance covering all losses as the result of fire, theft, or vandalism to video lottery terminals and associated equipment; and

(18) Comply with all applicable provisions of this article and rules and orders of the commission.

§29-22B-706. Additional duties of operators.

In addition to the general duties imposed on all licensees in §29-22B-701 of this code, an operator shall:

(1) Acquire video lottery terminals by purchase, lease, or other assignment only from licensed manufacturers;

(2) Acquire no video lottery terminals in excess of the number they are authorized to operate in this state as stated in the permit issued under part 11 of this article;

(3) Contract with limited video lottery retailers for a secure location for the placement, operation, and play of the video lottery terminals;

(4) Pay no compensation of any kind to any limited video lottery retailer or give or transfer anything of value to any limited video lottery retailer, that is in addition to the consideration stated in the written agreement between the operator and the limited video lottery retailer, which may be not less than 40 percent nor more than 50 percent of the amount of net terminal income received by the operator in connection with the video lottery terminals at that location;

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

(6) Purchase or lease and install computer controller units and other associated equipment required by the commission for video lottery terminals owned or leased by the permittee;

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

(8) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;

(9) Ensure that video lottery terminals are placed and remain placed in the specific places within the approved restricted access adult-only facility that have been approved by the commission. No video lottery terminal in a restricted access adult-only facility may be relocated within the restricted access adult-only facility without the prior written approval of the commission;

(10) Assume financial responsibility for proper and timely payments by limited video lottery retailers of all credits awarded to players in accordance with legislative rules promulgated by the commission;

(11) Enter into contracts with limited video lottery retailers to provide for the maintenance and repair of video lottery terminals and associated equipment only by licensed service technicians, and to provide for the placement of video lottery terminals pursuant to the provisions of this article;

~~(12) Conduct any video lottery advertising and promotional activities only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code~~ Conduct video lottery advertising and promotional activities in accordance, and consistent, with the allowances for advertising and promotional activities provided in §29-22A-1 et seq., §29-22C-1 et seq., §29-22D-1 et seq., §29-22E-1 et seq., §29-25-1 et seq. of this code, as well as legislative rules promulgated pursuant to § 29A-3-1 et seq. of this code: *Provided*, That all advertising and promotional activities must receive prior approval from the Director before being published or otherwise released by a licensee, retailer, operator, permittee or their agents or affiliates.;

(13) Install, post, and display prominently within or about the approved location signs, redemption information and other material as required by the commission;

(14) Maintain general liability insurance coverage for all video lottery terminals in an amount of at least \$1 million per claim;

- 47 (15) Promptly notify the commission in writing of any breaks or tears to any logic unit seals;
- 48 (16) Assume liability for all amounts due to the commission in connection with any money
- 49 lost or stolen from any video lottery terminal;
- 50 (17) Comply with all applicable provisions of this article and rules and orders of the
- 51 commission; and
- 52 (18) Maintain a separate bank account into which the operator shall deposit the gross
- 53 terminal income from all of the operator's video lottery terminals.

NOTE: The purpose of this bill is to authorize licensed limited video lottery retailers and operators to advertise.

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