SPONSOR: Rep. Viola & Sen. Bushweller ;
Reps. Barbieri Carson J. Johnson Kowalko Mitchell Mulrooney Scott D. Short ; Sen. DeLuca

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE BILL NO. 333

AN ACT TO AMEND TITLES 4 AND 29 OF THE DELAWARE CODE RELATING TO THE STATE LOTTERY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. This Act may be cited as "The Delaware Gaming Competitiveness Act of 2012."

Section 2. Amend §4801, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4801. Statement of purpose.

(a) It is the purpose of this subchapter to establish a state-operated lottery under the supervision of a Director who shall be appointed by the Secretary of Finance with the written approval of the Governor and hold broad authority to administer the system in a manner which will produce the greatest income for the State.

(b) In authorizing a video lottery, it is the further purpose of the General Assembly to:

(1) Provide nonstate supported assistance in the form of increased economic activity and vitality for Delaware's harness and thoroughbred horse racing industries, which activity and vitality will enable the industry to improve its facilities and breeding stock, and cause increased employment; and

(2) Restrict the location of such lottery to locations where wagering is already permitted and/or such immediately adjacent property or properties that are owned by, or immediately adjacent properties that may be acquired by, the video lottery licensee as defined in § 4805(b)(13) of this title, and where controls exist.

(c) In authorizing the use of the Internet for certain lottery games, it is the further purpose of the General Assembly to:

(1) Expand access to certain lottery games by offering them on the Internet in a well-regulated and secure system designed to create a positive customer experience that limits access to minors, those with gambling problems, and others who should not be gaming;

(2) Improve the competitiveness of Delaware's video lottery licensees by encouraging reinvestment in their facilities and promoting the utilization of lottery games on the Internet at websites branded and promoted by the video lottery licensees and Delaware Lottery Office;

(3) Provide further support to Delaware's harness and thoroughbred horse racing industries by expanding the gaming offerings benefitting video lottery licensees and the horsemen who race there; and

(4) Enhance the offerings of the Delaware Lottery by allowing it to develop keno and the sports lottery in a manner that promotes additional convenience and choices for Delawareans.

Section 3. Amend §4803(i) - §4803(x), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(i) "Internet Lottery" shall mean all lottery games in which the player's interaction with the game operated by the Office occurs over the Internet (which, for purposes of this chapter, shall include any public or private computer or terminal network, whether linked electronically, wirelessly, through optical networking technology or other means), including Internet ticket games, the Internet video lottery and Internet table games.

(j) "Internet table games" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of a video lottery agent, rather than at a table game in a video lottery facility, and in which the game is an Internet variation or compilation of a table game or table games, provided that the game is expressly authorized by rule of the Director.

(k) "Internet ticket games" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of the Office, and in which the winner is decided by chance through mechanical or electronic means, and which shall include keno but which shall not include the video lottery, table games, and other forms of the Internet lottery.

(l) "Internet video lottery" shall mean a lottery game in which the player's interaction with the game operated by the Office occurs over the Internet through a website or network of a video lottery agent, rather than at a video lottery machine in a video lottery facility, and in which the game is an Internet variation of a video lottery game, and which shall not include keno, table games, and other forms of the Internet lottery.

(m) "Key employee" shall mean a person employed in the operation of a video lottery facility and determined by the Director to be acting in a supervisory capacity or empowered to make discretionary decisions with respect to video lottery machine or table game operations, including, without limitation, the chief executive, financial and operation managers, video lottery department managers, cashier and cage supervisors, credit executives, pit bosses or managers, gaming employee shift managers or any other employee so designated by the Director for reasons consistent with the public

policies of this subchapter, and shall include any officer or any employee of an employee organization who has direct involvement with or who exercises authority, discretion or influence in the representation of employees of a Delaware video lottery agent in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment or conditions of work.

(jn) "Lottery" or "state lottery" or "system" shall mean the public gaming systems or games established and operated pursuant to this subchapter and including all types of lotteries.

(ko) "Net moneys" shall mean all moneys received from the sale of lottery tickets after first deducting sales agent commissions and payment of prizes under $600.

(lp) "Office" shall mean the State Lottery Office established by this subchapter.

(mq) "Poker revenue" shall mean the total value of rake charged to players at all poker tables. The poker revenue is determined by adding the value of cash, coupons, the amount recorded on the closer, the totals of amounts recorded on the credits and markers removed from a drop box, and subtracting the amount on the opener and the total of amounts recorded on fills removed from a drop box.

(nr) "Restricted gaming area" shall mean the cashier's cage, the count room, the cage booths and runway areas, the interior of table game pits, the surveillance room and catwalk areas, the video lottery machine repair room and any other area designated by the Director as a restricted gaming area.

(os) "Sports lottery" shall mean a lottery in which the winners are determined based on the outcome of any professional or collegiate sporting event, including racing, held within or without the State, but excluding collegiate sporting events that involve a Delaware college or university and amateur or professional sporting events that involve a Delaware team.

(pt) "Sports lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play a sports lottery game. A machine shall be considered a sports lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

(qu) "Sports lottery operations employee" shall mean an individual employee, person or agent of an applicant or licensee who is responsible for the security of sports lottery operations or proceeds.

(rv) "State Lottery Fund" shall mean those moneys derived from the sale of state lottery tickets and deposited in the state account of that name and those funds appropriated for the startup costs of the system.

(sw) "Table game" shall mean any game played in a video lottery facility with cards, dice or any mechanical, electromechanical or electronic device or machine (excluding keno, video lottery machines, and the Internet lottery) for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, twenty-one, poker, craps,

roulette, ~~keno,~~ bingo, wheel of fortune or any variation of these games, whether or not similar in design or operation, provided that the game is expressly authorized by rule of the Director.

(~~t~~x) "Table game equipment" shall mean gaming tables, cards, dice, chips, tiles, shufflers, drop boxes or any other mechanical, electronic or other device, mechanism or equipment or related supplies used or consumed in the operation of any table games.

(~~u~~y) "Table game win or loss" shall mean the value of gaming chips and cash won from patrons at gaming tables less the value of gaming chips and cash won by patrons at gaming tables other than poker tables. The table game win or loss is determined by adding the value of cash, total value of coupons, the amount recorded on the closer, the totals of amounts recorded on the credits and the issuance copies of markers removed from a drop box, subtracting the amount recorded on the opener and the total of amounts recorded on fills removed from a drop box. Match play coupons shall not be included, subject to limitations imposed by the Director.

(~~v~~z) "Video lottery" shall mean any lottery conducted in a video lottery facility with a video lottery machine or a network of linked video lottery machines with an aggregate progression prize or prizes. ~~(~~excluding keno, table games, and the Internet lottery).

(~~w~~aa) "Video lottery facility" shall mean a building containing a gaming area.

(~~x~~bb) "Video lottery machine" shall mean any machine in which bills, coins or tokens are deposited in order to play in a game of chance in which the results, including options available to the player, are randomly determined by the machine. A machine may use spinning reels or video displays or both, and may or may not dispense coins or tokens directly to winning players. A machine shall be considered a video lottery machine notwithstanding the use of an electronic credit system making the deposit of bills, coins or tokens unnecessary.

Section 4. Amend §4805, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4805. Director -- Powers and duties.

(a) The Director shall have the power and the duty to operate and administer the state lottery and to promulgate such rules and regulations governing the establishment and operation of the lottery as the Director deems necessary and desirable in order that the lottery be initiated at the earliest feasible time and in order that the system shall produce the maximum amount of net revenues consonant with the dignity of the State and the general welfare of the people. The rules shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the system and for the convenience of the purchasers of lottery tickets and the holders of winning tickets, and the players of ~~the~~ ~~the video~~all state lottery~~, the sports lottery and table~~ games including, but not limited to, the following:

(1) Type and number of games to be conducted;

(2) Price or prices of tickets for any game;

(3) Numbers and sizes of the prizes on the winning tickets;

(4) Manner of selecting the winning tickets;

(5) Manner of payment of prizes to the holders of winning tickets;

(6) Frequency of the drawings or selections of winning tickets;

(7) Number and types of locations at which tickets may be sold and the sports lottery and keno may be conducted;

(8) Method to be used in selling tickets;

(9) Licensing of agents to sell tickets or host keno; provided, that, no person under the age of 18 shall be licensed as an agent;

(10) Manner and amount of compensation, if any, to be paid to licensed ~~ticket sales~~ agents, other than video lottery agents, necessary to provide for the adequate availability of ~~tickets~~games to prospective buyers and for the convenience of the public;

(11) Apportionment of the total revenues accruing from the sale of tickets among:

a. Payment of prizes to the holders of winning tickets;

b. Payment of costs incurred in the operation and administration of the state lottery system, including the expenses of the office and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of gaming equipment and materials;

c. Repayment of the moneys appropriated to the State Lottery Fund pursuant to § 3 of 59 Del. Laws, c. 348; and

d. Payment of earnings to the General Fund of the State;

Provided, that no less than 30 percent of the total revenues accruing from the sale of tickets or shares shall be dedicated to subparagraph d. of this paragraph;

(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the game and for the convenience of the purchasers of tickets and the holders of winning tickets and the players of the video lottery, the sports lottery, Internet lottery, keno, and table games;

(13) Value of bills, coins or tokens needed to play the video lottery machines, sports lottery machines and table games;

(14) Licensing of agents for video lotteries;

(15) Payout from video lottery machines, provided that such payouts shall not be less than 87% on an average annual basis, and further provided that video lottery agents may return a payout greater than 87% but not greater than 95% upon 10 days written notice to the Director, and further provided that video lottery agents may, with the approval of the Lottery Director, return a greater payout percentage than 95%;

(16) A licensure requirement and enforcement procedure for officers, directors, key employees, gaming employees, gaming room service employees, ~~sport~~sports lottery operations employees, and persons who own directly or indirectly 10% or more of such agent, in accordance with § 4828 of this title;

(17) A licensure requirement and enforcement procedure for service companies in accordance with § 4829 of this title;

(18) Standards for advertising, marketing and promotional materials used by video lottery agents;

(19) Regulations and procedures for the accounting and reporting of the payments required under §§ 4815 and 4819 of this title;

(20) The registration, kind, type, number and location of video lottery machines, sports lottery machines and table games on the licensee's premises, subject to the Director's obligations set forth in § 4820(b) of this title;

(21) The on-site security arrangements for video lottery agents~~;~~ and sports lottery agents;

(22) Requiring the reporting of information about ~~the~~ video lottery ~~agent, its~~agents, sports lottery agents, their employees, vendors and finances necessary or desirable to ensure the security of the ~~video~~ lottery system. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;

(23) The reporting and auditing of financial information of licensees including, but not limited to, the reporting of profits or losses incurred by licensees and the reporting by licensees of such employment and payroll information as is necessary for the Director to determine compliance with § 10148(1) of Title 3 or § 100048 of Title 3 as the case may be. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title;

(24)a. A registration requirement and enforcement procedure for any employee organization representing or seeking to represent employees who are employed by a Delaware video lottery agent. Any employee organization may at any time file with the office an application for registration as an employee organization. However, an employee organization shall be required to file such registration application within 10 business days after it secures a signed authorization card from any employee who is employed by a Delaware video lottery agent.

Any registration statement filed by an employee organization after the signature of an authorization card but prior to the employee organization's petition for election shall not be subject to disclosure by the Lottery Office to any video lottery agent;

b. Every key employee of an employee organization shall be required to register with the office at the same time as the application for registration is filed under subparagraph a. of this paragraph or within 30 days after the date on which such individual is elected, appointed or hired, whichever is later;

c. The application for registration by an employee organization or key employee of such employee organization may be denied or registration revoked under the following circumstances:

1. If such employee organization or key employee of such employee organization is in violation of standards established under the Labor-Management Reporting and Disclosure Procedure Prohibition Against Certain Persons Holding Office, 29 U.S.C 504(a);

2. The applicant's competence, honesty or integrity pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the lottery based on the applicant's associations or by virtue of the fact that the applicant has been convicted of a felony crime of moral turpitude or has been arrested for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 within 10 years prior to applying for registration hereunder or at any time thereafter. Any employee or employee organization denied registration based on an arrest for an act constituting racketeering under § 1502(9)a., b.2. or b.4. through 10. of Title 11 may apply for reconsideration of registration if subsequently acquitted or a nolle prosequi is entered or the charge is otherwise dismissed. In such instances, the Lottery Office shall reconsider the applicant's registration based on the criteria previously set forth in this subsection;

3. The organization or individual has knowingly made or caused to be made any written statement to any representative of the office or the Delaware State Police or any oral response to an official inquiry by the office, its employees or agents which was at the time and in light of circumstances under which it was made false or misleading;

4. The organization or key employee thereof holds or obtains a direct financial interest in any video lottery agent, provided the employee organization is provided a 30-day period to divest of any such direct financial interest.

The Delaware State Police shall conduct the background checks required by this paragraph. The failure of any key employee to satisfy the requirements of paragraph (a)(24)c.1. through 4. of this section may constitute grounds for suspension of the registration of the employee organization if the organization does not remove the key employee from the

key employee's duties as defined in § 4803(i) of this title. The employee organization will be given a reasonable opportunity to remove or replace any key employee found to be in violation of paragraph (a)(24)c.1. through 4. of this section;

d. All registration statements filed under this paragraph shall be valid for a 1-year period and a renewed registration form or an updated supplemental registration form must be filed annually. The entity or individual filing such form is under a continuing duty to promptly notify the Director of any changes in disclosed information;

e. The Secretary of Finance shall, within a reasonable time, if requested by the Director, appoint a hearing officer to determine whether the application for registration shall be denied or the registration suspended or revoked. The hearing officer shall be required to hold a hearing in conformance with the requirements of § 10131 of this title. In any hearing, the Delaware Uniform Rules of Evidence shall be in effect. The denial of an application of registration or the suspension or revocation of a registration shall be bound by the provisions of §§ 10133 and 10134 of this title. The hearing officer's decision to deny an application of registration or to suspend or revoke a registration shall be appealable to the Superior Court under the Delaware Administrative Procedures Act [Chapter 101 of this title]. All applications for registration shall be deemed approved unless the Director notifies the applicant within 60 days of his or her decision not to approve and to appoint a hearing officer under this paragraph, or unless extenuating circumstances require a longer period, in which case the Director shall act with all deliberate speed to complete the process. Any employee organization may continue to provide services to employees of a Delaware video lottery agent during the review of the application process and the appeal process, except where the employee organization is found in violation of paragraph (a)(24)c.4. of this section or there has been a previous violation of paragraph (a)(24)c.1. through 3. of this section by the employee organization within the previous 10 years;

f. Information requested in the application of registration provided for under this paragraph shall be adopted as part of the office's official rules and regulations upon notice and opportunity for a hearing under the Delaware Administrative Procedures Act [Chapter 101 of this title];

(25) The Director shall adopt procedures under the Delaware Administrative Procedures Act for employment investigations of the honesty, integrity, reputation and associations of office employees in order to determine that the employee's employment does not pose a threat to the public interest of the State or the integrity of the office. The procedures and any rules and regulations shall require any person seeking employment for compensation with the office for a position which has direct access to lottery ticket sales agents, video lottery agents, sports lottery agents, or vendors to submit his or her fingerprints and other relevant information in order to obtain the individual's entire federal and state criminal history record. The Delaware State Police shall conduct the investigations required under such rules and

regulations. The rules and regulations shall require new employees to submit fingerprints for purposes of the state and federal criminal history checks;

(26) Type and number of sports lottery games to be conducted, the location and licensure of facilities where the sports lottery be conducted pursuant to § 4825 of this title, the price or prices for any sports lottery games, the rules for any sports lottery games, and the payout and manner of compensation to be paid to winners of sports lottery games;

(27) Type and number of table games to be conducted, the price or prices for any table games, the rules for any table games, the payout and manner of compensation to be paid to winners of table games, and the minimum and maximum wagers for any table games;

(28) The licensure and location of facilities where keno games may be conducted, the price or prices for any keno games, the rules for any keno games, and the payout and manner of compensation to be paid to winners of keno games;

(~~28~~29) The regulations and procedures for the display and presentation of messages concerning responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive gamblers;

(~~29~~30) The provision of complimentary services, gifts, transportation, cash, food, nonalcoholic beverages, entertainment or any other thing of value by a ~~video~~ lottery agent to a guest;

(~~30~~31) The procedures for the review and evaluation of licensing applications, including the forms of applications, procedures for fingerprinting and other means of identification, procedures for hearings, and grounds and procedures for the approval, denial, revocation or suspension of a license;

(~~31~~32) Procedures relating to internal management controls of video lottery agents, including accounting controls and employee and supervisory organizational charts and responsibilities; ~~and~~

(~~32~~33) Standards for the manufacture, sale, distribution, maintenance, repair, and servicing of video lottery machines and table game equipment~~.~~; and

(34) Standards for the conduct of the Internet lottery in accordance with this chapter.

(b) The Director shall also have the power and it shall be the Director's duty to:

(1) Appoint such deputy directors as may be required to carry out the functions and duties of the office. Each deputy director shall have had 3 years management experience in areas pertinent to the prospective responsibilities and an additional 3 years of experience in the same field.

(2) Within the limit of the funds made available in § 3 of 59 Del. Laws, c. 348, and proceeding from the sale of lottery tickets and generated by the operations of video lottery agents, appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed upon the office by this subchapter.

(3) In accordance with this subchapter, license as agents to sell lottery tickets persons who will best serve, by location or accessibility, the public convenience and promote the sale of lottery tickets. The Director may require a bond from every agent so licensed in such amount as the Director deems necessary. Every licensed agent shall prominently display the agent's license or a copy thereof.

(4) Enter into contracts for the operation of any game or part thereof and into contracts for the promotion of the game or games. This authorization is to be construed to include, but not be limited to, contracting with any racing or other sporting association to conduct sporting events within any racetrack or sports field in the State, the outcome of which shall determine the winners of a state game or, as an alternative, to affiliate the determination of the winners of a game with any racing or sporting event held within or without the State, and, including agreements with other state, provincial or international lotteries for participation in lottery games. All contracts for other than professional services in an amount greater than $2,000 shall be awarded to the lowest responsible bidder in the manner prescribed by state bidding laws. No contract awarded or entered into by the Director may be assigned by the holder thereof except by specific approval of the Director.

(5) Make arrangements for any person or organization, including banks, to perform such functions, activities or services in connection with the operation of the system as the Director may deem advisable.

(6) Suspend or revoke any license issued pursuant to this subchapter or the rules and regulations promulgated hereunder.

(7) Certify and report monthly to the State Treasurer the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report to the Governor and the General Assembly, which report shall include a full and complete statement of revenues, prize disbursements and other expenses and recommendations for such changes in this subchapter as the Director deems necessary or desirable.

(8) Report immediately to the Governor and members of the General Assembly any matters which shall require immediate changes in the laws of the State in order to prevent abuses and evasions of this subchapter or the rules and regulations promulgated hereunder or to rectify undesirable conditions in connection with the administration or operation of the gaming system. Such a report shall be disclosed to the public immediately upon issuance.

(9) Carry on a continuous study and investigation of the system:

a. For the purpose of ascertaining any defects in this subchapter or in the rules and regulations issued hereunder by reason whereof any abuses in the administration and operation of the lottery or any evasion of this subchapter or the rules and regulations may arise or be practiced;

b. For the purpose of formulating recommendations for changes in this subchapter and the rules and regulations promulgated hereunder to prevent such abuses and evasions;

c. To guard against the use of this subchapter to benefit organized gambling and crime or criminals in any manner whatsoever; and

d. To insure that this law and the rules and regulations shall be in such form and be so administered as to serve the true purpose of this subchapter.

(10) Make a continuous study and investigation of:

a. The operation and administration of similar laws which may be in effect in other states and countries;

b. Any literature on the subject which from time to time may be published or available;

c. Any federal laws which may affect the operation of the lottery; and

d. The reaction of Delaware citizens to existing and potential features of the games with a view to recommending or effecting changes that will tend to serve the purposes of this subchapter.

(11) Make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit as prescribed in Chapter 29 of this title.

(12) Establish state-operated sales offices, without limit as to number or location, as the Director shall deem suitable and economical in order to make lottery tickets more available to the public, which offices shall be operated solely from funds generated by the lotteries permitted by this subchapter.

(13) License as video lottery agents each person, corporation or association which, in 1993, held either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and who satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. In the event that there shall have been or shall be a change of ownership or such person, corporation or association after the close of the 1993 racing meet then the issuance by the Director of a license to serve as a video lottery agent shall be conditioned upon the Director's determination that such person, corporation or association shall have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfies such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Change of ownership occurring after the Director has issued a license shall automatically terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new

owner(s) because the new owner(s) have met the requirements of § 4806(a)(1)-(4) and (b) of this title and satisfied such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. Any license granted pursuant to this subsection is a privilege personal to the video lottery agent and is not a legal right. A license granted or renewed pursuant to this subsection may not be transferred or assigned to another person, nor may a license be pledged as collateral. For purposes of this subsection, "a change of ownership" shall have occurred if more than 20 percent of the legal or beneficial interests in such person, corporation or association shall be transferred, whether by direct or indirect means.

(14) Whenever the Director deems necessary, examine all accounts, bank accounts, financial statements and records of the licensee in a licensee's possession or under its control in which it has an interest and the licensee must authorize all 3rd parties, including parents, subsidiaries or related entities, in possession or control of the accounts or records of the licensee to allow examination of any of those accounts or records by the Director. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title.

(15) Subpoena witnesses and compel the production of books, papers and documents of a licensee in connection with any hearings of the Director and may administer oaths or affirmations to the witnesses whenever, in the judgment of the Director, it may be necessary for the effectual discharge of duties. If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, then the Director may apply to the Superior Court of the county in which the Director may be sitting and, thereupon, the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Director. Whoever fails to obey or refuses to obey a subpoena of the Superior Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(16) Bar, pursuant to §§ 4834 and 4835 of this title, any person from entering the premises of a ~~video~~ lottery agent or from participating in any capacity in the play of any table game, sports lottery game ~~or,~~ video lottery game, or Internet lottery game, and, as applicable, procure such assistance from ~~video~~ lottery agents as is appropriate to enforce any such bar.

(17) Impose reasonable fees, as set by the Director and payable to the Office, upon applicants for licenses pursuant to §§ 4828 and 4829 of this title for the conduct of the review and investigation of the applicant, such fees to approximate and reasonably reflect all costs necessary to defray the expenses of the lottery and Division of Gaming Enforcement.

(18) Require video lottery agents to submit regular internal control submissions, which shall contain a narrative description of the internal control system to be utilized by the video lottery facility, including, but not limited to:

a. Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming;

b. Procedures, forms and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services;

c. Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisory oversight responsibilities; and personnel practices;

d. Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and other cash equivalents used in wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming;

e. Procedures for the collection and security of moneys at the gaming tables;

f. Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the facility;

g. Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the facility for the counting process;

h. Procedures and security for the counting and recordation of table game revenue;

i. Procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels and all other gaming equipment;

j. Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto;

k. Procedures for the security, storage and recording of cash, chips, and cash equivalents utilized in gaming operations.

(19) Make Internet Lottery games available at such websites and in such a manner as determined by the Office in accordance with this chapter, and utilizing technology to ensure that players are legally eligible to engage in such gaming.

(c) The ~~license~~licenses granted pursuant to subsection (b)(13) of this section or section 4825 of this title may be revoked or suspended for cause upon 30 days' written notice to the licensee or due to a change in ownership as set forth in ~~subsection (b)(13) of this section~~those provisions, but shall otherwise not be subject to expiration or termination. "Cause"

shall by way of example and not by limitation include falsifying any application for license or report required by the rules and regulations, the failure to report any information required by the rules and regulations, the material violation of any rules and regulations promulgated by the Director or any conduct by the licensee which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner. A license may be revoked for an unintentional violation of any federal, state or local law, rule or regulation provided that the violation is not cured within a reasonable time as determined by the Director; or a longer period where the video lottery agent has made diligent efforts to cure. The Secretary of Finance shall within a reasonable time, if requested, appoint a hearing officer to hold a hearing to determine whether the license should be revoked or suspended. The hearing officer's decision revoking or suspending the license shall be appealable to the Superior Court under the provisions of the Administrative Procedures Act. Any decision of the Director relating to the business plan or the number of video lottery machines to be awarded to licensees under § 4820(b) of this title shall be appealable under the Administrative Procedures Act in the manner of a case decision. Notwithstanding the foregoing, nothing in this subsection shall otherwise prohibit the termination or revocation of a license in accordance with the rules and regulations adopted hereunder.

Section 5. Amend §4807, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4807. Lottery sales agents -- Authorization of agents.

Notwithstanding any other provision of law, any person licensed as provided in this subchapter is hereby authorized and empowered to act as a lottery ticket sales agent ~~or,~~ a video lottery agent, or a sports lottery agent, as the case may be.

Section 6. Amend §4810, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4810. Sales to certain persons prohibited; penalties.

(a) No person who is under the age of 18 shall purchase a lottery ticket~~.~~ or participate in an Internet ticket game. No person who is under the age of 21 shall wager on the video lottery, sports lottery ~~or,~~ table games ~~in a~~, Internet table games or Internet video lottery ~~facility~~. Whoever has not reached the specified age and has violated this subsection shall be guilty of a misdemeanor.

(b) No ticket shall be sold to any person under the age of 18 years, but this shall not be deemed to prohibit the purchase of a ticket for the purpose of making a gift by a person 18 years of age or older to a person less than that age.

(c) No licensed video lottery agent, sports lottery agent, or employee of ~~a video lottery agent~~such agents shall allow a person under the age of 21 to wager on the video lottery, table games ~~or the~~, sports lottery, Internet table games, or Internet video lottery.

(d) A violation of subsection (b) or (c) of this section shall be a misdemeanor, except that the establishment of the following facts shall constitute a defense to any prosecution therefor:

(1) That the underage person presented proof of age or photographic identification that would lead a reasonable person to believe that the underage person was over the minimum age required in this section.

(2) That the appearance of the underage person was such that an ordinary prudent person would believe that the person was over the minimum age required in this section.

(e) No ~~ticket shall be purchased~~ Delaware Lottery games, including ticket games, video lottery, sports lottery, internet lottery, internet ticket games, keno, and table games, may be played by and no prizes received by or awarded to any officers or employees of the State Lottery Office or any member of their immediate households. Any person convicted of violating this section shall forfeit any prize money so obtained and shall be sentenced to not less than 1 year in jail and pay a fine of no less than $5,000.

Section 7. Amend §4815(a), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) All moneys received from the sale of lottery tickets, keno, and from Internet ticket games, shall be accounted for to the State Treasurer and all net moneys shall be placed into a special account known as the State Lottery Fund. From the Fund, the Director shall first pay for the operation and administration of the lottery as authorized in this subchapter and thereafter shall pay as prizes not less than 45% on the average of the total amount of tickets which have been sold and are scheduled for sale throughout the games, which percentage shall include prizes already awarded or to be awarded. The total of payments for operations and administration of the lottery shall not exceed 20% of the gross amount received from the ~~sale~~sales of ~~tickets~~such games. The remaining moneys shall accumulate in the State Lottery Fund for the payments of operations and administration costs and on a monthly basis, or more frequently if required by the Director, ~~there shall be placed into~~ the Lottery shall undertake to provide into the General Fund of the State a payment of earnings of ~~provided that no less than~~ 30% of the total revenues accruing from the ~~sale~~sales of ~~tickets~~such games or shares shall be so dedicated. In the event that the percentage allocated for operations (including prize payments) generates a surplus, said surplus shall be allowed to accumulate to an amount not to exceed $ 1,000,000. On a quarterly basis, the Director shall report to the Secretary of Finance any surplus in excess of $ 1,000,000 and remit to the General Fund of the State the entire amount of those surplus funds in excess of $ 1,000,000.

Section 8. Amend §4815(c), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c) (1) All proceeds, net of proceeds returned to players, from the operation of the sports lottery at video lottery agents shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated state lottery account by the agent, and transferred to the State Lottery Fund by the lottery on a daily or weekly basis. Proceeds from the sports lottery at video lottery agents, less the amounts returned to winning players and vendor fees, shall be returned to the State at a rate of 50% of the total win so experienced. Purses shall be paid from the proceeds from the sports lottery conducted at video lottery agents, less amounts returned to winning players and ~~vendors~~vendor fees, at the rate of 10.2% for video lottery agents licensed only to conduct harness racing meets and at the rate of 9.6% for video lottery agents licensed only to conduct thoroughbred racing meets. The Director, by regulation shall adopt accounting procedures for the sports lottery in order to accommodate the differences between the sports lottery and the video lottery. Administrative costs and expenses incurred by the video lottery agent for the initiation of the sports lottery and the costs of the equipment shall be solely the responsibility of the video lottery agent. The provisions of subsection (b) of this section shall not apply to the proceeds from the operation of the sports lottery.

(2) All proceeds, net of proceeds returned to players, from the operation of the sports lottery at sports lottery agents other than video lottery agents shall be held by the State Lottery Fund and such sports lottery agents shall be compensated pursuant to rules adopted under § 4805(a) of this title. Purses shall be paid from the proceeds from the sports lottery conducted at such sports lottery agents, less amounts returned to winning players and fees for sports lottery agents and vendors, to video lottery agents licensed only to conduct thoroughbred racing meets at the rate of 9.6% of the proportion of all sports lottery proceeds in the prior fiscal year generated by video lottery agents that is generated by the video lottery agents licensed to conduct thoroughbred racing meets.

Section 9. Amend §4815, Title 29, of the Delaware Code by adding a new subsection (e) and making insertions as shown by underlining and deletions as shown by strike through as follows:

(e) Gross revenue from the Internet video lottery and Internet table games shall be accounted for to the State Treasurer and all proceeds, net of moneys returned to players, shall be placed into a special account known as the State Internet Lottery Fund. From the Fund, the Director shall first pay for the operation and administration of the Internet video lottery and Internet table games. Thereafter, the first $3,750,000 of proceeds in each fiscal year shall be transferred to the State Lottery Fund for the benefit of the State. After $3,750,000 of proceeds has been transferred to the State each fiscal year, the remaining proceeds shall be distributed as follows:

(1) The proceeds from the sales of Internet video lottery games shall be distributed pursuant to subsections (b)(2) and (b)(3) of this section, provided that the calculations for such distribution shall be done after netting out the proceeds returned to players and administrative and vendor costs; and

(2) The proceeds from the sales of Internet table games shall be distributed pursuant to subsection (d) of this section, net of proceeds returned to players, provided that the calculations for such distribution shall be done after netting out the proceeds returned to players and administrative and vendor costs.

Section 10. Amend §4819, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4819. Restrictions on location and use of video lottery and sports lottery machines; fees.

(a) Video lottery machines~~, sports lottery machines~~ and table game equipment shall only be located within the confines of an existing racetrack property in this State on which was conducted in 1993 either a horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and/or such immediately adjacent property or properties that are owned by, or immediately adjacent properties that may be acquired by, the video lottery licensee authorized to conduct such horse racing or harness racing; and provided further, that video lottery machines, sports lottery machines and table game equipment shall not be located in a hotel, motel or other overnight sleeping facility.

(b) In respect of any pari-mutuel harness racing or pari-mutuel horse racing property the racing operations on which were lawful under any county or municipal zoning ordinance as of January 1, 1993, the use of video lottery machines pursuant to the provisions of this act on such property and/or on any immediately adjacent property or properties that are owned by, or immediately adjacent properties that may be acquired by, the video lottery licensee authorized to conduct such horse racing or harness racing shall not be deemed to change the character of such lawful land use and such use of video lottery machines shall not be prohibited by any such county or municipal zoning ordinance, including amendments thereto.

(c) Video lottery machines and sports lottery machines shall be connected to the lottery's central computer system, except when used for promotional tournaments in which players are not required to pay any fee to participate, and shall not be available for play on Christmas, or after 4:00 a.m. on Easter. Subject to the foregoing, the specific hours of operation for each video lottery agent are subject to the recommendation of the Lottery Director and the approval of the Secretary of Finance.

~~(d) The State shall collect from the video lottery agents no later than February 15 of each year license fees totaling $4,000,000. Each video lottery agent shall be liable for and shall pay to the State the portion of the $4,000,000 that is in proportion to the amount of the video lottery net proceeds of that agent in the preceding fiscal year in comparison to the~~

~~total video lottery net proceeds recovered by the State in the preceding fiscal year. The Director shall determine that proportion and the amount due from each video lottery agent no later than July 30 of each year. The license fees collected pursuant to this subsection shall be contributed to the General Fund.~~

~~(e)~~((d) (1) For the privilege of hosting the operation of table games, the State shall collect from the video lottery agents for the benefit of the General Fund~~: a.,~~ for each fiscal year after June 30, 2011, license fees totaling $13,~~500~~250,000, to be paid no later than June 1 of the preceding fiscal year, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of $13,~~500~~250,000 that is equal to the percentage of gross table game revenue generated at that video lottery facility in the preceding fiscal year out of the total gross table game revenue generated at all video lottery facilities in the preceding fiscal year~~, and~~.

~~b. For the fiscal year ending June 30, 2011, and any preceding period, license fees totaling $13,500,000, to be paid no later than January 15, 2011, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of $13,500,000 that is equal to the percentage of video lottery proceeds remaining after payments to players under § 4815(b) of this title generated at that video lottery facility in the preceding fiscal year out of the total video lottery proceeds remaining after payments to players under § 4815(b) of this title generated at all video lottery facilities in the preceding fiscal year. Should table gaming not be operating at a video lottery facility on July 1, 2010, the Director and Secretary of Finance may determine to reduce the license fees otherwise imposed for the year by an amount proportionate to the part of the fiscal year ended June 30, 2011, in which the table gaming is not operating.~~

(2) ~~Should the video lottery agents collectively make or commit to make qualified capital investments in the improvement of their video lottery facilities and adjoining properties after January 28, 2010, in any 12-month period ending on June 30 in the amount of $2,500,000,~~ Each video lottery agent shall be permitted for purposes of this ~~paragraph~~subsection to reduce the license fee it would otherwise owe for that year pursuant to paragraph (~~e)(1) of this section by 1/2 of the license fee.~~d)(1) of this section by the amount of qualified investments, up to a cap of $10,250,000 for all video lottery agents, made in the 12-month period ending on June 30 by the video lottery agent in the competitiveness of its facilities and business. The video lottery agents shall provide the Director annually an accounting of the qualified investments made pursuant to this paragraph. A qualified ~~capital~~ investment pursuant to this paragraph shall ~~be an amount~~determined by the Director to benefit the competitiveness or services of such video lottery agent and may include:

a. amounts paid out for new ~~video lottery facility~~or enhanced buildings or permanent improvements or betterments to ~~existing~~ video lottery facilities or immediately adjacent property or properties that are owned by video lottery licensees that would not be deductible for purposes of § 263(a)(1) of the Internal Revenue Code [26 U.S.C. § 263(a)(1)~~]. The video lottery agents shall provide the Director annually an accounting of the qualified capital investments~~

~~made pursuant to this paragraph (e)(2).~~)], or amounts paid out to service debt incurred in the construction of buildings or permanent improvements or betterments; or

b. expenditures for marketing of lottery games and promotion items provided to patrons, all as determined by the Office to be in excess of the comparable amount of such expenditures made by the video lottery agent during the 12-month period ending June 30, 2012, measured as a percentage of the proceeds from the operation of the video lottery and table games.

~~(3) The license fees to be paid for each fiscal year after the fiscal year ending June 30, 2011, pursuant to paragraphs (e)(1) and (e)(2) of this section may be reduced by a specified amount in the event the video lottery agent outperforms its expected portion of $80,000,000 in gross table game revenue, as follows:~~

~~a. For each fiscal year after June 30, 2011, each video lottery agent's expected gross table game revenue shall be equal to the portion of $80,000,000 that corresponds to its percentage of total gross table game revenue from all video lottery agents generated in the preceding fiscal year, and should the video lottery agent generate that expected gross table game revenue, its license fees to be paid shall be reduced by the portion of $1,750,000 that corresponds to its percentage of total gross table game revenue from all video lottery agents generated in the preceding fiscal year; and~~

~~b. For the fiscal year ended June 30, 2011, each video lottery agent's expected gross table game revenue shall be equal to the portion of $80,000,000 that corresponds to its percentage of total video lottery proceeds remaining after payments to players under § 4815(b) of this title from all video lottery agents generated in the preceding fiscal year, and should the video lottery agent generate that expected gross table game revenue, its license fees to be paid shall be reduced by the portion of $1,750,000 that corresponds to its percentage of total video lottery proceeds remaining after payments to players under § 4815(b) of this title from all video lottery agents generated in the preceding fiscal year.~~

~~(4) In the event a video lottery agent has not achieved, as of June 1 of each year, gross table game revenue sufficient to reduce the license fees owed in the following year pursuant to paragraph (e)(3) of this section, the video lottery agent shall pay the license fee without regard for the reduction under that paragraph, unless, in the judgment of the Office, such video lottery agent is expected to achieve sufficient table gaming revenue by the end of the fiscal year, in which case the video lottery agent shall receive the reduction specified in paragraph (e)(3) of this section that is contingent upon successfully reaching the level of gross table game revenue that warrants the reduction.~~

~~(5) The license fees to be paid for the fiscal year ending June 30, 2011, pursuant to paragraphs (e)(1) and (e)(2) of this section shall not be reduced at the time of payment pursuant to paragraph (e)(3) of this section, but if the video lottery agent successfully reaches the gross table game revenue targets specified in paragraph (e)(3) of this section during the fiscal~~

~~year ending June 30, 2011, the reduction specified in paragraph (e)(3) of this section shall be applied to the license fee owed for the fiscal year ending June 30, 2012.~~

Section 11. Amend §4820(b), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b)(1) Upon submission by a video lottery agent of a proposed plan for the lease or purchase of video lottery machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the number, type and kind of video lottery machines necessary for the efficient and economical operation of the Lottery, or the convenience of the players and in accordance with the plan of the licensee, provided that no more than 2,500 video lottery machines shall be located within the confines of a racetrack property unless the Director recommends up to an additional 1,500 for each racetrack property, and further provided that the Director may recommend the amendment of such plan where the Director finds that such amendments are necessary to increase revenues, provided such amendments do not produce reductions in the overall net proceeds from the video lottery, protect the public welfare or ensure the security of the video lottery, provided that the maximum number of video lottery machines under this subsection shall not include video lottery machines at each racetrack used exclusively for promotional tournaments in which players are not required to pay any fee to participate. Such recommendations by the Lottery Director are subject to the approval of the Secretary of Finance. No more than 30 promotional tournament machines are permissible at each racetrack. The Director's lease or purchase of video lottery machines under this subsection shall be pursuant to the procedures used for procurement under §§ 6981 and 6982 of this title.

~~(2) Each video lottery agent shall pay to the State annual license fees for additional video lottery machines as follows:~~

~~2501 to 3000 --$1,100 per machine;~~

~~3001 to 3500 --$700 per machine; and~~

~~3501 to 4000 --$300 per machine.~~

~~(3) Annual license fees as prescribed in paragraph (2) of this subsection shall expire on December 31 of each calendar year and shall be payable no less than 30 days before the commencement of the calendar year.~~

~~(4) In the case of any video lottery agent making an initial application for machines subject to the provisions as prescribed in paragraph (b)(2) of this section, the basic annual license fee for such initial year specified therein shall be reduced pro rata by the portion attributable to the number of full calendar months of the license year that have expired prior to the issuance of the license and shall be payable within 30 days of receipt of approval from the Secretary of Finance.~~

~~(5~~(2) No refund of license fees shall be payable for any unexpired term of a license.

Section 12. Amend §4824(a), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) An Advisory Council on Video Lottery Planning is established and shall serve in an advisory capacity to the Secretary of Finance. Its membership shall include:

(1) The Director of the State Lottery Office.

(2) One member from each licensed video lottery agent, to be designated by the respective agent.

(3) Two members representing all of the licensed manufacturers of video lottery machines to be designated by the Director of the State Lottery Office, and/or the licensed manufacturer of the central computer systems to be designated by the Director of the State Lottery Office.

(4) One sports lottery agent designated by the Director of the State Lottery Office.

Section 13. Amend §4825, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4825. Sports lottery.

(a) The Director shall, pursuant to the authority granted under § 4805(a)(1) and (b)(4) of this title, commence a sports lottery as soon as practicable. The Director shall, by rules and regulations, provide for the features and attributes of a sports lottery. The regulations must, in the Director's judgment, administer the sports lottery in a manner which will produce the greatest income for the State while minimizing or eliminating the risk of financial loss to the State.

(b) A person under the age of 21 may not purchase a sports lottery ticket, or wager on a sports lottery machine, or in any way participate in the sports lottery.

(c) The Director may commence a sports lottery ~~commenced pursuant to this section must be conducted exclusively~~located at facilities operated by video lottery agents licensed by the State~~.~~ and such other sports lottery agents as shall be licensed pursuant to the terms of this chapter. Licenses awarded to video lottery agents relative to the video lottery shall automatically allow those agents to operate facilities at which the sports lottery can be conducted.

(d) The Director may, in the Director's discretion, grant licenses to operate the sports lottery to sports lottery agents, which shall be a qualified, person, business, organization or entity that owns or operates an appropriate property. Before issuing a license to a sports lottery agent, each person seeking a license shall comply with the criminal background check required by this chapter and at least one person shall receive a background check to the standard of a sports lottery operations employee. In granting licenses, the Director shall consider the factors in § 4806(a) of this Title and, if the Director shall find that the experience, character and general fitness of the applicant are such that the participation of such a person as a sports lottery agent will be consistent with the public interest, convenience and purposes of this chapter, the

Director shall thereupon grant a license. In prioritizing applications for a license under this section, the Director shall give preference to proposals likely to foster economic growth and maximize employment. Change of ownership of the licensed business, organization or entity occurring after the Director has issued a license shall automatically terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new owner(s) because the new owner(s) have met the requirements of this chapter. Any license granted pursuant to this subsection is a privilege personal to the sports lottery agent and is not a legal right. A license granted or renewed pursuant to this subsection may not be transferred or assigned to another person, nor may a license be pledged as collateral. Each sports lottery agent shall be responsible for the security and safekeeping of the sports lottery machines of which it has physical custody. Each sports lottery agent shall provide access to all records of the licensee and the physical premises of the business or businesses where the agent's lottery activities occur for the purpose of monitoring or inspecting the agent's activities and the lottery games, machines and associated equipment. None of the information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§ 10001-10005 of this title. For purposes of this subsection, "a change of ownership" shall have occurred if more than 20 percent of the legal or beneficial interests in such person, corporation or association shall be transferred, whether by direct or indirect means.

Section 14. Amend §4826, Title 29, of the Delaware Code by striking the current section in its entirety and substituting in lieu thereof the following as shown by underlining:

§ 4826. Internet Lottery.

(a) The Director is authorized to operate an Internet Lottery in accordance with this chapter, other Delaware laws, and federal law.

(b) No Internet Lottery game shall be conducted unless the software, computer or other gaming equipment utilized can verify that the player engaged in such game is physically present in the State at the time they engage in such games. The Office shall confirm that players of the Internet Lottery are, in fact, verified to be physically located in the State at the time they place a wager in such games. Notwithstanding the foregoing, persons who are not physically present in this State may engage in Internet lottery games only if the Office determines that such games are not inconsistent with federal law and the law of the jurisdiction in which the person is physically present, or if such games are conducted pursuant to an interstate compact to which the State is a party that is not inconsistent with federal law.

(c) The Director shall have the duty to promulgate such rules and regulations governing the Internet Lottery as the Director deems necessary and desirable in order that the Internet lottery be initiated at the earliest feasible time in a manner that provides for the security and effective administration of such games, including but not limited to:

(1) the type, number, payout, wagering limits, and rules for Internet lottery games;

(2) the creation, utilization, of Internet lottery accounts by players of the Internet lottery, provided that such accounts shall be possessed only by a natural person and not in the name of any beneficiary, custodian, joint trust, corporation, partnership or other organization or entity, and provided that such accounts shall not be assignable or otherwise transferable;

(3) procedures for logging in Internet lottery account holders, authenticating their identity, agreeing to the terms, conditions and rules applicable to such games, and logging out, including procedures for automatically logging off persons from the Internet lottery after a specified period of inactivity;

(4) procedures for acquiring funds in an Internet lottery account by cash, transfer or other means, the withdraw of such funds from such accounts, the suspension of Internet lottery account activity for security reasons, the termination of Internet lottery accounts and disposition of proceeds therein, and the disposition of unclaimed amounts in dormant Internet lottery accounts pursuant to chapter 11 of title 12;

(5) mechanisms by which the Office or persons playing Internet lottery games may place limits on the amount of money being wagered per game or during any specified time period, or the amount of losses incurred during any specified time period;

(6) mechanisms to exclude from the Internet lottery persons not eligible to play by reason of age, inclusion on a list of self-excluded persons in §4834 of this title, or inclusion by the Director on a list for exclusion pursuant to § 4835 of this title; and

(7) procedures for the security and reliability of Internet lottery games and Internet lottery accounts, protection of the software, computers and other equipment used in the Internet lottery, and mechanisms to prevent tampering or utilization by unauthorized persons.

(d) The Director shall cause each Internet site on which the Internet lottery is conducted to include an advertisement for and link to additional information for services for the treatment, education and assistance of compulsive gamblers and their families.

Section 15. Amend §4834(a), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) The Director shall provide by regulation for the establishment of a list of persons self-excluded from gaming activity at video lottery facilities. or through the Internet lottery. A person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the Director that the person is a problem gambler and by agreeing that, during the period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a video lottery facility. or through the Internet lottery.

Section 16. Amend the title and subsection (a) of §4835, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4835. Exclusion or ejection of certain persons from video lottery facilities~~.~~ and Internet lottery games.

(a) The Director shall by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed video lottery facility~~.~~ and excluded from any Internet lottery games. Persons shall be placed on the list by order of the Director, predicated upon the filing of a petition by the Division of Gaming Enforcement. Persons shall be placed on the list if a reasonable basis exists for believing that the person's engagement in the games or presence in the facility is inimical to the interests of this State or to the operation of the video lottery facilities, or both. Such provisions shall define the standards for exclusion and shall require the Director and the Division of Gaming Enforcement to consider any:

(1) Prior conviction of a crime which is a felony in this State or under the laws of the United States; or a crime involving moral turpitude; or a violation of the gaming laws of any state;

(2) Violation or conspiracy to violate any of the provisions of § 1471 of Title 11;

(3) The failure to disclose an interest in a video lottery facility for which the person must obtain a license;

(4) Wilful evasion of fees or taxes;

(5) Notorious or unsavory reputation which would adversely affect public confidence and trust that the Delaware Lottery is free from criminal or corruptive elements; or

(6) Written order of a governmental agency which authorizes the exclusion or ejection of the person from an establishment at which gaming or pari-mutuel wagering is conducted.

Section 17. Amend §4837(g), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(g) Nothing contained in this section shall:

(1) Affect the common law right of a video lottery agent, as an owner or lessor of property, from excluding or ejecting any person from its property for any reason that is not unlawful~~; or~~ or excluding any person from participation in Internet lottery games for any reason that is not unlawful; or

(2) Be applicable to any action undertaken by a video lottery agent in the exercise of such right.

Section 18. Amend §4836, Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4836. Penalties for wagering by excluded persons.

(a) Any person whose name has been placed on the list of persons to be excluded from the Internet lottery or excluded or ejected from video lottery facilities, except for persons whose name has been placed on the self-exclusion list, who thereafter knowingly enters the premises of a video lottery facility, is guilty of a Class A misdemeanor.

(b) Any person whose name has been placed on the self-exclusion list, who thereafter knowingly enters a gaming area or engages in the Internet lottery, is guilty of a Class A misdemeanor.

(c) A licensed agent shall have a duty to keep from its premises any person who is on the list of persons to be excluded from entering a video lottery facility, and shall have a duty to keep from its gaming room any person who is on the self-exclusion list. The Director may revoke, limit, condition, or suspend the license of a video lottery agent, or impose a fine or other monetary penalty, if that video lottery agent knowingly fails to exclude or eject from its premises any person placed on the list of persons to be excluded or ejected, or knowingly fails to exclude or eject from its gaming room any person on the self-exclusion list.

(d) A person who is prohibited from gaming activity by any order of the Director, or court of competent jurisdiction, or by any provision of this chapter, including underage persons and any person on the exclusion or self-exclusion list, shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

(e) In addition to any other penalty provided by law, any money or thing of value which has been obtained by any person prohibited from gaming activity in a video lottery facility shall be subject to an order of forfeiture by the Director, following notice to the prohibited person and an opportunity for the prohibited person to be heard.

(f) The Director shall establish regulations concerning the disposition of any forfeited funds received under this section.

Section 19. Amend §4837(a), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) The Lottery Commission is created in the Department of Finance. The Lottery Commission shall be composed of 5 members who shall be citizens of the State, including at least 1 certified public accountant, 1 lawyer, 1 businessperson, 1 person with experience in law enforcement, and 1 public member, all of whom shall be appointed by the Governor and confirmed by the Senate, provided however, no member shall be a member of the Standardbred Owners Association, the Delaware Thoroughbred Horsemen's Association, or an owner, employee or agent of a video lottery agent. or sports lottery agent. The Governor shall name the Chairperson of the Commission from among its members and the Chairperson shall serve in that capacity at the Governor's pleasure. Each of the members shall serve for a term of 5 years and until that member's successor qualifies. No member shall serve for more than 1 full 5-year term. Not more than 3 members of the

Commission shall be of the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for such office.

Section 20. Amend §4837(d), Title 29, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(d) To serve on the Lottery Commission, a member may not be and may not ever have been an employee, officer, director, owner of securities of a video lottery agent or sports lottery agent, or owner of a licensed service company, nor a member of the immediate family of an employee, officer, director or owner of a video lottery agent or sports lottery agent; may not ever have had a material or financial interest in a video lottery agent, sports lottery agent, or a licensed service company; and may not ever have been engaged in any services on behalf of a video lottery agent, sports lottery agent, or a licensed service company related to the activities of the lottery. The provisions of Chapter 58 of Title 29 (State Employees', Officers' and Officials' Code of Conduct) apply to all members of the Lottery Commission and to all agents appointed or otherwise employed by the Lottery Commission. No person convicted of a felony or crime involving moral turpitude shall be eligible for appointment nor appointed as a commissioner.

Section 21. Amend §543(b)(9), Title 4, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(9) As to a restaurant applicant, the applicant's projected or actual receipts from the sale of complete meals fails to represent a substantial portion of the establishment's total gross receipts as determined by the Commissioner, provided that gross receipts received as payments from the State Lottery Office shall not be included by the Commissioner in his or her determination;

Section 22. On or before January 30, 2016, the Department of Finance shall deliver a report to the Speaker of the House and the President Pro Tempore of the Senate for the consideration of the General Assembly concerning the revenues from the operation of internet table games that are paid to the purse accounts pursuant to § 4815(e)(2) of Title 29. At that time, the General Assembly may reconsider whether or not such revenues are appropriately divided among interested parties.

Section 23. On or before January 30, 2013, the Department of Finance shall deliver a report to the Governor, the Speaker of the House, and the President Pro Tempore of the Senate concerning the proceeds of the state lottery that are directed to purses for thoroughbred and standardbred horse racing meets pursuant to § 4815(b)(3) of Title 29, which report shall include discussion of the total amount of purses distributed since July 1, 2010, identification of the uses to which that purse revenue is directed, and the amount of such purses that have gone to out-of-state and instate persons.

Section 24. This Act takes effect on July 1 following its enactment into law.

Section 25. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SYNOPSIS

The Delaware Gaming Competitiveness Act of 2012 improves the ability of the Delaware Lottery and Delaware's video lottery agents to offer services to lottery players in an increasingly competitive marketplace.

The Act authorizes internet gaming under the control and operation of the Delaware Lottery. The Delaware Lottery Office is authorized to conduct traditional lottery games over the internet. Delaware's video lottery agents are authorized to offer through their websites internet versions of the table games and video lottery offerings. All games shall remain operated by the Delaware Lottery. These offerings capitalize on a recent United States Department of Justice ruling clarifying that wagering within a state's boundaries does not violate federal law.

The Act requires the Lottery Director to provide for the security and effective administration of internet gaming, including procedures for verifying the location and identify of players, mechanisms for maintaining account security, procedures to exclude minors or other excluded persons, limits on the amount which can be wagered, and advertisements for services for compulsive gamblers.

Internet lottery games would be offered solely to persons within the State of Delaware at the current time. A person's location would be determined from a person's computer or mobile device. This territorial limitation applies to all gaming except gaming pursuant to an interstate compact or if otherwise legally authorized. Internet lottery participation would be limited to persons who meet the age requirements for equivalent non-internet games.

Revenues from the internet lottery would be distributed in a manner similar to current lottery games. The internet versions of table games and video lottery games would be distributed generally pursuant to the formulae applicable to those games, with the exception that the first $3.75 million would be retained by the Lottery to ensure the proposal is at least revenue neutral to the State. As such, revenues from those games would support services for compulsive gambling and additional purse revenue for thoroughbred and standardbred racing. The Act compels the Department of Finance to conduct a study of purse revenue generally for submission to the Governor and General Assembly on or before January 30, 2013. The Department of Finance would also prepare a report for consideration by the General Assembly on or before January 30, 2016 for reevaluation of the purses generated by internet table games.

The Act also restructures the fees currently paid by video lottery agents to incentivize those agents to reinvest up to $7.75 million in their improved competitiveness through capital investments and marketing plans.

The Act also amends Title 4 to provide that restaurants who participate as lottery agents do not have the receipts from lottery activities counted as part of the receipts not generated by food service.

The Act further authorizes the Delaware Lottery to operate the sports lottery at venues other than the video lottery agents, such as bars or convenience stores. The Lottery would prioritize applications to operate the sports lottery for those proposals most likely to foster economic growth and job creation. It also authorizes the Delaware Lottery to operate keno, a numbers game in which players select numbers and winners are chosen at regular intervals.