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DELAWARE STATE SENATE

147th GENERAL ASSEMBLY

SENATE BILL NO. 112
AS AMENDED BY
SENATE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE AND VOLUME 79 OF THE LAWS OF DELAWARE RELATING TO LOTTERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 29, Chapter 48, of the Delaware Code 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 is connected to the lottery's central computer system and that has been authorized by the Director to be placed at a location operated by a charitable gaming organization. Authorized play on such device shall be restricted to members of the charitable gaming organization's active members.

(u) "Qualified video lottery prize" shall mean any video lottery or charitable gaming organization 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).

Section 2. Amend Title 29, Chapter 48, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through 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%~~ 60% or greater than ~~70%~~ 86% 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%~~ 40%. From the amount returned to the state, the vendor who supplies the charitable video lottery machines shall be paid. In addition, 1%, of the proceeds returned to the State from this section shall be sent to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services for funding programs for the treatment, education and assistance of compulsive gamblers and their families.

(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~~ 25. Each eligible charitable gaming organization may have up to 10 charitable video lottery machines, plus one additional charitable video lottery machine for every 70 members of the charitable gaming organization over 500 members of said organization. Any change in the membership requirements of a charitable gaming organization that in effect would alter the number of charitable video lottery machines a charitable organization would be authorized to have must be approved by the Director of the Lottery.

(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

(i) Any organization denied application of being a qualified charitable gaming organization as defined by Delaware Code, Title 29, §4803(a) may enter the appeal process outlined in Title 29, §4830(j).

(j) Effective January 1, 2014, charitable gaming organizations will be required to donate at least 40% of the organization's proceeds from charitable video lottery machine gaming annually to a charitable purpose, including donations to an organization's national programs; DE-based 501(c) charities, local individuals in need, payment in the form of scholarships, sponsorships of local organizations and the use of supplies, equipment and facilities that benefit the communities within the State of Delaware. For purposes of meeting the 40% threshold, charitable gaming organizations are prohibited of making donations to another qualified charitable gaming organization that has been approved by the Lottery Director and is operating. A report on this activity shall be submitted to State Lottery Office by March 31st of each year on a form promulgated by the Lottery Director. If a charitable organization does not meet the 40% threshold, then it may apply for a waiver from the Secretary of Finance citing the reasons for not obtaining the required level of donations. A decision will be made by the Secretary of Finance whether or not to grant the waiver for a particular year.

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

(1) The Director of the State Lottery Office.

(2) One member appointed by the President Pro Tempore of the Senate who is a member of a eligible charitable gaming organization.

(3) One member appointed by the Speaker of the House who is a member of a eligible charitable gaming organization.

(4) Two members appointed by the Governor who are members of eligible charitable gaming organizations.

(i) The Governor shall designate one member to serve as Chairperson of the Council, who shall serve in that capacity for two years and shall be eligible for reappointment.

(ii) The Council shall consider matters relating to the effectiveness of current operational procedures and recommendations for new operational procedures or regulations.

(iii) Members of the Council shall serve without compensation.

(iv) Any member of the Council other than the Director of the State Lottery Office shall be subject to removal and replacement, without cause, at any time by the person who appointed or designated the member.

(v) The Council shall meet at least 2 times each calendar year, at the call of the Director, the Chairperson, or a majority of the members.

(vi) The Council shall submit a report on its activities to the Secretary of Finance by November 5 of each year, together with recommendations for legislative and/or administrative changes it deems desirable.

- (l) Notwithstanding (a) (e) (g) of this section, charitable gaming organizations operating charitable video lottery machines pursuant to this section shall connect their video lottery machines to the lottery's central computer system by July 1, 2014. After July 1, 2014, the Director shall not approve charitable video lottery machines for operation pursuant to this section unless such charitable video lottery machines are to be connected to the lottery's central computer system and otherwise comply with the provisions of this section. In order to implement this section, the Director shall have the authority to amend, extend, or modify relevant current vendor contracts for the purpose of facilitating the timely transition of charitable video lottery machines to the lottery's central computer system by July 1, 2014

Section 4. Amend Title 29, Chapter 48, of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

4838. Delinquent child support.

(a) The Director of the Division of Child Support Enforcement, Department of Health and Social Services shall enter into a cooperative agreement with the Director and the operator of each video lottery or charitable gaming organization facility within this State whereby the Director of the Division of Child Support Enforcement shall provide information regarding individuals with a qualified child support obligation for the purpose of satisfying such obligation in part or in whole with any qualified video lottery prizes won by such individuals. Prior to awarding any qualified video lottery prize, an operator of a video lottery facility shall determine if the winner of such prize owes a qualified child support obligation. In the event that a qualified child support obligation is owed, such prize shall be reduced by:

(1) One hundred percent in the event that qualified video lottery prize is less than or equal to the qualified child support obligation; or

(2) By the amount of the qualified child support obligation in the event that the qualified video lottery prize exceeds the qualified child support obligation.

Any remaining amounts shall be awarded to the qualified video lottery prize winner.

(b) The specific information and the manner and frequency with which it is made available or otherwise exchanged between the Division of Child Support Enforcement, the Director and each operator of video lottery facility in this State shall be as determined by each cooperative agreement, but such cooperative agreement must specify:

(1) That the Division of Child Support Enforcement shall make available or otherwise provide or update information at least once each calendar month;

(2) That the operator of a video lottery facility shall make use of automated data exchanges to the maximum extent feasible and will remit to the Division of Child Support Enforcement those qualified video lottery prizes that offset qualified child support obligations as set forth in the written agreements;

(3) The procedure by which the operator of a video lottery facility will remit to the Division of Child Support Enforcement those qualified video lottery prizes that offset qualified child support obligations;

(4) That the operator of the video lottery facility will provide the qualified prize winner written notice of the amount withheld from the qualified video lottery prize and instructions for contesting an intercept directly to the Division of Child Support Enforcement; and

(5) Any such other matters as the parties to such an agreement shall deem necessary to carry out the provisions of this section.

(c) An operator of a video lottery facility shall not be liable under any state law to any person or government agency for:

(1) Any disclosure of information to the Division of Child Support Enforcement under this section; or

(2) As provided in § 513(c)(4) of Title 13, with regard to any order of child support made payable to the Division, the Division's records shall be presumptive of the payment or nonpayment of each installment payment;

or (3) Any other action or omission taken in good faith to comply substantially with the requirements this section.

(d) The Director shall promulgate such rules and regulations as is deemed necessary to carry out the provisions of this section.

Section 5. Amend § 4, Chapter 1, Volume 79 of the Laws of Delaware by making insertions as shown by underlining and deletions as shown by strike through as follows:

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

Section 6. 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 7. Sections 1,2,3 and 5 of this Act shall become effective May 1, 2013. Section 4 of this Act shall become effective four months from date of enactment.