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Reps. Brady, Gray, Heffernan, Jaques, Q. Johnson, Mulrooney, Osienski, Paradee, Peterman, Potter, B. Short, Spiegelman, Walker, D.E. Williams, Wilson; Sens. Bonini, Hall-Long, Henry, Pettyjohn, Townsend

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

# HOUSE BILL NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LOTTERIES.

WHEREAS, the intent of the General Assembly is to consider legislation during the first session of the 147th General Assembly to create a new class of charitable video lottery machines located at fraternal and charitable organizations; and

WHEREAS, the details concerning the operation and location of these machines on an ongoing basis remain to be determined; and

WHEREAS, in the interim, community organizations are in need of a source of revenue in order to support their operations and charitable activities; and

WHEREAS, video lottery machines in the state must meet the state constitutional standard in Article II, Section 17 of a “lottery under state control for the purpose of raising funds”;

NOW, THEREFORE:

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. Amend Title 29, § 4803 by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4803. Definitions.

(a)"Charitable gaming organization" shall mean an organization, in existence as of January 1, 2013, that is a fraternal or veterans organization with national affiliation or an organization, in existence as of January 1, 2013, whose membership consists primarily of veterans honorably discharged or active duty service members.

(b) "Charitable video lottery machine" shall mean a video lottery machine that has been authorized by the Director to be placed at a location operated by a charitable gaming organization.



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~~(a)~~(c) "Credit slip" shall mean the receipt generated by a video lottery terminal when a player is playing that particular video lottery terminal, or the ticket resulting from a sports lottery game.

~~(b)~~(d) "Director," as used in this subchapter, shall mean the Director of the State Lottery Office.

~~(c)~~(e) "Employee organization" shall mean any organization that admits or seeks to admit to membership employees of a Delaware video lottery agent and that has as a purpose the representation of such employees in collective bargaining, grievance representation, labor disputes, salaries, wages, rates of pay, hours of employment, or conditions of work.

~~(d)~~(f) "Gaming area" shall mean a location in a video lottery facility where gaming activity is conducted at video lottery machines or table games.

~~(e)~~(g) "Gaming employee" shall mean a person employed in the operation of a video lottery facility and determined by the Director to have employment duties and responsibilities involving the security, maintenance, servicing, repair, or operation of video lottery machines and table game equipment, or is employed in a position that allows direct access to the internal workings of video lottery machines or table game equipment. Such employees shall include, without limitation: dealers; floorpersons; video lottery machine personnel; video lottery machine technicians; count room and cage personnel; security and surveillance employees; employees responsible for handling assets and proceeds associated with the operation of gaming activity; and employees with responsibility for policies concerning complimentaries or allowed to grant variances to policies concerning complimentaries.

~~(f)~~(h) "Gaming excursion" shall mean an arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of said person's ability to satisfy a financial qualification obligation related to said person's ability or willingness to gamble or on any other basis related to said person's propensity to gamble, to come to a video lottery facility for the purpose of gaming and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a video lottery agent or employee thereof.

~~(g)~~(i) "Gaming room service employee" shall mean a person employed to perform services or duties in a video lottery facility, who has access to the gaming area or restricted gaming area, but who is not included within the definition of "key employee" or "gaming employee".

~~(h)~~(j) "Gross table game revenue" shall mean the total of all table game win or loss and poker revenue, including checks received whether collected or not, received by a video lottery agent from table game operations; provided that if the value of gross table game revenue at any video lottery facility in a given fiscal year is less than zero, any liabilities to winners in such year shall be the responsibility of the video lottery agent. Gross table game revenue shall include entry fees

charged in a tournament in excess of cash prizes awarded. For purposes of this section, any check which is invalid and unenforceable shall be treated as cash and included within gross table game revenue.

~~(i)~~(k) "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)~~(l) "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)~~(m) "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)~~(n) "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)~~(o) "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.

~~(n)~~(p) "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.

~~(o)~~(q) "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.

~~(p)~~(r) "Office" shall mean the State Lottery Office established by this subchapter.

~~(q)~~(s) "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.

~~(r)~~(t) "Qualified child support obligation" shall mean any child support lien in excess of $150 as provided by § 2215 of Title 13.

~~(s)~~(u) "Qualified video lottery prize" shall mean any video lottery prize paid by cash or check for which a W-2G is issued equal to or in excess of $1,200 (but less any amounts withheld for income taxes).

~~(t)~~(v) "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.

~~(u)~~(w) "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.

~~(v)~~(x) "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.

~~(w)~~(y) "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.

~~(x)~~(z) "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 start-up costs of the system.

~~(y)~~(aa) "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, 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.

~~(z)~~(bb) "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.

~~(aa)~~(cc) "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.

~~(bb)~~(dd) "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).

~~(cc)~~(ee) "Video lottery facility" shall mean a building containing a gaming area.

~~(dd)~~(ff) "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 2. Amend Title 29 of the Delaware Code by making insertions as shown by underlining as follows:

§ 4819A. Charitable video lottery machines use and restrictions.

(a) An eligible charitable gaming organization must apply for and receive the approval of the Director to operate charitable video lottery machines. The application form which will be promulgated by the Director shall at a minimum include the name of the eligible organization, the location at which the organization is applying to have video lottery machines, the individual who will be the primary contact and the vendor who will supply the charitable video lottery machines. Such approval will take into consideration a recommendation from the Division of Gaming Enforcement before a license is approved by the Director.

(b) Proceeds returned to players. -- A portion of such proceeds, but not less than 50% or greater than 70% of the total proceeds on an average annual basis received from the operation of a charitable video lottery machine, shall be retained by and returned to the players under rules prescribed by the Director.

(c) Proceeds returned to the State. -- Amounts remaining after all payments to players under paragraph (b) of this section, there shall be returned to the State 43 1/2%.

(d) Application of remaining proceeds. -- The proceeds remaining after payments as set forth in paragraphs (b) and (c) of this section shall be made to the respective charitable gaming organization.

(e) The maximum number of charitable video lottery machines that a charitable gaming organization may apply to have and be approved by the Director is 20.

(f) The charitable gaming organization shall submit to the Director a report monthly regarding the amount played and amount returned to the players from the charitable video lottery machines in their respective locations. The form of the report shall be promulgated by the Director.

(g) The Lottery Office or the Division of Gaming Enforcement shall have access to the charitable video lottery machines in order to make sure that the intent of this Act is being enforced.

(h) The Department of Finance shall enact regulations on an emergency basis to implement the operation of the charitable video lottery machines for the approved charitable gaming organizations.

Section 3. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 4. This Act shall sunset on June 30, 2013.

SYNOPSIS

This Act puts in place a temporary solution to allow for a fraternal or veterans organization with national affiliation or an organization whose membership consists primarily of veterans honorably discharged or active duty service member to operate charitable video lottery machines within their organizations upon approval from the Director of the Lottery.

Such activity is only granted until June 30, 2013, at which time this Act sunsets.