



SPONSOR: Rep. Viola & Sen. Bushweller ;  
Reps. Barbieri Carson J. Johnson Kowalko Mitchell  
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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):

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

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

4 § 4801. Statement of purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94 (~~waa~~) "Video lottery facility" shall mean a building containing a gaming area.

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

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

102 § 4805. Director -- Powers and duties.

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

- 110 (1) Type and number of games to be conducted;
- 111 (2) Price or prices of tickets for any game;
- 112 (3) Numbers and sizes of the prizes on the winning tickets;
- 113 (4) Manner of selecting the winning tickets;
- 114 (5) Manner of payment of prizes to the holders of winning tickets;
- 115 (6) Frequency of the drawings or selections of winning tickets;
- 116 (7) Number and types of locations at which tickets may be sold and the sports lottery and keno may be
- 117 conducted;
- 118 (8) Method to be used in selling tickets;
- 119 (9) Licensing of agents to sell tickets or host keno; provided, that, no person under the age of 18 shall be
- 120 licensed as an agent;
- 121 (10) Manner and amount of compensation, if any, to be paid to licensed ~~ticket sales agents~~, other than
- 122 video lottery agents, necessary to provide for the adequate availability of ~~tickets~~games to prospective buyers and for the
- 123 convenience of the public;
- 124 (11) Apportionment of the total revenues accruing from the sale of tickets among:
- 125 a. Payment of prizes to the holders of winning tickets;
- 126 b. Payment of costs incurred in the operation and administration of the state lottery system,
- 127 including the expenses of the office and the costs resulting from any contract or contracts entered into for promotional,
- 128 advertising or operational services or for the purchase or lease of gaming equipment and materials;
- 129 c. Repayment of the moneys appropriated to the State Lottery Fund pursuant to § 3 of 59 Del.
- 130 Laws, c. 348; and
- 131 d. Payment of earnings to the General Fund of the State;
- 132 Provided, that no less than 30 percent of the total revenues accruing from the sale of tickets or shares
- 133 shall be dedicated to subparagraph d. of this paragraph;
- 134 (12) Such other matters necessary or desirable for the efficient and economical operation and
- 135 administration of the game and for the convenience of the purchasers of tickets and the holders of winning tickets and the
- 136 players of the video lottery, the sports lottery, Internet lottery, keno, and table games;
- 137 (13) Value of bills, coins or tokens needed to play the video lottery machines, sports lottery machines and
- 138 table games;
- 139 (14) Licensing of agents for video lotteries;

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

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

147 (17) A licensure requirement and enforcement procedure for service companies in accordance with §  
148 4829 of this title;

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

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

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

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

155 (22) Requiring the reporting of information about ~~the video lottery agent, its agents, sports lottery agents,~~  
156 their employees, vendors and finances necessary or desirable to ensure the security of the ~~video~~ lottery system. None of the  
157 information disclosed pursuant to this subsection shall be subject to disclosure under the Freedom of Information Act, §§  
158 10001-10005 of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

241 ~~(2829)~~ The regulations and procedures for the display and presentation of messages concerning  
242 responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive  
243 gamblers;

244 ~~(2930)~~ The provision of complimentary services, gifts, transportation, cash, food, nonalcoholic  
245 beverages, entertainment or any other thing of value by a ~~video~~ lottery agent to a guest;

246 ~~(3031)~~ The procedures for the review and evaluation of licensing applications, including the forms of  
247 applications, procedures for fingerprinting and other means of identification, procedures for hearings, and grounds and  
248 procedures for the approval, denial, revocation or suspension of a license;

249 ~~(3132)~~ Procedures relating to internal management controls of video lottery agents, including accounting  
250 controls and employee and supervisory organizational charts and responsibilities; ~~and~~

251 ~~(3233)~~ Standards for the manufacture, sale, distribution, maintenance, repair, and servicing of video  
252 lottery machines and table game equipment.; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

296 (10) Make a continuous study and investigation of:

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

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

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

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

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

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

308 (13) License as video lottery agents each person, corporation or association which, in 1993, held either a  
309 horse racing meet pursuant to Title 3 or Title 28 or a harness horse racing meet pursuant to Title 3 and who satisfies such  
310 fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section. In the event  
311 that there shall have been or shall be a change of ownership or such person, corporation or association after the close of the  
312 1993 racing meet then the issuance by the Director of a license to serve as a video lottery agent shall be conditioned upon  
313 the Director's determination that such person, corporation or association shall have met the requirements of § 4806(a)(1)-(4)  
314 and (b) of this title and satisfies such fitness and background standards as the Director may promulgate pursuant to  
315 subsection (a)(16) of this section. Change of ownership occurring after the Director has issued a license shall automatically  
316 terminate the license 90 days thereafter unless the Director has determined after application to issue a license to the new

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

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

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

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

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

346 (18) Require video lottery agents to submit regular internal control submissions, which shall contain a  
347 narrative description of the internal control system to be utilized by the video lottery facility, including, but not limited to:  
348 a. Accounting controls, including the standardization of forms and definition of terms to be  
349 utilized in the gaming;  
350 b. Procedures, forms and, where appropriate, formulas covering the calculation of hold  
351 percentages; revenue drop; expense and overhead schedules; complimentary services;  
352 c. Job descriptions and the system of personnel and chain-of-command, establishing a diversity  
353 of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisory  
354 oversight responsibilities; and personnel practices;  
355 d. Procedures within the cashier's cage for the receipt, storage and disbursal of chips, cash, and  
356 other cash equivalents used in wagering; the cashing of checks; the redemption of chips and other cash equivalents used in  
357 gaming;  
358 e. Procedures for the collection and security of moneys at the gaming tables;  
359 f. Procedures for the transfer and recordation of chips between the gaming tables and the  
360 cashier's cage and the transfer and recordation of moneys within the facility;  
361 g. Procedures for the transfer of moneys from the gaming tables to the counting process and the  
362 transfer of moneys within the facility for the counting process;  
363 h. Procedures and security for the counting and recordation of table game revenue;  
364 i. Procedures and security standards for the handling and storage of gaming apparatus, including  
365 cards, dice, machines, wheels and all other gaming equipment;  
366 j. Procedures and rules governing the conduct of particular games and the responsibility of  
367 casino personnel in respect thereto;  
368 k. Procedures for the security, storage and recording of cash, chips, and cash equivalents utilized  
369 in gaming operations.

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

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

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

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

391 § 4807. Lottery sales agents -- Authorization of agents.

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

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

397 § 4810. Sales to certain persons prohibited; penalties.

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

402 (b) No ticket shall be sold to any person under the age of 18 years, but this shall not be deemed to prohibit the  
403 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.

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

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

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

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

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

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

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

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

436 (c) (1) All proceeds, net of proceeds returned to players, from the operation of the sports lottery at video  
437 lottery agents shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated  
438 state lottery account by the agent, and transferred to the State Lottery Fund by the lottery on a daily or weekly basis.  
439 Proceeds from the sports lottery at video lottery agents, less the amounts returned to winning players and vendor fees, shall  
440 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  
441 sports lottery conducted at video lottery agents, less amounts returned to winning players and ~~vendors~~vendor fees, at the  
442 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  
443 agents licensed only to conduct thoroughbred racing meets. The Director, by regulation shall adopt accounting procedures  
444 for the sports lottery in order to accommodate the differences between the sports lottery and the video lottery.  
445 Administrative costs and expenses incurred by the video lottery agent for the initiation of the sports lottery and the costs of  
446 the equipment shall be solely the responsibility of the video lottery agent. The provisions of subsection (b) of this section  
447 shall not apply to the proceeds from the operation of the sports lottery.

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

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

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



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

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

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

471                   § 4819. Restrictions on location and use of video lottery and sports lottery machines; fees.

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

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

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

490                   ~~(d) The State shall collect from the video lottery agents no later than February 15 of each year license fees totaling~~  
491 ~~\$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~~  
492 ~~proportion to the amount of the video lottery net proceeds of that agent in the preceding fiscal year in comparison to the~~

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

496 ~~(e)~~(d) (1) For the privilege of hosting the operation of table games, the State shall collect from the video lottery  
497 agents for the benefit of the General Fund: ~~a.~~ for each fiscal year after June 30, 2011, license fees totaling \$13,500250,000,  
498 to be paid no later than June 1 of the preceding fiscal year, and to be allocated among the video lottery agents offering table  
499 games as follows: Each video lottery agent's license fee shall be the portion of \$13,500250,000 that is equal to the  
500 percentage of gross table game revenue generated at that video lottery facility in the preceding fiscal year out of the total  
501 gross table game revenue generated at all video lottery facilities in the preceding fiscal year, ~~and.~~

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

510 (2) ~~Should the video lottery agents collectively make or commit to make qualified capital investments in the~~  
511 ~~improvement of their video lottery facilities and adjoining properties after January 28, 2010, in any 12-month period ending~~  
512 ~~on June 30 in the amount of \$2,500,000, Each video lottery agent shall be permitted for purposes of this~~  
513 ~~paragraph subsection to reduce the license fee it would otherwise owe for that year pursuant to paragraph (e)(1) of this~~  
514 ~~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~~  
515 ~~all video lottery agents, made in the 12-month period ending on June 30 by the video lottery agent in the competitiveness of~~  
516 ~~its facilities and business. The video lottery agents shall provide the Director annually an accounting of the qualified~~  
517 ~~investments made pursuant to this paragraph. A qualified capital investment pursuant to this paragraph shall be an~~  
518 ~~amount determined by the Director to benefit the competitiveness or services of such video lottery agent and may include:~~

519 ~~a.~~ amounts paid out for new video lottery facility or enhanced buildings or permanent improvements or  
520 betterments to existing video lottery facilities or immediately adjacent property or properties that are owned by video  
521 lottery licensees that would not be deductible for purposes of § 263(a)(1) of the Internal Revenue Code [26 U.S.C. §  
522 263(a)(1)]. ~~The video lottery agents shall provide the Director annually an accounting of the qualified capital investments~~

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

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

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

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

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

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

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

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

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

556 (b)(1) Upon submission by a video lottery agent of a proposed plan for the lease or purchase of video lottery  
557 machines in accordance with procedures to be established by the Director, the Lottery Director shall lease or purchase the  
558 number, type and kind of video lottery machines necessary for the efficient and economical operation of the Lottery, or the  
559 convenience of the players and in accordance with the plan of the licensee, provided that no more than 2,500 video lottery  
560 machines shall be located within the confines of a racetrack property unless the Director recommends up to an additional  
561 1,500 for each racetrack property, and further provided that the Director may recommend the amendment of such plan  
562 where the Director finds that such amendments are necessary to increase revenues, provided such amendments do not  
563 produce reductions in the overall net proceeds from the video lottery, protect the public welfare or ensure the security of the  
564 video lottery, provided that the maximum number of video lottery machines under this subsection shall not include video  
565 lottery machines at each racetrack used exclusively for promotional tournaments in which players are not required to pay  
566 any fee to participate. Such recommendations by the Lottery Director are subject to the approval of the Secretary of  
567 Finance. No more than 30 promotional tournament machines are permissible at each racetrack. The Director's lease or  
568 purchase of video lottery machines under this subsection shall be pursuant to the procedures used for procurement under §§  
569 6981 and 6982 of this title.

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

572 ~~2501 to 3000—\$1,100 per machine;~~

573 ~~3001 to 3500—\$700 per machine; and~~

574 ~~3501 to 4000—\$300 per machine.~~

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

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

581 ~~(5)(2) No refund of license fees shall be payable for any unexpired term of a license.~~

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

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

586 (1) The Director of the State Lottery Office.

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

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

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

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

594 § 4825. Sports lottery.

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

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

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

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

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

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

628 § 4826. Internet Lottery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

674 § 4835. Exclusion or ejection of certain persons from video lottery facilities~~–and Internet lottery games.~~

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

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

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

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

686 (4) Wilful evasion of fees or taxes;

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

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

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

693 (g) Nothing contained in this section shall:

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

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

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

700 § 4836. Penalties for wagering by excluded persons.



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

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

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

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

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

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

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

723 (a) The Lottery Commission is created in the Department of Finance. The Lottery Commission shall be composed  
724 of 5 members who shall be citizens of the State, including at least 1 certified public accountant, 1 lawyer, 1 businessperson,  
725 1 person with experience in law enforcement, and 1 public member, all of whom shall be appointed by the Governor and  
726 confirmed by the Senate, provided however, no member shall be a member of the Standardbred Owners Association, the  
727 Delaware Thoroughbred Horsemen's Association, or an owner, employee or agent of a video lottery agent~~-or sports lottery~~  
728 agent. The Governor shall name the Chairperson of the Commission from among its members and the Chairperson shall  
729 serve in that capacity at the Governor's pleasure. Each of the members shall serve for a term of 5 years and until that  
730 member's successor qualifies. No member shall serve for more than 1 full 5-year term. Not more than 3 members of the

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

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

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

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

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

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

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

760

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

762 Section 25. If any provision of this Act or the application thereof to any person or circumstance is held invalid,  
763 such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid  
764 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.