

SECOND REGULAR SESSION

HOUSE BILL NO. 2176

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ENGLER.

5976H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 313, RSMo, by adding thereto six new sections relating to video lottery, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 313, RSMo, is amended by adding thereto six new sections, to be known as sections 313.425, 313.427, 313.429, 313.431, 313.433, and 313.435, to read as follows:

313.425. Sections 313.425 to 313.435 shall be known and may be cited as the "Missouri Video Lottery Control Act" and shall establish the regulatory framework for the use of player-activated video terminals for the conduct of lottery games.

313.427. As used in sections 313.425 to 313.435, the following words and phrases shall mean:

(1) "Commission" or "lottery commission", the five-member body appointed by the governor to manage and oversee the lottery under section 313.215;

(2) "Credit", one cent, five cents, ten cents, or twenty-five cents either won or purchased by a player;

(3) "Establishment", any establishment owned or operated by a lottery game retailer;

(4) "Video lottery game adjusted gross receipts", the total of cash or cash equivalents used for the play of a video lottery game on a video lottery game terminal minus cash or cash equivalent paid to players as a result of playing video lottery games on a video lottery game terminal;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (5) "Video lottery game handler", a person employed by a licensed video lottery
14 game operator to handle, place, operate, and service video lottery game terminals and
15 associated equipment;

16 (6) "Video lottery game manufacturer", any person that manufactures video lottery
17 game terminals or major parts and components for video lottery game terminals as
18 approved by the lottery commission;

19 (7) "Video lottery game operator", a person licensed by the commission that owns,
20 rents, or leases and services or maintains video lottery game terminals for placement in
21 licensed video lottery retailer establishments;

22 (8) "Video lottery game retailer", a person meeting the requirements of a lottery
23 game retailer under section 313.260 with whom a licensed video lottery game operator has
24 contracted for the placement of a video lottery game terminal or terminals

25 who possesses a license to sell liquor; except that, video lottery games may be operated in
26 a retail enterprise with a primary business of offering services and amenities to large
27 trucks at a location situated on three or more contiguous acres within two thousand feet
28 of an interstate or other major highway that sells more than twenty-five thousand gallons
29 of diesel fuel per month regardless of whether the retailer possesses a license to sell liquor;

30 (9) "Video lottery game terminal", a coin, currency, or voucher player-activated
31 terminal that uses a video display and microprocessor capable of randomly generating the
32 outcome of video lottery games approved by the commission where the player may receive
33 a free game, credit, or ticket that may be redeemed at a video lottery game ticket
34 redemption terminal. All video lottery games approved by the commission shall have a
35 minimum theoretical payout of eighty-five percent;

36 (10) "Video lottery game ticket redemption terminal", the collective hardware,
37 software, communications technology, and other ancillary equipment used to facilitate the
38 payment of tickets cashed out by players as a result of playing a video lottery game
39 terminal;

40 (11) "Voucher" or "ticket", a document printed at the conclusion of any lottery
41 game play or plays on a video lottery game terminal that is redeemable utilizing a video
42 lottery game ticket redemption terminal in the establishment for which it was issued.

313.429. 1. The commission may implement a system of video lottery game
2 terminals utilizing a licensing structure for processing license applications and issuing
3 licenses to video lottery game manufacturers, video lottery game operators, video lottery
4 game handlers, and video lottery game retailers for the conduct of lottery games utilizing
5 video lottery game terminals within the state; except that, a person licensed as a:

6 **(1) Video lottery game manufacturer shall not be issued a license as a video lottery**
7 **game operator or a video lottery game retailer;**

8 **(2) Video lottery game operator shall not be issued a license as a video lottery game**
9 **manufacturer or video lottery game retailer; and**

10 **(3) Video lottery game retailer shall not be issued a license as a video lottery game**
11 **manufacturer or video lottery game operator.**

12

13 **Nothing in this subsection shall prevent a video lottery game manufacturer from obtaining**
14 **a video lottery game manufacturer's license and providing and operating the centralized**
15 **system for monitoring video lottery game terminals.**

16 **2. Under no circumstances shall the commission:**

17 **(1) Authorize or allow a single vendor or licensee to implement the system of video**
18 **lottery game terminals created under this section; or**

19 **(2) Allow a single licensed video lottery game operator to control or operate more**
20 **than twenty-five percent of video lottery game terminals in the state.**

21 **3. (1) The video lottery game system authorized by this section shall utilize multiple**
22 **video lottery game manufacturers and video lottery game operators to encourage private**
23 **sector investment and job opportunities for Missouri citizens. The commission may impose**
24 **an initial nonrefundable application fee as follows:**

25 **(a) For video lottery game manufacturers and video lottery game operators, no**
26 **more than fifty thousand dollars;**

27 **(b) For video lottery game retailer establishments, no more than five hundred**
28 **dollars; or**

29 **(c) For video lottery game handlers, no more than one hundred dollars.**

30 **(2) Video lottery game manufacturers, video lottery game operators, video lottery**
31 **game handlers, and video lottery game retailers shall annually renew any license issued**
32 **under this section for a fee as follows:**

33 **(a) Five thousand dollars for video lottery game manufacturers;**

34 **(b) Five thousand dollars for video lottery game operators;**

35 **(c) Fifty dollars for video lottery game handlers; and**

36 **(d) Five hundred dollars for each video lottery game retailer's establishment.**

37 **(3) In addition to the fees required in subdivisions (1) and (2) of this subsection,**
38 **video lottery game operators shall annually pay the commission a fee of two hundred**
39 **dollars for each video lottery game terminal placed in service.**

40 **(4) Any license fee for a video lottery game terminal shall be prorated, but no**
41 **license fee shall be refunded if the video lottery game terminal is taken out of service. A**

license issued under this subsection shall be good for a period of two years upon payment of the appropriate renewal fee prior to the beginning of the second year and is nontransferable. Nothing in this subsection shall be construed to relieve the licensee of the affirmative duty to notify the commission of any change relating to the status of the license or to any other information contained in the application materials on file with the commission.

4. No license shall be issued to any person who has pled guilty to or been convicted of a felony. No license requirement, fee, or tax shall be imposed by any local jurisdiction upon a video lottery game manufacturer, video lottery game operator, video lottery game retailer, video lottery game handler, or video lottery game terminal or an establishment relating to the operation of video lottery games, video lottery game terminals, or associated equipment.

5. Licensed video lottery game manufacturers may sell, lease, or rent video lottery game terminals to licensed video lottery game operators. Such video lottery game terminals shall be independently tested, capable of randomly generating the outcome of games approved by the commission, and able to print tickets. Such video lottery game terminals shall be connected to a centralized system that uses standard industry protocols approved by the commission that allows the commission to activate or deactivate a particular video lottery game terminal from a remote location and capable of monitoring and auditing plays. The commission shall procure and provide such centralized system, and such vendor shall not be eligible to be licensed as a video lottery game operator or video lottery game retailer.

6. (1) Licensed video lottery game operators:

(a) May buy, lease, or rent video lottery game terminals from licensed video lottery game manufacturers;

(b) May handle, place, and service video lottery game terminals; and

(c) Shall pay winning tickets using a video lottery game ticket redemption terminal. Such video lottery ticket redemption terminal shall be located within the video lottery game retailer's establishment in direct proximity of where such video lottery games are offered. Video lottery game operators shall pay the commission thirty-two percent of any unclaimed cash prize associated with a winning ticket that has not been redeemed within one year of issue.

Rents or leases for video lottery game terminals shall be written at a flat rate and shall not include revenue splitting as a method used in the calculation of the lease or rent. A video lottery game manufacturer or video lottery game operator may sell, lease, rent, trade, or

exchange any used video lottery game terminal to another licensed video lottery game operator or video lottery game manufacturer if such video lottery game terminal continues to meet the independent testing standard prior to being activated for play.

(2) Licensed video lottery game operators and licensed video lottery game retailers shall enter into an agreement for the placement of video lottery game terminals. The agreement shall be on a form approved by the commission and shall specify the percentage of adjusted gross receipts that such video lottery game operator will pay the video lottery game retailer for video lottery game plays at such establishment. An agreement for the placement of a video lottery game terminal entered into by a video lottery game operator with a video lottery game retailer prior to the enactment of sections 313.425 to 313.435 shall be invalid. Video lottery game operators are specifically prohibited from offering anything of value, other than the percentage of adjusted gross receipts from plays at such location, to a video lottery game retailer for the placement of video lottery game terminals. Persons violating this subdivision are subject to the loss or prohibition of their video lottery game operator's license.

(3) To combat problem gambling, video lottery game operators shall provide a pre-commitment system approved by the commission at each establishment. Such system shall allow video lottery game patrons to enroll in a player tracking program capable of setting daily maximum and aggregate bet limits for video lottery game plays, daily time limits for consecutive video lottery game plays, and allows players to be self-excluded from video lottery game play. Operators shall provide the commission with a list of players that have elected to be excluded from video lottery game play within thirty days of such election and shall update such list periodically as required by the commission. Such self-excluded list shall be considered confidential information and shall not be released to the public.

(4) Nothing in this section shall be construed to prevent a video lottery game operator or a video lottery retailer from using a player rewards system as approved by the commission. No player shall be required to enroll in a rewards program offered by a video lottery game operator or video lottery game retailer as a condition to play video lottery games.

7. No licensed video lottery game operator shall:

(1) Offer video lottery gaming terminals that directly dispense anything of value except for tickets for winning plays. Tickets shall be dispensed by pressing the ticket dispensing button on the video lottery gaming terminal at the end of any video lottery game play. The ticket shall indicate the total amount of credits and the cash award, the time of day in a twenty-four hour format showing hours and minutes, the date, the terminal serial number, the sequential number of the ticket, and an encrypted validation number from

114 which the validity of the prize may be determined. The cost of the credits shall be one cent,
115 five cents, ten cents, or twenty-five cents, and the maximum wager played per video lottery
116 game shall not exceed two dollars. No cash award for the maximum wager played on any
117 individual video lottery game shall exceed five hundred dollars;

118 (2) Operate in any location other than an establishment owned or operated by a
119 licensed video lottery game retailer possessing a license to sell liquor or whose primary
120 business is offering services and amenities to large trucks at a location situated on three or
121 more contiguous acres within two thousand feet of an interstate or other major highway
122 and sells more than twenty-five thousand gallons of diesel fuel per month;

123 (3) Operate more than five video lottery game terminals at one video lottery game
124 retailer establishment; except that, an establishment primarily catering to patrons of a
125 fraternal or veterans organization that sells liquor, wine, or beer at retail may operate up
126 to ten video lottery game terminals as approved by the commission;

127 (4) Advertise video lottery games outside of a licensed video lottery game retailer's
128 establishment through any media outlets, direct mail, or telephone solicitations. The
129 advertising prohibition contained in this subdivision shall apply to all licensees including,
130 but not limited to, video lottery game manufacturers, video lottery game operators, video
131 lottery game retailers, and video lottery game handlers; or

132 (5) Allow video lottery games to be played at any time when the video lottery game
133 retailer's establishment is closed for business.

134 8. (1) A person under twenty-one years of age shall not play video lottery games,
135 and all video lottery game terminals shall be located within the unobstructed line of sight
136 of the bar or sales counter and under the supervision of a person that is at least twenty-one
137 years of age to prevent persons under twenty-one years of age from playing video lottery
138 games. A warning sign shall be posted in a conspicuous location where all video lottery
139 game terminals are located, containing in red lettering at least one-half inch high on a
140 white background the following:

141 "YOU MUST BE AT LEAST 21 YEARS OF AGE TO PLAY VIDEO LOTTERY
142 GAMES"

143
144 In addition to the placement and supervision requirements of this subsection, a video
145 lottery game operator shall provide video surveillance in the immediate area of the video
146 lottery game retailer's establishment where video lottery game terminals are located.
147 Recorded video from such surveillance system shall be made available to the commission
148 upon request and shall be reviewed by video lottery game operators as required by the
149 commission for any violation of law, rules, or regulations governing the conduct of video

lottery games. A video lottery game operator that fails to review such surveillance video and report any violation of law, rules, or regulations governing the conduct of video lottery games in conformance with established commission procedures shall be subject to an administrative fine not to exceed five thousand dollars. Any video lottery game retailer that fails to report any violation of law, rules or regulations governing the conduct of video lottery games in conformance with established commission procedures shall be subject to an administrative fine not to exceed five thousand dollars. In the event a video lottery game operator or retailer is found to have knowingly committed a violation governing the conduct of video lottery games, the commission may impose an administrative fine not to exceed five thousand dollars, suspend such operator's or retailer's license for up to thirty days, or revoke such operator's or retailer's license for a period of one year. Any video lottery game operator or retailer aggrieved by the commission's decision in any disciplinary action that results in the suspension or revocation of such operator's or retailer's video lottery game license may appeal such decision by filing an action in circuit court. The commission shall refer a violation of the criminal code, with any evidence thereof, to the appropriate law enforcement officials. Video lottery game retailers shall provide an intrusion detection system capable of detecting unauthorized entrance to the video lottery game retailer's establishment during nonbusiness hours and shall report to the commission any unauthorized entrance of the video lottery game retailer's establishment. Such surveillance and intrusion detection system shall meet specifications as defined by the commission.

(2) A video lottery game operator shall post a sign in a conspicuous location where such video lottery game terminals are located, containing in red lettering at least one-half inch high on a white background, the telephone contact number (1-800-BETSOFF) for the problem gambling helpline.

9. (1) Video lottery game operators shall pay the commission thirty-six percent of the video lottery game adjusted gross receipts, which shall be deposited in the state lottery fund. The commission shall transfer the amount received from the operator from the lottery fund to the lottery proceeds fund after administrative expenses equal to four percent of the video lottery game adjusted gross receipts are paid to compensate the municipality where a licensed video lottery game retailer maintains an establishment licensed for the operation of video lottery game terminals for the public's safety, or if such licensed establishment is not located within the corporate boundaries of a municipality, then the county where such licensed establishment is located, and any administrative expenses for the commission that are not covered by reimbursements from operators are deducted.

(2) Video lottery game operators shall retain sixty-four percent of the video lottery game adjusted gross receipts for administrative expenses which shall include the cost of the centralized monitoring system, which cost shall be paid by video lottery game operators. Fifty percent of the costs of the centralized monitoring system shall be apportioned by the video lottery game operator among video lottery game retailers based on the number of video lottery game terminals located at the video lottery game retailer's establishment. The remainder, after the cost of the centralized monitoring system are paid and apportioned, shall be divided equally between the video lottery game operator and video lottery game retailer as agreed under subdivision (2) of subsection 6 of this section.

10. All revenues received by the commission from license fees, administrative fines, and any reimbursements associated with the administration of the provisions of sections 313.425 to 313.435, and all interest earned thereon, shall be considered administrative expenses and shall be deposited in the state lottery fund. Moneys deposited into the state lottery fund from license fees, administrative fines, and any reimbursements of commission administrative expenses to administer sections 313.425 to 313.435 shall be considered administrative expenses and shall not be considered net proceeds pursuant to article III, section 39(b) of the Constitution of Missouri. Moneys deposited in the state lottery fund from video lottery game license fees, administrative fines, and any reimbursements of commission administrative expenses to enforce sections 313.425 to 313.435 shall be distributed in the following manner:

(1) Until December 31, 2019, one hundred percent of the proceeds in the state lottery fund attributable to license fees, administrative fines, and any reimbursements of commission administrative expenses to enforce sections 313.425 to 313.435, subject to appropriation, shall be used for administrative expenses associated with supervising and enforcing the provisions of sections 313.425 to 313.435;

(2) Beginning January 1, 2020, moneys deposited in the state lottery fund from video lottery game license fees, administrative fines, and reimbursements of commission administrative expenses to enforce sections 313.425 to 313.435 shall be distributed in the following manner:

(a) Twenty percent of the proceeds in the state lottery fund attributable to license fees and administrative fines, and one hundred percent of any reimbursements of commission administrative expenses to enforce sections 313.425 to 313.435, subject to appropriation, shall be used by the commission for administrative expenses associated with supervising and enforcing the provisions of sections 313.425 to 313.435;

(b) One hundred percent of remaining net proceeds in the state lottery fund attributable to license fees and administrative fines, after the appropriation in paragraph

222 (a) of this subdivision has been made, subject to appropriation, shall be transferred to the
223 veterans' commission capital improvement trust fund created in section 42.300.

313.431. 1. In order to expedite the orderly implementation of the video lottery
2 game system authorized under sections 313.425 to 313.435, the commission shall:

3 (1) Issue a request for proposal for the supply and operation of a centralized
4 communication system for video lottery games by no later than September 15, 2018;

5 (2) Make license applications for video lottery game manufacturers, video lottery
6 game operators, video lottery game retailers, and video lottery game handlers available to
7 applicants by September 15, 2018; and

8 (3) Issue a provisional license to an applicant for a video lottery game
9 manufacturer's, video lottery game operator's, video lottery game retailer's, or video
10 lottery game handler's license if such applicant satisfies all of the following criteria to the
11 satisfaction of the commission:

12 (a) The applicant has never been convicted of a felony;

13 (b) The applicant is current on all state taxes;

14 (c) The applicant has submitted a complete application for licensure as a licensed
15 video lottery game manufacturer, video lottery game operator, video lottery game retailer,
16 or video lottery game handler, which shall be submitted concurrently with the applicant's
17 request for a provisional license;

18 (d) The applicant has never been convicted of any gambling law violation in any
19 jurisdiction; and

20 (e) The applicant for a video lottery game retailer's license holds a valid license to
21 sell liquor under chapter 311 or owns an enterprise with a primary business of offering
22 services and amenities to large trucks at a location situated on three or more contiguous
23 acres within two thousand feet of an interstate or other major highway that sells more than
24 twenty-five thousand gallons of diesel fuel per month.

25

26 A provisional license shall be issued by the commission within sixty days from the date on
27 which the application was first received unless the commission shows cause that the license
28 application is deficient or such applicant does not meet the criteria for licensure.

29 2. The commission may issue provisional licenses prior to the completion of a
30 background check to an applicant that is currently licensed under sections 313.200 to
31 313.435 or sections 313.800 to 313.850; holds a license in good standing from a regulatory
32 body of another state to operate, handle, or maintain video gaming terminals or video
33 lottery game terminals that are substantially similar to video lottery game terminals
34 authorized under sections 313.425 to 313.435; or if such person has been in the business of

35 locating and operating amusement games within this state continuously for a period of five
36 years.

37 3. A provisional license shall be valid until:

38 (1) The commission either approves or denies the applicant's application for
39 licensure;

40 (2) The provisional license is terminated for a violation of this section; or

41 (3) One calendar year has passed since the provisional license was issued.

42

43 Nothing in this section shall prohibit an applicant for a video lottery game manufacturer's,
44 video lottery game operator's, video lottery game retailer's, or video lottery game handler's
45 license from applying for a renewal of the provisional license issued under this section so
46 long as the commission has not made a final determination to award or deny the applicant
47 a license.

48 4. Each applicant shall attest by way of affidavit under penalty of perjury that the
49 applicant is not otherwise prohibited from licensure according to the requirements of this
50 section.

51 5. All requests for provisional licensure under this section shall include the
52 following fee, which is in addition to the applicable fee required for an application for
53 licensure and shall be retained by the commission:

54 (1) Five thousand dollars for a video lottery game manufacturer;

55 (2) Five thousand dollars for a video lottery game operator;

56 (3) Five hundred dollars for a video lottery game retailer's establishment; or

57 (4) One hundred dollars for a video lottery game handler.

313.433. 1. Notwithstanding any other provision of law to the contrary,
2 participation by a person, firm, corporation, or organization in any aspect of the state
3 lottery under sections 313.425 to 313.435 shall not be construed to be a lottery or gift
4 enterprise in violation of article III, section 39, of the Constitution of Missouri.

5 2. The sale of lottery tickets or shares under sections 313.425 to 313.435 shall not
6 constitute a valid reason to refuse to issue or renew or to revoke or suspend any license or
7 permit issued under the provisions of chapter 311.

313.435. A municipality may adopt an ordinance prohibiting video lottery game
2 terminals within the corporate limits of such municipality within ninety days from the
3 effective date of this act. A county commission may, for the unincorporated area of the
4 county, adopt an ordinance prohibiting video lottery game terminals within the
5 unincorporated area of the county within ninety days from the effective date of this act.
6 The commission shall not license video lottery retailers within such area covered by such

7 ordinance. Any such municipality or county that has opted to prohibit the use of video
8 lottery game terminals to play video lottery games may repeal such ordinance and upon
9 such repeal, the commission may license video lottery game retailers within such
10 municipality or county to conduct video lottery games.

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