

LOTTERY

West Virginia Lottery Commission

Regulatory Review Report

179 CSR 1 - State Lottery Rules

The purpose of this rule is to provide for the organization and structure of the operation of the West Virginia Lottery, provide for licensing of agents for the sale and dispensing of lottery tickets and materials and lottery games, and the operation of computer terminals for lottery games.

A. Date of first promulgation- 4/1/1988.

B. Subsequent modifications- 4/8/1991, 4/19/1994, 4/15/1996, 7/1/2000, 4/21/2004, 6/1/2013, 3/23/2018.

Authority -- W. Va. Code §§29-22-5, 9(b), 10, 16 and 17.

Filing Date -- March 21, 2018.

Effective Date -- March 23, 2018.

Sunset Provision -- This rule shall terminate and have no further force or effect on March 19, 2028.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 1--This rule is necessary to provide for the proper organization and structure of the operations of the West Virginia Lottery. Without this rule, the Commission could not provide for the licensing of agents for the sale and dispensing of lottery tickets, materials and lottery games, or for the operation of the computer terminals for lottery games. The implications of repealing this rule would stifle operations and be detrimental to the economy of this state.

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179 CSR 2 - Administrative Appeals Procedures

The following procedural rule sets forth the practice and procedure established by the West Virginia State Lottery Commission to govern administrative appeal hearings before the commission. The purpose of this rule is to adopt a single procedural rule that provides a fair and orderly administration and effectuation of the statutory purpose of the appeal under both the State Lottery Act, W.Va. Code §§29-22-1 et seq., as well as the Racetrack Video Lottery Act, W.Va. Code §§29-22A-1 et seq.

- A. Date of first promulgation -- 11/14/1986.
- B. Subsequent modifications --1/1/1999.

Authority -- W.Va. Code §§29-22-14(b) and 29-22A-15.

Filing Date -- December 3, 1998.

Effective Date -- January 1, 1999.

Note: Amended procedural rule 179 CSR 2 became effective on January 1, 1999, and completely rewrote and repealed the former procedural rule 179 CSR 2 which was first promulgated on November 14, 1986.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 2 -- This procedural rule is necessary because it sets forth the practice and procedure established by the West Virginia State Lottery Commission to govern administrative appeal hearings before the commission. Without this rule, the administration and effectuation of the statutory purpose of the appeal under both the State Lottery Act, W.Va. Code §§29-22-1 et seq. as well as the Racetrack Video Lottery Act, W.Va. Code §§29-22A-1 et seq., could not be carried out in a fair, consistent and orderly manner.

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179 CSR 3 - Licenses and the Americans with Disabilities Act

The purpose of this rule is to provide procedures for lottery retailers and licensed lottery sales agents to meet their responsibilities concerning accessibility at retailer locations for disabled customers pursuant to the Americans with Disabilities Act (ADA), 42 United States Code, §§12101-12213 and 47 United States Code, §225 and §611.

- A. Date of first promulgation -- 4/15/1996.
- B. Subsequent modifications -- None.

Authority -- W. Va. Code §§29-22-5 and 10; and Paxton v. State of West Virginia, Department of Tax and Revenue, 451 S.E. 2d 779 (W.Va. 1994).

Filing Date -- March 26, 1996.

Effective Date -- April 15, 1996.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 3 -- This rule is proper and necessary to provide procedures for lottery retailers and licensed lottery sales agents to meet their responsibilities concerning accessibility at retailer locations for disabled customers under the ADA. Without this rule, lottery retailers and licensed lottery sales agents would not have a procedure to follow in order to comply with this federal law.

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179 CSR 4 – Limited Gaming Facility Rule

The purpose of this rule is to license and regulate one limited gaming facility located within an historic resort hotel; to license and regulate gaming suppliers and facility employees; and to define and regulate the operation of Monte Carlo-style games and video lottery games at the limited gaming facility.

- A. Date of first promulgation -- 7/1/2000.
- B. Subsequent modifications -- 6/1/2010.

Authority -- W.Va. Code §29-25-5.

Filing Date -- April 26, 2010.

Effective Date -- June 1, 2010.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 4 – This rule is necessary to license and regulate one limited gaming facility located within an historic resort hotel. Without this rule, the commission would be unable to license and regulate gaming suppliers and facility employees, and to define and regulate the operation of Monte Carlo-style games and video lottery games at the limited gaming facility. The implication of repealing this rule would complicate the licensing and regulation of this revenue producing historic resort.

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179 CSR 5 – Limited Video Lottery Act

The purpose of this legislative rule is to implement, clarify and explain provisions of the Limited Video Lottery Act codified in W.Va. Code §29-22B-101 et seq.

A. Date of first promulgation -- 7/1/2002.

B. Subsequent modifications -- 6/10/2004, 7/1/2009, 4/20/2017.

Authority -- W.Va. Code §29-22B-402.

Filing Date -- April 20, 2017.

Effective Date -- April 20, 2017.

Sunset Provision -- This rule shall terminate and have no further force or effect on April 19, 2032.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 5 – This rule is necessary to implement, clarify and explain provisions of the Limited Video Lottery Act. Without this rule, the Commission would not be unable to properly license and regulate retailers and operators to carryout limited video lottery gaming activity in the state. The implications of repealing this rule would be to effectively hinder the operation of the West Virginia Lottery’s largest revenue producer.

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179 CSR 6 – Notice and Conduct of Meetings

This procedural rule establishes requirements for notice of meetings and general rules for conduct of said meetings.

- A. Date of first promulgation -- 7/18/2004.
- B. Subsequent modifications – None.

Authority -- W.Va. Code §§6-9A-3 and 29-22-5.

Filing Date – June 18, 2004.

Effective Date – July 1, 2004.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 6 – This rule is necessary to establish procedures for notice of meetings and general rules of conduct for meeting. Without this rule, no procedural rules would be in place to comply with the open meeting requirements provided in W.Va. Code §6-9-1 et al. The implications of repealing the procedures set forth in this rule would be contrary to the policy to promote agency transparency within state government.

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179 CSR 7 - Interpretive Rules

The purpose of this interpretive rule is to disclose how the State Lottery Commission interprets, clarifies and explains provisions of either the Racetrack Video Lottery Act codified in W.Va. Code §§29-22A-1 et seq., or the Limited Video Lottery Act codified in W.Va. Code §§29-22B-101 et seq., or in both acts.

- A. Date of first promulgation -- 1/17/2005.
- B. Subsequent modifications -- 4/23/2005, 1/1/2006, 1/1/2009, 11/4/2017.

Authority - W.Va. Code - §29A-3-4.

Filing Date - October 4, 2017.

Effective Date - November 4, 2017.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 7 – This rule is necessary to disclose how the State Lottery Commission interprets, clarifies and explains provisions of gaming statutes and rules, more specifically the provisions of the Racetrack Video Lottery Act codified in W.Va. Code §29-22A-1 et seq. and the Limited Video Lottery Act codified in W.Va. Code §29-22B-101 et seq. Without this rule, the Commission would be unable to properly define and regulate certain aspects of the operation. The implications of repealing this rule would serve only to complicate the carrying out of these agency functions, possibly to the financial detriment of the state.

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179 CSR 8 - Racetrack Table Games

The purpose of this rule is to license and regulate up to four pari-mutuel racetracks licensed by the State Lottery Commission, license gaming suppliers and facility employees and management services providers, and define and regulate the operation of table games at licensed racetracks.

- A. Date of first promulgation -- 7/1/2008.
- B. Subsequent modifications -- None.

Authority -- W.Va. Code §29-22C-4(b)(5) and SB 417 -- W.Va. Code §64-7-3.

Filing Date -- April 14, 2008.

Effective Date -- July 1, 2008.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 8 -- This rule is necessary in order to license and regulate the four pari-mutuel racetracks licensed by the State Lottery Commission, license gaming suppliers and facility employees and management services providers, and define and regulate the operation of table games at licensed racetracks. Without this rule, the Commission would be unable to properly license and regulate tables games in this state. The implications of repealing this rule would serve only to hamper efficiency in the carrying out of these functions and may detrimentally affect revenue production in this state.

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179 CSR 9 – Sports Wagering

The purpose of this legislative rule is to clarify and provide regulations that the Commission considers necessary for the successful implementation, administration, and enforcement of the West Virginia Lottery Sports Wagering Act codified in W.Va. Code §§29-22D-1 et seq.

- A. Date of first promulgation --
- B. Subsequent modifications --

Authority - W.Va. Code §29-22D-4(c), W.Va. Code §§29-22A-1 et seq., and W.Va. Code §29A-3-15.

Commission Approved Emergency Rule –June 21, 2018.

Secretary of State Approved Emergency Rule– August 6, 2018.

Lottery Rule Filing Date. - August 6, 2018.

Lottery Approved Rule (after Comment/Response period) Filing Date – October 4, 2018.

Lottery Approved Rule included the following sunset provision:

Sunset Provision: This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

Recommendation of Whether the Rule should be Unchanged, Modified or Repealed:
Unchange.

Reasons for the Recommendation by the Agency:

179 CSR 9 – This rule is necessary to clarify and provide regulations that the Commission considers necessary for the successful implementation, administration, and enforcement of the West Virginia Lottery Sports Wagering Act codified in W.Va. Code §29-22D-1 et seq. Without this rule, the Commission would be unable to properly implement, license and regulate sports wagering in this state. The implications of repealing this rule would be adverse to this new sphere of gaming which is predicted to play a critical role in the economy of this state.