



West Virginia Limited Adult Video Lottery Newsletter

Mar, Apr, May, 2003

Bob Wise
Governor

John C. Musgrave
Director



Message from the Director

Since the passage of House Bill 102, the Lottery has wrestled with the interpretation of the Limited Video Lottery Act's prohibition regarding licensing for retail outlets that sold petroleum products. The Legislative intent was obvious regarding those retailers that sold gasoline and diesel fuel, but questions arose when dealing with retailers who sold propane gas and motor oil – items that are typically classified as petroleum products. In one licensing review, a prospective retailer was housed under the same roof as an auto parts store that sold motor oil. In following the language of the Limited Video Lottery Act, the Lottery could not, by law, license this retailer.



John C. Musgrave

To help eliminate issues surrounding the prohibitions of retailers that sold petroleum products, it seemed prudent to find a suitable definition for "petroleum products." We found suitable language in current State Tax Law that defines petroleum products as those used to power internal combustion engines. With this definition, we filed an Emergency Rule Change and a subsequent Legislative Rule Change that will allow us to license retail entities who sell petroleum products that do not power internal combustion engines.

As Lottery Director, it is my responsibility to implement House Bill 102 using a strict interpretation of the Laws as it is written. It is my hope that you, as operators, retailers, technicians and manufacturers will do all that you can to ensure that you abide by the text of House Bill 102. By working together, we can resolve issues and clarify concepts to ensure a better working environment for all.

Today, the State of West Virginia faces a multitude of challenges: In Governor Wise's State of the State Address, we learned of the severe fiscal shortfall that would have a significant impact upon services and programs funded by the State in the last quarters of fiscal year 2003 and for the entirety of fiscal year 2004. Recently, severe, unpredicted weather devastated portions of the state with paralyzing snowstorms, ice storms and flooding. The repair and rebuilding of many communities and their infrastructure will be a cost that was not projected when the Governor gave his projected deficits in January.

Obviously, the Lottery must maximize revenues to help fund State programs for education, senior citizens, tourism and economic development. As a licensed Lottery partner, you have a share in the State's success and its challenges. Without Lottery revenues, our taxes would be greatly increased to provide necessary programs and services.

I commend you for the excellent job that you have done – not just for the Lottery, but also for all West Virginians. I look forward to a successful future for our state and our businesses.

Sincerely,

John C. Musgrave.

Top Limited Adult Video Retailers

November 2002

Fraternal/Veterans' Organizations Top Five

1. Eagles Aerie #2307, Parkersburg
2. Moose Lodge # 565, Nitro
3. VFW Post #6452, Ridgeley
4. VFW Post #9738, Huntington
5. Disabled American Veterans Chapter #6, Parkersburg

Non-Fraternal/Veterans' Organizations Top Five

1. Twin Taverns, Inc. dba Frank's Place, Westover
2. Dave's Restaurant, Nutter Fort
3. JAVA Garden, Wiley Ford
4. Strike Zone Lounge, Huntington
5. Ace's Bar and Grill, Darkesville

January 2003

Fraternal/Veterans' Organizations Top Five

1. Improved Order of Redmen, Williamstown
2. Moose Lodge 565, Nitro
3. VFW Post 6450, Chester
4. Eagles Aerie 2307, Parkersburg
5. VFW Post 6452, Ridgeley

Non-Fraternal/Veterans' Organizations Top Five

1. The Diner, Moundsville
2. Keglers Sports, Morgantown
3. Keno Coffee Shop, Parkersburg
4. Hegenbuch's Restaurant, Ridgeley
5. Blazin Sevens Lounge, Clarksburg

December 2002

Fraternal/Veterans' Organizations Top Five

1. Improved Order of Redmen, Williamstown
2. VFW Post #6452, Ridgeley
3. Eagles Aerie #2307, Parkersburg
4. Moose Lodge \$565, Nitro
5. VFW Post #6450, Chester

Non-Fraternal/Veterans' Organizations Top Five

1. Boss's, Ranson
2. Karen's Cookie Carnival, Huntington
3. Park Mart, Charleston
4. Striker's Sports Lounge, Bluefield
5. Blazzin 7's Lounge, Clarksburg

February 2003

Fraternal/Veterans' Organizations Top Five

1. Improved Order of Redmen, Williamstown
2. Moose Lodge 565, Nitro
3. VFW Post 6452, Ridgeley
4. American Legion Post #15, Parkersburg
6. Eagles Aerie 2307, Parkersburg

Non-Fraternal/Veterans' Organizations Top Five

1. Park Mart, Charleston
2. The Diner, Moundsville
3. Dockside Bar and Lounge, Charleston
4. Keglers Sports, Morgantown
5. JoJohns, Follansbee

284 Permits Acquired at February Bid Opening: Next Bid Opening Set for May

The Lottery's February 21 Bid Opening resulted in 284 successful permit acquisitions with an average per permit price of \$3,004.59. The total revenue from these bids was \$853,304. This number was a healthy indicator of limited video lottery's continuing growth given the recent statewide weather conditions that had paralyzed the northern sectors of the state with deep snow and ice along with the massive flooding that occurred in the state's southern regions.

As of March 3, 1,190 Limited Video Lottery retailers had been licensed with 47 applications still pending.

The Lottery will hold another Bid Opening for Limited Video Lottery permits on May 9, 2003. Information concerning bid logistics and requirements will be posted on the Lottery's web site- www.wvlottery.com - and advertised in daily newspapers.

New Contact Information for IGT and VLC Machine Parts and Service

West Virginia Lottery Parts Support for both IGT and VLC video lottery machines is provided by Customer Service in Reno, Nevada for both the 8828 model VLC machines and the IGT platform machines. The Customer Service Representative's name is Bill Thomas and he can be reached at (775)448-0278. Bill will also provide operators with a toll free direct fax line and e-mail addresses if they would prefer to use those methods of communications.

Exchange parts for the IGT/VLC machines can be acquired by calling Nikki Piroddi at the Reno Repair Depot at (775) 448-3833. Nikki will be able to assist on returns, exchanges and pricing.

Reno, Nevada is on Pacific Standard Time which is three-hours behind our Eastern Standard Time.

The IGT/VLC Service Office is in operation in Nitro, WV to support service calls from retailers and operators where required. For post warranty work the labor rate is \$100 per hour. Most common service parts are available in Nitro to support these billable service calls. They are not for sale across the counter.

IGT currently plans to support the VLC model 8828 through March 2010.

New Training Certificates Requested From Service Technicians

Limited Video Lottery Service Technicians, licensed by the West Virginia Lottery, must have their current licenses in their possession any time they are servicing the logic area of a machine. Our Security Field Staff is required to check these licenses to confirm that they are current and that the Technician is actually authorized to work on a manufacturer's equipment.

Whenever a Service Technician takes a course from a manufacturer and upgrades his or her certification, a copy of the new training certificate must be sent to Lottery Headquarters. Upon receipt of the certificate, the Lottery will issue a decal update to the Technician.

Copies of new training certificates must be sent to Patsy Johnson, at the West Virginia Lottery, PO Box 2067, Charleston, WV 25327. Technicians or permit holders who would like more information on this subject may call Patsy at 304-558-0500, Ext. 218, or fax her at 304-558-6638.

Lottery Director Appoints Operator Advisory Council

Lottery Director John C. Musgrave has appointed eight limited video lottery permit holders to serve as his advisors regarding issues such as improvements, technology, needs and communications. The Council includes representatives of various geographic regions of the state as well as representatives of diverse retail operations.

Slated to serve are Lee Wesson of Keyser, Bryan Woodward of Bridgeport, Jerry Derrick of Charleston, Kenny Price of Parkersburg, Joe C. Ferrell of Logan, Anthony Sparchane of Wheeling, Tom Fittro of Parkersburg; and Randy Kiser of Beckley.

Director Musgrave convened the first Council meeting on January 8 at Lottery Headquarters in Charleston. Lottery representatives included Deputy Directors Virgil Helton, Al Rose, Libby White, Eliza Hall; General Counsel, John Melton; and Licensing Supervisor Roberta Somerville. Musgrave opened the meeting with a statement of the Council's purpose and his vision for the successful operation of Limited Video Lottery. He stated that leadership positions and terms of appointment for the Council members have not been set, but that he will formalize the Council in the near future. Musgrave stated that Council membership is strictly voluntary, and that neither compensation nor consideration was available for participants.

John Melton, the Lottery's legal counsel, reiterated the laws covering the prohibition of advertising and promotion of limited video lottery. Mr. Melton stated that only retail outlets that offered Lottery games such as instant tickets, Powerball and Keno could have any type of advertising for those lottery games. Advertising that implies limited video lottery is prohibited, as well.

Council members requested more uniformity in the interpretation of rules from field services personnel, and they requested that continued clarification of the rules be published in the VideoLine newsletter. Some members questioned the length of the licensing process and were told that the Lottery Director was exploring digital fingerprinting in hopes of accelerating background check turn-around time. Licensing Supervisor Roberta Somerville told Council members that currently licensed retailers, operators, service technicians and manufacturers would have to go through background checks annually to comply with the Limited Video Lottery Act.

Mrs. Somerville informed the Council that retailers' corporate structures and subsequent changes to their corporate structures posed a major stumbling block to successful licensing. According to Mrs. Somerville, the retailer application does not list the operator, so it is difficult to contact them for assistance.

Blanket Bid Bond to be Assessed April 3, 2003

Limited Video Lottery permit holders have received letters informing them of an electronic funds transfer sweep that will occur April 3, 2003 to cover their blanket bond. The annual bonding fee will be \$46 per terminal permit possessed as of March 1, 2003. Thereafter, at the end of each quarter (June 1, September 1 and December 1), the number of permits held will be evaluated and permit holders will be billed, or credited, for the bond on any change in the number of permits obtained. The premium for newly acquired permits will be pro-rated based upon the permit premium amount (e.g., 9 months, 6 months, or 3 months).

An example of the total bid bond cost is as follows: If a permit holder had 52 permits as of March 1, 2003, the permit holder would owe \$46 each for a total of \$2,392. In the next quarter, the same permit holder acquires 20 more permits. The assessment, at that time, will be for 9 months or 75 percent of the \$46 annual fee or \$34.50 per permit for a total of \$690.

It is important to read the letter from the Lottery Director so that you will know how much money to have in your Limited Video Lottery account before the electronic fund sweep of April 3, 2003.

If you have questions or concerns regarding the blanket bond fee you owe or the methodology of calculating it, please call Lisa Braum at (304) 558-0500, Ext. 207, or Barbara Fish at (304) 558-0500, Ext. 290.

Civil Penalties – November through February 2003

Penalties for Under-aged Persons In or Near Limited Video Lottery Gaming Area

Escape Corporation dba Plaza Restaurant & Lounge, Dunbar	\$100
Connor Enterprises Inc., dba Hurricane Nick's, Cross Lanes	\$100
The Federal Group, Inc. dba Clarion Hotel & Conference Center, Sherpherdstown	\$100
The Koffee Shop, Inc., dba Fiddlestix, Moundsville	\$200

Penalties for Faulty or Non-Functioning Surveillance Recording

Barney's Grocery & Restaurant, Martinsburg	\$100
Rainbow Road Club, Rippon	\$100
Tackett's Pub, Kearneysville	\$100
Improved Order of Redmen, Williamstown	\$100

Penalties for Limited Video Lottery Machine Visibility

C.J.'s Old Main Pub, St. Albans	\$100
Novichenk, LLC, dba Tailgator's Pub, Morgantown	\$100
Four Sisters, Inc., dba Country Roads Restaurant, Hedgesville	\$100
Little Figs, Inc., dba Figaretti's Restaurant, Wheeling	\$100
Hugo's Pizza, Huntington	\$100
Cheaper Cigs, Inc., dba Bailey's, Huntington	\$100
Keller's Family Restaurant, Hedgesville	\$100
Carter Enterprises, Inc., dba Tobacco Hut II, Huntington	\$100

Penalty for Advertising

Wilmon Foods Industries, LLC, dba Fox's Pizza Den	\$100
S.E.D. Investments, Inc., dba Video Palace I, Huntington	\$100

Penalty for Failure to Pay Winners

Loyal Order of Moose Lodge #1444, Charleston	\$100
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Penalty for Moving Terminals Without Lottery Notification and Approval

Derrick Video LLC, Charleston	\$100
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Concerned About Contractual Issues?

In the last edition of VideoLine, we featured an article entitled, *How to Avoid Off-Contract Inducement Penalties* and mistakenly gave you Roberta Somerville's phone number to call. We apologize for this error, and hope that your questions have been forwarded to Lisa Braum, Limited Video Lottery Accountant. If you have questions or concerns related to contractual agreements, please call Lisa at 304-558-0500, Ext. 207. You may fax Lisa at 304-558-3321.

County Property Taxes on Limited Video Lottery Machines

Jerry Knight, Director of the Property Tax Division of the State Department of Tax and Revenue, has sent a letter to all County Assessors outlining the taxability of limited video lottery terminals. Mr. Knight prepared the letter in an effort to assure that your County Assessor would apply the appropriate and standard property taxes on the assets of retailers, operators and manufactures involved in limited video lottery.

Mr. Knight's letter addresses only *ad valorem* taxes, or those taxes based upon the value of property. The letter conveys the following information: Video lottery machines that are located in private clubs, restaurants, bars, fraternal organizations and other retail outlets licensed by the West Virginia Lottery are taxable to the owner who may be a licensed operator, manufacturer or retailer. In some cases, a retailer may own some of the machines and an operator may own others even though they are in the same retail location. State law provides that a licensed manufacturer may sell or lease machines to a permit-holding operator who in turn places the machines in a retail establishment. The manufacturer may also sell or lease machines to a permit-holding retailer (a bar or fraternal club). When the transaction is a lease, the licensed manufacture is to be assessed.

If you have questions concerning your limited video lottery machine property tax assessment, please refer your County Assessor to Mr. Knight's letter or to the State Property Tax Division for clarification. Mr. Knight's telephone number is 304-558-3940.

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CHARLESTON, WV 25327

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IMPORTANT VIDEO LOTTERY INFORMATION INSIDE