

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2405**

BY DELEGATE GEARHEART

[Introduced February 13, 2017; Referred  
to the Committee on Small Business,  
Entrepreneurship and Economic Development then  
the Judiciary then Finance.]

1 A BILL to amend and reenact §29-22B-1101 and §29-22B-1408 of the Code of West Virginia,  
 2 1931, as amended, all relating to permitting licensed limited video lottery retailers to have  
 3 up to seven video lottery terminals; permitting certain fraternal societies and veterans'  
 4 organizations to have up to twelve video lottery terminals; and providing that a portion of  
 5 the revenue generated by the lottery terminals be deposited into the State Road Fund.

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

1 That §29-22B-1101 and §29-22B-1408 of the Code of West Virginia, 1931, as amended,  
 2 be amended and reenacted, all to read as follows:

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

PART 11. ALLOCATION AND DISTRIBUTION  
 OF VIDEO LOTTERY TERMINALS.

**§29-22B-1101. Limitation on number and location of video lottery terminals.**

1 (a) The Lottery Commission may not authorize the placement of more than nine thousand  
 2 video lottery terminals in restricted access adult-only facilities in this state.

3 (b) No person may directly or indirectly operate more than seven and one-half percent of  
 4 the number of video lottery terminals authorized in this section, which shall be located only in  
 5 restricted access adult-only facilities.

6 (c) No licensed limited video lottery retailer may be authorized to have on the premises for  
 7 which the license was issued more than ~~five~~ seven video lottery terminals except that a fraternal  
 8 society or veteran's organization that is (A) a fraternal beneficiary society that is exempt from  
 9 federal income tax under Section 501(c)(8) of the Internal Revenue Code of 1986, as amended,  
 10 (B) a domestic fraternal society that is exempt from federal income tax under Section 501(c)(10),  
 11 or (C) a veterans' organization that is exempt from federal income tax under Section 501(c)(19)  
 12 of the Internal Revenue Code may be authorized to have on the premises for which the license  
 13 was issued not more than ~~ten~~ twelve video lottery terminals.

**§29-22B-1408. Distribution of state's share of gross terminal income.**

1 (a) The state's share of gross terminal income is calculated as follows:

2 (1) The commission shall deposit two percent of gross terminal income into the ~~state~~West  
3 Virginia Lottery Fund for the commission's costs and expenses incurred in administering this  
4 article. From this amount, not less than \$150,000 nor more than \$1,000,000 per fiscal year, as  
5 determined by the commission each year, shall be transferred to the compulsive gambling  
6 treatment fund created in section ~~29-22A-19~~ nineteen, article twenty-two-a of this chapter. In the  
7 event that the percentage allotted under this subsection for the commission's costs and expenses  
8 incurred in administering this article generates a surplus, the surplus shall be allowed to  
9 accumulate to an amount not to exceed \$250,000. On a monthly basis, the director shall report  
10 to the Joint Committee on Government and Finance of the Legislature any surplus in excess of  
11 \$250,000 and remit to the State Treasurer the entire amount of those surplus funds in excess of  
12 \$250,000 to be deposited in the fund established in section ~~29-22-18a~~ eighteen-a, article twenty-  
13 two of this chapter: *Provided*, That at the close of each of the fiscal years ending June 30, 2006,  
14 2007, 2008, 2009, 2010 and 2011, the portion of the two percent allowance for administrative  
15 expenses provided in this subdivision ~~(4)~~ that remains unspent for costs and expenses incurred  
16 in administering this article, not to exceed \$20,000,000 in any fiscal year, shall be transferred to  
17 the Revenue Center Construction Fund created by subsection (l), ~~of~~ section eighteen, article  
18 twenty-two of this chapter for the purpose of constructing a state office building.

19 (2) Gross profits are determined by deducting the percentage described in subdivision (1)  
20 of this subsection, from gross terminal income.

21 (3) The commission shall receive thirty percent of gross profits as defined in subdivision  
22 (2) of this subsection except as otherwise provided in this subdivision. On June 1, 2002, the  
23 commission shall calculate the aggregate average daily gross terminal income for all operating  
24 video lottery terminals during the preceding three-month period. Thereafter, the commission shall  
25 make the calculation on the first day of the month preceding the months of October, January, April

26 and July of each year. So long as the aggregate average gross terminal income per day for the  
27 operating video lottery terminals does not exceed \$60, the commission's share of gross profits  
28 shall continue to be thirty percent for the succeeding quarter of the year beginning July 1.  
29 Beginning on July 1, 2002 and the first days of October, January, April and July in 2002 and  
30 thereafter, if the commission's calculation of aggregate average daily gross terminal income per  
31 video lottery terminal yields an amount greater than \$60, one of the following schedules apply: If  
32 the amount is greater than \$60 per day but not greater than \$80 per day, the commission's share  
33 of gross profits for the ensuing quarter beginning the first day of the quarter of the year described  
34 in this subdivision shall be thirty-four percent; if the amount is greater than \$80 per day but not  
35 greater than \$100 per day, the commission's share of gross profits for the ensuing quarter  
36 beginning the first day of the quarter of the year described in this subdivision shall be thirty-eight  
37 percent; if the amount is greater than \$100 per day but not greater than \$120 per day, the  
38 commission's share of gross profits for the ensuing quarter beginning the first day of the quarter  
39 of the year described in this subdivision shall be forty-two percent; if the amount is greater than  
40 \$120 per day but not greater than \$140 per day, the commission's share of gross profits for the  
41 ensuing quarter beginning the first day of the quarter of the year described in this subdivision shall  
42 be forty-six percent; if the amount is greater than \$140 per day, the commission's share of gross  
43 profits for the ensuing quarter beginning the first day of the quarter of the year described in this  
44 subdivision shall be fifty percent. This amount shall be known as net terminal income.

45 (b) Net terminal income shall be distributed by the commission as follows:

46 (1)(A) Beginning July 1, 2002, a county and the incorporated municipalities within that  
47 county shall receive two percent of the net terminal income generated by limited video lottery  
48 terminals located within the county;

49 (B) From this two percent of net terminal income, each municipality shall receive a share  
50 that bears the same proportion to the total two percent of net terminal income as the population  
51 of the municipality bears to the total population of the county as determined by the most recent

52 decennial United States census of population, and the county shall receive the remaining portion  
53 of the two percent of net terminal income; and

54 (2) Any remaining funds shall be deposited into the state Excess Lottery Revenue Fund  
55 established in section eighteen-a, article twenty-two of this chapter.

56 (c)(1) Notwithstanding any provision of subsections (a) and (b) of this section to the  
57 contrary, the gross and net proceeds of a licensed limited video lottery retailer who has been  
58 issued more than five video lottery terminals, as permitted by section one thousand one hundred  
59 one of this article, the state's portion of the gross terminal income and the net terminal income  
60 shall be calculated and deposited as follows:

61 (A) For retailers that have six terminals, one-sixth of all the entire gross and net terminal  
62 incomes shall be deposited in the State Road Fund.

63 (B) For retailers that have seven terminals, two-sevenths of the entire gross and net  
64 terminal incomes shall be deposited in the State Road Fund.

65 (c)(2) Notwithstanding any provision of subsections (a) and (b) of this section to the  
66 contrary, the gross and net proceeds of a licensed fraternal society or veteran's organization who  
67 has been issued more than ten video lottery terminals, as permitted by section one thousand one  
68 hundred one of this article, the state's portion of the gross terminal income and the net terminal  
69 income shall be calculated and deposited as follows:

70 (A) For fraternal societies and veterans' organizations that have eleven terminals, one-  
71 eleventh of all the entire gross and net terminal incomes shall be deposited in the State Road  
72 Fund.

73 (B) For fraternal societies and veterans' organizations that have twelve terminals, one-  
74 sixth of the entire gross and net terminal incomes shall be deposited in the State Road Fund.

75 ~~(c)~~ (d) The licensed operators and limited video lottery retailers shall receive the balance  
76 of gross terminal income remaining after deduction of the state's share as calculated pursuant to  
77 this section.

NOTE: The purpose of this bill is to permit licensed limited video lottery retailers to have up to seven video lottery terminals. The bill permits certain fraternal societies and veterans' organizations to have up to twelve video lottery terminals. The bill provides that a portion of the revenue generated by the lottery terminals be deposited into the State Road Fund.

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