

CHAPTER 219  
FORMERLY  
HOUSE BILL NO. 310  
AS AMENDED BY  
HOUSE AMENDMENT NOS. 2,5,6,7,8,10 & 11

AN ACT TO AMEND TITLES 3, 11 AND 29 OF THE DELAWARE CODE RELATING TO THE OPERATION OF TABLE GAMES BY THE DELAWARE LOTTERY, THE CREATION OF A DIVISION OF GAMING ENFORCEMENT WITHIN THE DEPARTMENT OF SAFETY AND HOMELAND SECURITY, LICENSING OF VIDEO LOTTERY AGENT PERSONNEL AND LOTTERY AND AGENT VENDORS, PROHIBITION ON GAMING BY CERTAIN PERSONS, THE CREATION OF A LOTTERY COMMISSION, AND THE NUMBER OF HARNESS RACING DAYS.

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 § 4827, Title 29 of the Delaware Code by striking the section in its entirety and substituting in lieu thereof the following:

"§4827. Table Gaming.

(a) Legislative findings

(1) The General Assembly finds that the video lottery operated by the Delaware Lottery plays a critical role in the economy of the State; that it has made significant revenue contributions to the State; that it has provided for significant employment opportunities in the State; that it has greatly benefited the horse breeding, horse racing and agricultural industries in the State; that it has contributed to the preservation of open space in the State; that it has enhanced tourism in the State; that it has provided many indirect benefits to various segments of the State's economy; and that video lottery agents have made significant investments in their personnel and their facilities to host the video lottery.

(2) The General Assembly finds that allowing the Delaware Lottery also to offer table gaming at the sites of video lottery agents could further the success of the Delaware Lottery; foster additional revenue contributions to the State; promote Delaware as a leisure and tourism destination; create as many as 750 new jobs; and provide other indirect benefits throughout the State's economy.

(3) The General Assembly finds that table game wagers authorized under this article are lotteries under state control. Each game involves the three essential elements necessary for a lottery: consideration, chance and a prize. The General Assembly finds that where a table game wager has mixed elements of chance and skill, it will continue to qualify as a lottery as long as chance is the predominant factor. The General Assembly further finds that the outcome of the table games expressly enumerated under this article is determined predominantly by chance.

(4) The General Assembly finds that an essential element of the regulation and control of video lottery agents by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and gaming operations. The General Assembly further finds that the regulatory provisions of this act are designed to extend strict state control over all persons, locations, practices and associations related to the operation of licensed video lottery agents.

(b) The Director shall, pursuant to the authority granted under §4805 of this chapter, establish an initial regulatory framework for table games and commence table game operations as soon as reasonably possible. The Director shall, by rules and regulations, provide for the features and attributes of the table game operations.

(c) The regulations must administer table game operations in a manner that minimizes or eliminates the risk of financial loss to the State.

(d) Table game operations shall be conducted exclusively at video lottery facilities owned and operated by video lottery agents licensed in the State. Licenses awarded to video lottery agents relative to the video lottery shall allow those agents to act as agents for the State with respect to table game operations, and such licenses shall be subject to the same license requirements and procedures as video lottery licenses pursuant to this subchapter.

(e) On March 15 of each year, each video lottery agent shall report to the Office, in a form and in a manner required by the Office, and to the General Assembly the number of full-time and part-time employees engaged in the conduct of table games and the number of full-time and part-time employees otherwise engaged."

Section 2. Amend § 4803, Title 29 of the Delaware Code by deleting subsection (c) in its entirety, substituting in lieu thereof a new subsection (c) to read as follows:

"(c) '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 act, 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."

Section 3. Amend § 4803, Title 29 of the Delaware Code by striking subsection (j) in its entirety and by substituting in lieu thereof a new subsections (j) to read:

"(j) '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 complimentary or allowed to grant variances to policies concerning complimentary.".

Section 4. Amend § 4803, Title 29 of the Delaware Code by inserting the following after subsection (n):

"(o) '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.

(p) 'Table game' shall mean any game played with cards, dice or any mechanical, electromechanical or electronic device or machine (excluding video lottery machines) for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, twenty one, poker, craps, roulette, keno, 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.

(q) '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.

(r) '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.

(s) '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.

(t) '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.

(u) '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 his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble or on any other basis related to his 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.

(v) 'Gaming Area' shall mean a location in a video lottery facility where gaming activity is conducted at video lottery machines or table games.

(w) 'Video Lottery Facility' shall mean a building containing a gaming area.

(x) '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."

Section 5. Amend § 4805(a), Title 29 of the Delaware Code, by striking the words "video lottery and sports lottery" and by substituting in lieu thereof "the video lottery, the sports lottery and table games".

Section 6. Amend § 4805(a), Title 29 of the Delaware Code by deleting subsections (12) and (13) in their entirety and by substituting in lieu thereof new subsections to read as follows:

"(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the game and for the convenience of the purchasers of tickets and the holders of winning tickets and the players of the video lottery, the sports lottery and table games;

(13) Value of bills, coins or tokens needed to play the video lottery machines, sports lottery machines and table games;"

Section 7. Amend § 4805(a), Title 29 of the Delaware Code by deleting subsections (16) and (17) in their entirety, and by substituting in lieu thereof new subsections to read as follows:

"(16) A licensure requirement and enforcement procedure for officers, directors, key employees, gaming employees, gaming room service employees, sport lottery operations employees, and persons who own directly or indirectly 10% or more of such agent, in accordance with Section 4828 of this Chapter;

(17) A licensure requirement and enforcement procedure for service companies in accordance with Section 4829 of this Chapter;"

Section 8. Amend § 4805(a)(19), Title 29 of the Delaware Code, by inserting "and § 4819" after "§ 4815" and before "of this title;"

Section 9. Amend § 4805(a), Title 29 of the Delaware Code by deleting subsection (20) in its entirety, and by substituting in lieu thereof a new subsection to read as follows:

"(20) The registration, kind, type, number and location of video lottery machines, sports lottery machines and table games on the licensee's premises, subject to the Director's obligations set forth in § 4820(b) of this title;"

Section 10. Amend § 4805(a), Title 29 of the Delaware Code, by adding thereto a new subsections (27) –(32) to read as follows:

"(27) Type and number of table games to be conducted, the price or prices for any table games, the rules for any table games, the payout and manner of compensation to be paid to winners of table games, and the minimum and maximum wagers for any table games.

(28) The regulations and procedures for the display and presentation of messages concerning responsible gaming and the regulations, procedures and training for identification of and assistance to compulsive gamblers.

(29) The provision of complimentary services, gifts, transportation, cash, food, non-alcoholic beverages, entertainment or any other thing of value by a video lottery agent to a guest.

(30) The procedures for the review and evaluation of licensing applications, including the forms of applications, procedures for fingerprinting and other means of identification, procedures for hearings, and grounds and procedures for the approval, denial, revocation or suspension of a license.

(31) Procedures relating to internal management controls of video lottery agents, including accounting controls and employee and supervisory organizational charts and responsibilities.

(32) Standards for the manufacture, sale, distribution, maintenance, repair, and servicing of video lottery machines and table game equipment."

Section 11. Amend § 4805(b), Title 29 of the Delaware Code, by adding thereto new subsections (16) - (18) to read as follows:

"(16) Bar, pursuant to §§ 4834 and 4835, any person from entering the premises of a video lottery agent or from participating in any capacity in the play of any table game, sports lottery game or video lottery game, and procure such assistance from video lottery agents as is appropriate to enforce any such bar.

(17) Impose reasonable fees, as set by the Director and payable to the Office, upon applicants for licenses pursuant to §§ 4828 and 4829 for the conduct of the review and investigation of the applicant, such fees to approximate and reasonably reflect all costs necessary to defray the expenses of the Lottery and Division of Gaming Enforcement.

(18) Require video lottery agents to submit regular internal control submissions, which shall contain a narrative description of the internal control system to be utilized by the video lottery facility, including, but not limited to:

a. Accounting controls, including the standardization of forms and definition of terms to be utilized in the gaming;

b. Procedures, forms and, where appropriate, formulas covering the calculation of hold percentages; revenue drop; expense and overhead schedules; complimentary services;

c. Job descriptions and the system of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in gaming operations and identifying primary and secondary supervisory oversight responsibilities; and personnel practices;

d. Procedures within the cashier's cage for the receipt, storage and disbursement of chips, cash, and other cash equivalents used in wagering; the cashing of checks; the redemption of chips and other cash equivalents used in gaming;

e. Procedures for the collection and security of moneys at the gaming tables;

f. Procedures for the transfer and recordation of chips between the gaming tables and the cashier's cage and the transfer and recordation of moneys within the facility;

g. Procedures for the transfer of moneys from the gaming tables to the counting process and the transfer of moneys within the facility for the counting process;

h. Procedures and security for the counting and recordation of table game revenue;

i. Procedures and security standards for the handling and storage of gaming apparatus, including cards, dice, machines, wheels and all other gaming equipment;

j. Procedures and rules governing the conduct of particular games and the responsibility of casino personnel in respect thereto;

k. Procedures for the security, storage and recording of cash, chips, and cash equivalents utilized in gaming operations."

Section 12. Amend § 4815, Title 29 of the Delaware Code, by adding thereto a new subsection (d) to read as follows:

"(d) Gross Table Game Revenue shall be electronically transferred daily or weekly at the direction of the Lottery Director into a designated state lottery account by the agent, and transferred to the State Lottery Fund by the lottery on a daily or weekly basis. Gross Table Game Revenue shall be applied as follows:

(1) a. Proceeds returned to the State. – Except as otherwise provided by this paragraph, of Gross Table Game Revenue, there shall be returned to the State 29.4%.

b. The funds retained by the State shall be applied as follows: first, to the administrative costs and expenses of the Office, including, but not limited to, administrative expenses including payroll and other employment costs, and law-enforcement and security expenses, including payroll and other employment costs of the state lottery, the Office of the Attorney General, the Division of Gaming Enforcement, and the Delaware State Police; second, \$250,000 or 1%, whichever is greater, of the proceeds returned to the State under this paragraph, to the Division of Substance Abuse and Mental Health of the Department of Health and Social Services to be used exclusively for funding programs for the treatment, education and assistance of compulsive gamblers and their families; third, costs of the Administrator of Racing and racing inspectors referenced in Chapters 100 and 101 of Title 3; and fourth, the remainder shall be paid into the State's General Fund.

(2) Purses -- Of Gross Table Game Revenue, such agent shall be paid and shall pay additional purses in the amount of 4.5% of such proceeds.

a. For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such purses shall be applied under the direction of the Delaware Thoroughbred Racing Commission for races conducted at such agent's racetrack in accordance with § 10148 of Title 3 or § 427 of Title 28, as appropriate.

b. For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, such purses shall be applied under the direction of the Delaware Harness Racing Commission to races conducted at such agent's racetrack in accordance with § 10048 of Title 3.

c. For video lottery agents licensed to conduct both harness racing meets under Chapter 100 of Title 3 and horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such purses shall be applied pursuant to the formulae set forth in sub-paragraph (b)(3)b.3 and (b)(3)b.4 of this section.

(3) The proceeds remaining after the payments in sub-paragraphs (1) and (2) above shall be paid to video lottery agents as their commission.

(4) The administrative costs incurred by the Office shall be an administrative cost of the State."

Section 13. Amend § 4819(a), Title 29 of the Delaware Code, by striking "video lottery machines and sports lottery machines" each time that phrase appears and substituting in lieu thereof the phrase "video lottery machines, sports lottery machines and table game equipment".

Section 14. Amend § 4819, Title 29 of the Delaware Code, by adding thereto a new subsection (e) to read as follows:

"(e) (1) For the privilege of hosting the operation of table games, the State shall collect from the video lottery agents for the benefit of the General Fund:

a. for each fiscal year after June 30, 2011, license fees totaling \$13,500,000, to be paid no later than June 1 of the preceding fiscal year, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of \$13,500,000 that is equal to the percentage of Gross Table Game Revenue generated at that video lottery facility in the preceding fiscal year out of the total Gross Table Game Revenue generated at all video lottery facilities in the preceding fiscal year, and

b. for the fiscal year ending June 30, 2011 and any preceding period, license fees totaling \$13,500,000, to be paid no later than January 15, 2011, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of \$13,500,000 that is equal to the percentage of video lottery proceeds remaining after payments to players under § 4815(b) generated at that video lottery facility in the preceding fiscal year out of the total video lottery proceeds remaining after payments to players under § 4815(b) generated at all video lottery facilities in the preceding fiscal year. Should table gaming not be operating at a video lottery facility on July 1, 2010, the Director and Secretary of Finance may determine to reduce the license fees otherwise imposed for the year by an amount proportionate to the part of the fiscal year ended June 30, 2011 in which the table gaming is not operating.

(2) Should the video lottery agents collectively make or commit to make qualified capital investments in the improvement of their video lottery facilities and adjoining properties after the enactment of this act in any twelve month period ending on June 30 in the amount of \$2,500,000, each video lottery agent shall be permitted for purposes of this paragraph to reduce the license fee it would otherwise owe for that year pursuant to sub-paragraph (e)(1) by one-half of the license fee. A qualified capital investment pursuant to this sub-paragraph shall be an amount paid out for new video lottery facility buildings or permanent improvements or betterments to existing video lottery facilities that would not be deductible for purposes of Section 263(a)(1) of the Internal Revenue Code. The video lottery agents shall provide the Director annually an accounting of the qualified capital investments made pursuant to this sub-paragraph.

(3) The license fees to be paid for each fiscal year after the fiscal year ending June 30, 2011, pursuant to sub-paragraphs (e)(1) and (e)(2) may be reduced by a specified amount in the event the video lottery agent outperforms its expected portion of \$80,000,000 in Gross Table Game Revenue, as follows:

a. for each fiscal year after June 30, 2011, each video lottery agent's expected Gross Table Game Revenue shall be equal to the portion of \$80,000,000 that corresponds to its percentage of total Gross Table Game Revenue from all video lottery agents generated in the preceding fiscal year, and should the video lottery agent generate that expected Gross Table Game Revenue, its license fees to be paid shall be reduced by the portion of \$1,750,000 that corresponds to its percentage of total Gross Table Game Revenue from all video lottery agents generated in the preceding fiscal year; and

b. for the fiscal year ended June 30, 2011, each video lottery agent's expected Gross Table Game Revenue shall be equal to the portion of \$80,000,000 that corresponds to its percentage of total video lottery proceeds remaining after payments to players under § 4815(b) from all video lottery agents generated in the preceding fiscal year, and should the video lottery agent generate that expected Gross Table Game Revenue, its license fees to be paid shall be reduced by the portion of \$1,750,000 that corresponds to its percentage of total video lottery proceeds remaining after payments to players under § 4815(b) from all video lottery agents generated in the preceding fiscal year.

(4) In the event a video lottery agent has not achieved, as of June 1 of each year, Gross Table Game Revenue sufficient to reduce the license fees owed in the following year pursuant to sub-paragraph (e)(3), the video lottery agent shall pay the license fee without regard for the reduction under that sub-paragraph, unless, in the judgment of the Office, such video lottery agent is expected to achieve sufficient table gaming revenue by the end of the fiscal year, in which case the video lottery agent shall receive the reduction specified in sub-paragraph (e)(3) that is contingent upon successfully reaching the level of Gross Table Game Revenue that warrants the reduction.

(5) The license fees to be paid for the fiscal year ending June 30, 2011, pursuant to sub-paragraphs (e)(1) and (e)(2) shall not be reduced at the time of payment pursuant to sub-paragraph (e)(3), but if the video lottery agent successfully reaches the Gross Table Game Revenue targets specified in sub-paragraph (e)(3) during the fiscal year ending June 30, 2011, the reduction specified in sub-paragraph (e)(3) shall be applied to the license fee owed for the fiscal year ending June 30, 2012."

Section 15. Amend § 4820, Title 29 of the Delaware Code, by deleting the title of that section and subsection (a) in their entirety and by substituting in lieu thereof a new title and subsection (a) to read as follows:

"§ 4820. Rights and obligations of director and video lottery agent relating to video lottery machines, sports lottery machines and table game equipment.

(a) All video lottery machines, sports lottery machines and table game equipment shall be at all times subject to state control and the use of any such video lottery machines, sports lottery machines and table game equipment shall occur only with the approval of the Office. All video lottery machines and sports lottery machines shall be owned or leased by the State and shall be obtained from manufacturers licensed under §4805(a)(17) of this title. All video lottery machines and sports lottery machines shall be leased or purchased under the procedures set forth in Chapter 69 of this title. All table game equipment shall be leased, purchased or used by a video lottery agent only upon the approval of the Office and from manufacturers licensed under §4805(a)(17) of this title. Any video lottery agent must file with the Director a copy of any current or proposed agreement or disclose any other relationship between the agent, its parents, subsidiaries, related entities, directors, officers or key employees for the sale, lease, maintenance, repair or other assignment to the agent's facility of video lottery machines, sports lottery machines and table game equipment, or any other relationship with any vendor, manufacturer or other party which stands to benefit financially from the possession or use of video lottery machines, sports lottery machines or table game equipment by such agent. Failure to file such information shall constitute grounds for the revocation or suspension of a license. The lottery may own or lease video lottery machines pursuant to this subsection that require the payment of an additional license or proprietary fees and the number of such license or proprietary fee machines at any licensed video lottery agent may not exceed more than 5% of the total number of video lottery machines at the licensed racetrack property unless the Director finds that an additional number of such machines are necessary to increase revenues, will not produce reductions in the overall net proceeds from the lottery, will protect the public welfare, and will ensure the security of the video lottery."

Section 16. Amend § 4820, Title 29 of the Delaware Code, by striking subsections (d) and (e) in their entirety and substituting in lieu thereof new subsections (d) and (e) to read as follows:

"(d) Each video lottery agent shall be responsible for the security and safekeeping of the video lottery machines, sports lottery machines and table game equipment of which it has physical custody.

(e) The Director shall contract with an independent laboratory, which shall be licensed as a service company, to test video lottery machines, sports lottery machines and table game equipment and related equipment on a periodic basis to ensure that the machines and equipment comply with the requirements of this chapter and any other applicable standards and regulations. The manufacturer, vendor or lessor of such machines and equipment shall pay all costs associated with such testing."

Section 17. Amend § 4820(f), Title 29 of the Delaware Code, by substituting "games at a video lottery facility" in lieu of "video lottery system."

Section 18. Amend § 4820, Title 29 of the Delaware Code, by adding a new subsection (h) to read as follows:

"(h) Prior to commencing the operations of any table game in a Gaming Area, a video lottery agent shall submit to the Office for its approval a detailed floor plan depicting the location of the Gaming Area in which table game equipment will be located, the proposed arrangement of the table game equipment, and sufficient area to be used by the Office and Division of Gaming Enforcement for their operations at the Video Lottery Facility. Within 30 days, the Office shall approve such plans that satisfy the rules and regulations promulgated by the Office and shall deny such other plans. Amendments to an approved floor plan shall be submitted to the Office for its approval, and the Office shall, within 15 days, approve such amendments that satisfy the rules and regulations promulgated by the Office and shall deny such other plans."

Section 19. Amend § 4822, Title 29 of the Delaware Code, by adding thereto following "racetrack property" and before "." the following: ", including an analysis of crimes relating to table gaming, whether in or outside the property of a video lottery facility".

Section 20. Amend Chapter 48, Title 29 of the Delaware Code by adding new sections 4828 through 4837 as follows:

"§ 4828. Licensing of Video Lottery Agent Directors, Officers, and Employees.

(a) The Director shall have the power and duty to license those persons required by this Chapter to be licensed and to promulgate rules and regulations for such purpose. The licensure procedure shall include the satisfaction of such security, fitness and background standards as determined necessary relating to competence, honesty and integrity, such that a person's reputation, habits and associations do not pose a threat to the public interest of the State or to the reputation of or effective regulation and control of the Lottery.

(b) It shall be the obligation of the video lottery agent to notify the Director on a continuing basis of any change in officers, directors, key employees, gaming employees, gaming room service employees, sports lottery operations employees and persons who own, directly or indirectly, 10% or more of such entity. Persons holding key employee licenses at the time of enactment shall remain licensed as key employees and shall not be required to seek licensure under this section until the license is to be renewed. Persons holding video lottery operations employee licenses shall remain licensed as a gaming employee, but shall be required to seek renewal of their licenses no later than six months following enactment of this act.

(c) The terms of licenses under this Section shall be as follows:

(1) Initial licenses of key employees, officers, directors, and persons who own directly or indirectly 10% or more of a video lottery agent shall have a term of two years, and renewals of licenses of key employees shall have a term of three years;

(2) Initial licenses of gaming employees and sport lottery operations employees shall have a term of three years, and renewals of licenses of gaming employees shall have a term of four years; and

(3) Initial licenses of gaming room service employees shall have a term of five years, and renewals of licenses of gaming room service employees shall have a term of six years.

§ 4829. Licensing of Service Companies.

(a) 'Service Company' shall mean:

- (1) Any vendor offering goods or services relating to the manufacture, operation, maintenance, security, distribution, service or repair of video lottery machines, sports lottery machines or table game equipment directly to the state;
- (2) Any vendor offering goods or services to a video lottery agent on a regular and continuing basis, as defined in regulations promulgated hereunder; or
- (3) Any person providing Gaming excursion services to a video lottery agent.

(b) The Director shall have the power and duty to license those service companies meeting this definition as he or she determines to be necessary to the integrity of the operations of the Lottery, and to promulgate rules and regulations for such purpose. The licensure procedure shall include the satisfaction of such security, fitness and background standards as determined necessary relating to competence, honesty and integrity, such that a service company's reputation, habits and associations do not pose a threat to the public interest of the State or to the reputation of, or effective regulation and control of, the lottery. Vendors holding licenses as technology providers or other service provider shall remain licensed as a service company and shall not be required to seek licensure under this section until the license is to be renewed. Vendors licensed or approved by the Harness Racing Commission or the Thoroughbred Racing Commission to provide services to a video lottery agent need not secure a service company license pursuant to this section unless such vendor seeks to provide services other than those already authorized.

(c) Each service company identified in this section shall be licensed in accordance with the standards of a key employee. The owners, management, and supervisory personnel of each such service company shall be qualified to the standards of and for the term of a key employee. The employees of each such service company whose duties and responsibilities involve the security, maintenance, servicing, repair, or operation of video lottery machines or table game equipment shall be licensed to the standards of and for the term of a gaming employee.

(d) Each service company identified in sub-paragraph (a)(2) shall be licensed in accordance with the standards of a key employee except as to the requirement to establish financial stability, integrity and responsibility. The owners, management, and supervisory personnel of each such service company shall be qualified to the standards of a key employee, except as to the requirement to establish financial stability integrity and responsibility.

(e) Each service company identified in sub-paragraph (a)(3) shall be licensed in accordance with the standards of a key employee except as to the requirement to establish financial stability, integrity and responsibility. The employees of each such service company whose duties and responsibilities include arranging, procuring or selecting participants in a Gaming excursion shall be qualified to the standards of a key employee, except as to the requirement to establish financial stability integrity and responsibility.

(f) For purposes of this section, an owner of a corporation shall be defined "as any person who owns directly or indirectly more than 10 percent of the equity securities of the corporation."

(g)(1) Each service company identified in sub-paragraph (a)(1) of this section shall be licensed as a service company prior to conducting any business whatsoever, provided, however, that upon a finding of good cause by the Director for each business transaction, the Director may permit an applicant for such service company license to conduct business transactions prior to the licensure of that company.

(2) Each service company identified in sub-paragraph (a)(2) of this section, may transact business with a video lottery agent prior to obtaining a service company license upon the filing of a vendor registration form by a video lottery agent for such service company pursuant to regulations promulgated hereunder.

(h) The terms of licenses under this Section shall be as follows:

- (1) Service companies identified in sub-paragraph (a)(1) of this section shall be licensed for an initial term of two years and succeeding renewal terms of three years from date of issuance;
- (2) Service companies identified in sub-paragraphs (a)(2) and (a)(3) shall be licensed for an initial term of three years and succeeding renewal terms of four years from date of issuance.

(i) The risk manager of the sports lottery must be a bookmaker currently licensed to operate, and operating, sports books in the United States and the sports lottery technology system provider must be licensed to operate lotteries in the United States. The Director may determine whether the licensing standards of another state are comprehensive, thorough and provide similar adequate safeguards and, if so, may, in the Director's discretion, license an application already licensed in such state without the necessity of a full application and background check.

#### § 4830. Standards of Licensing.

(a) All applicants, licensees, registrants, or any other person who must be qualified pursuant to this Chapter shall have the continuing duty to provide any assistance or information required by the Director or the Division of Gaming Enforcement, and to cooperate in any background check or investigation conducted by the Division of Gaming Enforcement or in any hearing conducted by the Director. If an applicant, licensee, registrant or any other person who must be qualified pursuant to this act refuses to provide information, evidence or testimony upon formal request by the Director or the Division of Gaming Enforcement, the Director may deny or revoke the application, license, registration or qualification of such person.

(b) An applicant for a key license or gaming employee license shall be required to establish his qualifications for obtaining a license by clear and convincing evidence. The Director of the Delaware Lottery shall deny a license to any applicant who fails to prove by clear and convincing evidence that he is qualified under the provisions of this Chapter.

(1) An applicant for a key license or gaming employee license shall provide such information, documentation and assurances as may be required to establish by clear and convincing evidence that he has good character, honesty and integrity.

(2) An applicant for a key license or gaming employee license has the affirmative obligation to provide such information, documentation and assurances as may be required to establish by clear and convincing evidence that he has financial stability, responsibility and integrity.

(c) The Director shall deny a license to any applicant or revoke the license of any licensee based on the following criteria:

(1) The conviction of a felony in any jurisdiction;

(2) The conviction of a gambling offense or a crime of moral turpitude in any jurisdiction within 10 years prior to applying for a license or at any time subsequent to the granting of a license;

(3) The commission of any act within 10 years prior to applying for a license or at any time subsequent to the granting of a license in any jurisdiction, which would constitute any offense enumerated in subsections (1) and (2) of this section, even if such conduct has not been prosecuted, or if prosecuted, has not resulted in a conviction;

(4) A conviction which has been the subject of a pardon or order of expungement shall not be grounds for automatic disqualification under subsections (1) and (2) of this section, but may be grounds for disqualification under subsection (3) of this section. Such conviction also may be considered in evaluating an applicant's ability to demonstrate his qualifications pertaining to good character, honesty and integrity;

(5) Current prosecution for any offense listed in subsections (1) and (2), provided that, at the request of the applicant, the Director shall defer its decision on the application during the pendency of the charge;

(6) The failure to provide information, documentation and assurances required by the act or requested by the Director, or the supplying of information which is untrue or misleading as to a material fact pertaining to the criteria for obtaining a license;

(7) Notorious or unsavory reputation that would adversely affect public confidence and trust that the Delaware Lottery is free from criminal or corruptive elements; or

(8) Anything that, in the opinion of the Director, would denigrate or undermine the integrity or overall soundness of the Lottery, including but not limited to a person's reputation, habits and associations that may pose a threat to the public interest of the State or to the reputation or effective control of the Lottery.

(d) Notwithstanding the provisions in subsections (1), (2), and (3) above for the denial or revocation of a license, no application should be denied and no license should be revoked if the applicant or licensee is able to demonstrate his rehabilitation by clear and convincing evidence. In determining whether an applicant or licensee has affirmatively established his rehabilitation, the Director shall consider the following factors:

The conviction occurred more than five years from the date of application;

The nature and duties of the position applied for;

The nature and seriousness of the offense or conduct;

The circumstance under which the offense or conduct occurred;

The age of the applicant or licensee when the offense or conduct was committed;

Whether the offense or conduct was an isolated or repeated incident; and

Any evidence of rehabilitation including, without limitation, good conduct in prison or in the community; successful completion of court-ordered probation; counseling or medical treatment received; and the recommendations of persons who have had the person under their supervision.

(e) Participation in gaming operations as a licensed employee or service company under this Chapter shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee and upon the discharge of the affirmative responsibility of each such licensee to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this Chapter to preclude the creation of any property right in any license permitted by this Chapter, or the accrual of any value to the privilege of participation in gaming operations, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(f)(1) All information and data required by the Office to be furnished in the application or investigative process, or which otherwise may be obtained by the Office or Division of Gaming Enforcement, pertaining to an applicant's criminal record, financial record, family and background, including, but not limited to, an application form, license investigation report, or request for placement on the self-exclusion list, shall be considered confidential, shall not be public records subject to Chapter 100 of this title, and shall not be revealed in whole or in part except in the ordinary administration of the chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency. The Division of Gaming Enforcement may enter into agreements with other law enforcement agencies or other gaming regulatory agencies that have law enforcement status for the sharing of confidential information. Any person who violates this sub-paragraph shall be guilty of a Class A misdemeanor.

(2) All information and data required by the Office or the Division of Gaming Enforcement to be furnished, or which otherwise may be obtained by the Office or the Division of Gaming Enforcement, relative to internal controls of a video lottery agent shall be considered confidential, shall not be public records subject to Chapter 100 of this title, and shall not be revealed in whole or in part except in the ordinary administration of the chapter, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency. Any person who violates this sub-paragraph shall be guilty of a Class A misdemeanor.

(g) The licensure procedure shall take no more than 90 days to complete, unless extenuating circumstances require a longer period, in which case the Director and the State shall act with all deliberate speed to complete the process. The Division of Gaming Enforcement or persons acting at the direction of the Division of Gaming Enforcement shall conduct the security, fitness and background checks required by this Chapter.

(h) The Director may issue temporary licenses for good cause and upon a finding that the issuance of a temporary license is necessary to allow for the efficient operation of the video lottery facility. Temporary licenses shall remain in effect for no more than six months from the date of issuance.

(i) The Director of the Delaware Lottery may issue an emergency order for the suspension of any license, other than a video lottery agent license, if the Director finds that:

- (1) A licensee has been charged with a violation of the criminal laws of Delaware or any jurisdiction; and
- (2) Such action is necessary to preserve the public policy of this act.

An emergency order shall set forth the grounds upon which it is issued and shall be effective immediately upon issuance, and remain in effect until further order of the Director. An emergency order for suspension shall be served upon the licensee within five days of issuance. The person or entity against whom the emergency order has been issued shall be entitled to a hearing on an appeal to the Lottery Commission for reconsideration in accordance with the provisions of this Chapter and the regulations promulgated hereunder.

(j)(1) Within 30 days after an adverse determination by the Director, the applicant or licensee seeking to appeal the denial of a permit application or revocation or suspension of a previously issued permit may demand a hearing before the Lottery Commission and show cause why the Director's determination was in error. Failure to demand a hearing within the time allotted in this section precludes the person from having an administrative hearing, but in no way affects his right to petition for judicial review.

(2) Upon receipt of a demand for hearing, the Lottery Commission shall set a time and place for the hearing. This hearing must not be held later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by the Lottery Commission with the agreement of the Director and the person demanding the hearing. At the hearing, the person seeking the hearing shall have the affirmative obligation to demonstrate by clear and convincing evidence that the Director's determination was in error under the criteria for licensing established by this chapter and any regulations hereunder.

(3) If, upon completion of the hearing, the Lottery Commission determines that the person seeking the hearing has met his or her burden of proof, an order to that effect should be entered and the license issued. If, upon completion of the hearing, the Lottery Commission, finds that the person seeking the hearing has not met his or her burden of proof, an order shall be entered to that effect. This order is subject to review in the Superior Court pursuant to the Administrative Procedures Act.

(k) Any person whose license has been revoked or whose application for a license has been denied shall be prohibited from reapplying for any license for a period of five years from the date of the order denying or revoking the license.

#### § 4831. Prohibition on Employment of Persons or Service Companies without a License.

(a) It shall be unlawful for any licensed agent to employ or continue to employ an individual or service company that is required to possess a license under the provisions of this Chapter, but that is not licensed. A licensed agent who violates the provisions of this section shall pay a fine imposed by the Office of not less than \$1,000 and not more than \$5,000. A licensed person who knowingly violates the provisions of this section is guilty of a Class A misdemeanor.

(b) Any individual or service company that works or is employed in a position whose duties require licensing under the provisions of this Chapter, without holding the requisite license, is guilty of a Class A misdemeanor.

#### § 4832. Prohibition on Employee Gaming.

It shall be unlawful for any key employee or gaming employee who is required to hold a license under this chapter to wager on table games or the video lottery in a video lottery facility in which he or she is employed. Violation of this subsection shall subject the violator to the imposition of a fine.

#### § 4833. Exemption from federal law.

Pursuant to Section 2 of Chapter 1194, 64 Stat. § 1134, 15 U.S.C. § 1172, the State of Delaware, acting by and through its duly elected and qualified members of the General Assembly, does declare and proclaim that the state is exempt from Chapter 1194, 64 Stat. § 1134, 15 U.S.C. § 1172, and that the shipment of table gaming equipment, sports lottery machines and video lottery machines to video lottery agents in Delaware, done in accordance with federal law, shall be a legal shipment of a gambling device within the State of Delaware.

#### § 4834. List of Persons Self-Excluded From Gaming Activity.

(a) The Director shall provide by regulation for the establishment of a list of persons self-excluded from gaming activity at video lottery facilities. A person may request placement on the list of self-excluded persons by acknowledging in a manner to be established by the Director that the person is a problem gambler and by agreeing that, during the period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any gaming activity at a video lottery facility.

(b) A person may request placement on the list of self-excluded persons for any of the following periods: (1) lifetime; (2) five years; (3) one year.

(c) The Director shall establish procedures for placements on and removals from the list of self-excluded persons and procedures for the transmittal to operators of a video lottery facility of identifying information concerning self-excluded persons.

(d) The Director shall require licensed agents of video lottery facilities to establish procedures designed to: (1) prevent self-excluded persons from engaging in any gaming activity; (2) remove them from any forms of advertising or promotions; and (3) deny self-excluded persons access to credit, complimentaries, check cashing privileges, and similar benefits.

(e) The list of self-excluded persons shall be confidential and not open to public inspection under Chapter 100 of this title.

(f) A licensed video lottery agent and the directors, officers and employees of a video lottery agent shall not be liable to any self-excluded person or any other party in any judicial proceeding for any harm, monetary or otherwise, that may arise as a result of the failure of the video lottery facility to withhold gaming privileges to a self-excluded person.



(g) A licensed video lottery agent and the directors, officers and employees of a licensed video lottery agent shall not be liable to any self-excluded person or any other party in any judicial proceeding for any harm, monetary or otherwise, which may arise as a result of disclosure in any manner, other than a willfully unlawful disclosure, of the identity of any self-excluded person.

§ 4835. Exclusion or ejection of certain persons from video lottery facilities.

(a) The Director shall by regulation provide for the establishment of a list of persons who are to be excluded or ejected from any licensed video lottery facility. Persons shall be placed on the list by Order of the Director, predicated upon the filing of a petition by the Division of Gaming Enforcement. Persons shall be placed on the list if a reasonable basis exists for believing that the person's presence in the facility is inimical to the interests of this state or to the operation of the video lottery facilities, or both. Such provisions shall define the standards for exclusion and shall require the Director and the Division of Gaming Enforcement to consider any:

(1) Prior conviction of a crime which is a felony in this state or under the laws of the United States; or a crime involving moral turpitude; or a violation of the gaming laws of any state;

(2) Violation or conspiracy to violate any of the provisions of section 1471 of Title 11;

(3) The failure to disclose an interest in a video lottery facility for which the person must obtain a license;

(4) Willful evasion of fees or taxes;

(5) Notorious or unsavory reputation which would adversely affect public confidence and trust that the Delaware Lottery is free from criminal or corruptive elements; or

(6) Written order of a governmental agency which authorizes the exclusion or ejection of the person from an establishment at which gaming or pari-mutuel wagering is conducted.

(b) In considering placement on the exclusion list, it shall be improper to discriminate on any basis prohibited by § 711(a) of Title 19.

(c) Whenever the name and description of any person is placed on a list pursuant to this section, the Director shall serve notice of such fact to such person:

(1) By personal service;

(2) By certified mail to the last known address of such person; or

(3) By publication daily for one week in one of the principal newspapers published in the city of Dover and in one of the principal newspapers published in the city of Wilmington, Delaware.

(d) Within 30 days after service by mail or in person or 60 days after the last publication, the person named may demand a hearing before the Lottery Commission and show cause why he should have his name taken from such a list. Failure to demand a hearing within the time allotted in this section precludes the person from having an administrative hearing, but in no way affects his right to petition for judicial review.

(e) Upon receipt of a demand for hearing, the Lottery Commission shall set a time and place for the hearing. This hearing must not be held later than 30 days after receipt of the demand for the hearing, unless the time of the hearing is changed by the Lottery Commission with the agreement of the Division of Gaming Enforcement and the person demanding the hearing. At the hearing, the Division of Gaming Enforcement shall have the affirmative obligation to establish a reasonable basis that the person named for exclusion satisfies the criteria for exclusion established by this section and any regulations hereunder.

(f) If, upon completion of the hearing, the Lottery Commission determines that:

(1) The Division of Gaming Enforcement has not met its burden of proof, an order shall be entered requiring that the person's name be removed from the list of excluded persons and requiring the Director to so notify all video lottery agents of the person's removal from the list.

(2) Placing the person on the exclusion list was proper, an order shall be entered to that effect, and the Director shall serve a copy of that order on the person so named pursuant to section 3, supra, as well as all video lottery agents. This order is subject to review in the Superior Court, which shall have exclusive jurisdiction over appeals of exclusion listings from the Lottery Commission.

(g) Nothing contained in this section shall:

(1) Affect the common law right of a video lottery agent, as an owner or lessor of property, from excluding or ejecting any person from its property for any reason that is not unlawful; or

(2) Be applicable to any action undertaken by a video lottery agent in the exercise of such right.

§ 4836. Penalties for Wagering by Excluded Persons.

(a) Any person whose name has been placed on the list of persons to be excluded or ejected from video lottery facilities, except for persons whose name has been placed on the self-exclusion list, who thereafter knowingly enters the premises of a video lottery facility, is guilty of a Class A misdemeanor.

(b) Any person whose name has been placed on the self-exclusion list, who thereafter knowingly enters a gaming area, is guilty of a Class A misdemeanor.

(c) A licensed agent shall have a duty to keep from its premises any person who is on the list of persons to be excluded from entering a video lottery facility, and shall have a duty to keep from its gaming room any person who is on the self-exclusion list. The Director may revoke, limit, condition, or suspend the license of a video lottery agent, or impose a fine or other monetary penalty, if that video lottery agent knowingly fails to exclude or eject from its premises any person placed on the list of persons to be excluded or ejected, or knowingly fails to exclude or eject from its gaming room any person on the self-exclusion list.

(d) A person who is prohibited from gaming activity by any order of the Director, or court of competent jurisdiction, or by any provision of this chapter, including underage persons and any person on the exclusion or self-exclusion list, shall not collect, in any manner or proceeding, any winnings or recover any losses arising as a result of any prohibited gaming activity.

(e) In addition to any other penalty provided by law, any money or thing of value which has been obtained by any person prohibited from gaming activity in a video lottery facility shall be subject to an order of forfeiture by the Director, following notice to the prohibited person and an opportunity for the prohibited person to be heard.

(f) The Director shall establish regulations concerning the disposition of any forfeited funds received under this section.

§ 4837. Lottery Commission.

(a) The Lottery Commission is created in the Department of Finance. The Lottery Commission shall be composed of five members who shall be citizens of the State, including at least one certified public accountant, one lawyer, one businessperson, one person with experience in law enforcement, and one public member, all of whom shall be appointed by the Governor and confirmed by the Senate, provided however, no member shall be a member of the Standardbred Owners Association, the Delaware Thoroughbred Horsemen's Association, or an owner, employee or agent of a video lottery agent. The Governor shall name the Chairperson of the Commission from among its members and the Chairperson shall serve in that capacity at the Governor's pleasure. Each of the members shall serve for a term of five years and until that member's successor qualifies. No member shall serve for more than one full five-year term. Not more than three members of the Commission shall be of the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for such office.

(b) A person appointed to fill a vacancy on the Lottery Commission holds office for the remainder of the unexpired term of the former member. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and one must be appointed for a four-year term and the remainder must be appointed for a five-year term. Thereafter, all members shall serve five-year terms.

(c) Prior to the nomination of a candidate to serve on the Lottery Commission, the Division of Gaming Enforcement shall review, in accordance with the standards of a key employee, the background, qualifications and suitability of each nominee and make an appropriate report to the Governor. The Governor may at any time, after notice and hearing, remove any Commission member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

(d) To serve on the Lottery Commission, a member may not be and may not ever have been an employee, officer, director, owner of securities of a video lottery agent, or owner of a licensed service company, nor a member of the immediate family of an employee, officer, director or owner of a video lottery agent; may not ever have had a material or financial interest in a video lottery agent or a licensed service company; and may not ever have been engaged in any services on behalf of a video lottery agent or a licensed service company related to the activities of the lottery. The provisions of Chapter 58, Title 29 (State Employees', Officers' and Officials' Code of Conduct) apply to all members of the Lottery Commission and to all agents appointed or otherwise employed by the Lottery Commission. No person convicted of a felony or crime involving moral turpitude shall be eligible for appointment nor appointed as a commissioner.

(e) The Lottery Commission shall have powers, duties and responsibilities as specified in this title. Included among the powers, duties and responsibilities are those specified in this subsection. The Lottery Commission shall receive reasonable staff support in the performance of its duties from Department of Finance staff who do not report to the Office, and from a deputy attorney general assigned to the Commission. The Lottery Commission shall:

(1) Provide the Secretary of Finance and Director with advice and guidance with respect to the development of policy in those areas where rule- and regulation-making authority is entrusted to the Director.

(2) Provide guidance on new initiatives which may from time to time be proposed by the Director and recommend to the Director initiatives that the Commission believes would benefit the Lottery.

(3) Conduct hearings relating to licensing disputes, exclusion list disputes, and other disputes as specified in this Chapter or by rule and regulation.

(4) As it deems necessary, subpoena witnesses and documents, administer and examine persons under oath, and appoint hearing officers as the Commission finds appropriate to conduct investigations and hearings pursuant to this Chapter. If any person refuses to obey any subpoena or to testify or to produce any books, papers or documents, then the Director may apply to the Superior Court of the county in which the Commission may be sitting and, thereupon, the Court shall issue its subpoena requiring the person to appear and testify or to produce the books, papers and documents before the Director. Whoever fails to obey or refuses to obey a subpoena of the Superior Court shall be guilty of contempt of court and shall be punished accordingly. False swearing on the part of any witness shall be deemed perjury and shall be punished as such.

(5) Review and approve all regulations issued by the Director on or after July 1, 2010, pursuant to specific provisions of this title, before such regulations are implemented.

(f) The members of the Board shall receive \$250 for each day's attendance at the meetings of the Commission, not to exceed 24 days' attendance in any 1 calendar year; and they shall be reimbursed for their actual travel and other necessary expenses incurred in attending meetings and transacting the business of the Commission."

Section 21. Amend Chapter 48, Title 29 of the Delaware Code by re-numbering the sections 4830 through 4835 in sub-chapter II as sections 4850 through 4855, accordingly.

Section 22. The OMB director and Controller General are hereby authorized to establish up to 29 ASF full time positions in the Office for the administration and enforcement of table gaming. The Secretary of Finance shall present a request to establish these positions to the OMB Director and Controller General within 30 days of the enactment of this legislation.

Section 23. The OMB director and Controller General are hereby authorized to establish 1 full time ASF deputy attorney general positions in the Office of the Attorney General for the administration and enforcement of table gaming. The Attorney General shall present a request to establish this position to the OMB Director and Controller General within 30 days of the enactment of this legislation.

Section 24. Amend § 8203, Title 29 of the Delaware Code by adding a new sub-paragraph following sub-paragraph (2)g as follows:

"h. A director of the Division of Gaming Enforcement who shall be known as the "Director of the Division of Gaming Enforcement" and who shall be qualified by training and experience to perform the duties of the office."

Section 25. Amend Chapter 82, Title 29 of the Delaware Code by adding a new section as follows:

"§ 8236. Division of Gaming Enforcement.

(a) There is hereby established, within the Department of Safety and Homeland Security, a Division of Gaming Enforcement with duties, powers and responsibilities as defined. It shall be the responsibility of all police jurisdictions and video lottery agents to report any and all suspicious or criminal activity involving gaming to the Division of Gaming Enforcement.

(b) The Division of Gaming Enforcement shall be under the immediate supervision of a civilian Director who shall staff and administer the work of the division under the direction and supervision of the Secretary of the Department of Safety and Homeland Security. The Division of Gaming Enforcement shall contain an Assistant Director, whom at all times must be an officer of the Delaware State Police, and other sworn State Police personnel, as well as other resources to necessary to fulfill the obligations under this Chapter.

(c) The Division of Gaming Enforcement shall:

(1) Exercise exclusive jurisdiction for the investigation of criminal offenses related to gaming that may occur at any video lottery facility licensed by the State Lottery Office or which occur elsewhere that relate to the operation of the Lottery;

(2) Investigate the background, qualifications and suitability of each applicant before any license is issued by the Director of the State Lottery Office pursuant to Chapter 48 of Title 29 of the Delaware Code;

(3) Provide assistance upon request by the State Lottery Office in the consideration, promulgation and application of its rules and regulations;

(4) Exchange fingerprint data with, and receive criminal history information from, the Federal Bureau of Investigation for use in considering applicants for any license or registration issued by the State Lottery Office;

(5) Request and receive information, materials and any other data from any licensee or registrant, or applicant for a license or registration;

(6) Notify the State Lottery Office of any information which may affect the continued qualifications or suitability of any licensee or registrant;

(7) Seek to exclude from all licensed video lottery facilities persons whose presence would be inimical to the interest of the State of Delaware or of lottery operations therein; and

(8) Perform other duties necessary and consistent with Chapter 48 of Title 29 of the Delaware Code to maintain public confidence and trust in the credibility and integrity of lottery operations, agents and employees."

Section 26. The OMB director and Controller General are hereby authorized to establish up to 10 full time ASF positions in the Department of Safety and Homeland Security for the administration and enforcement of table gaming. The Secretary of the Department of Safety and Homeland Security shall present a request to establish these positions to the OMB Director and Controller General within 30 days of the enactment of this legislation.

Section 27. Amend Title 11 of the Delaware Code by adding a new § 1413 to read as follows:

"§ 1413. Exemption for operations of lottery under State control.

The sale, lease, transport, ownership, possession, exhibition, manufacture, servicing, marketing or use of a video lottery machine, sports lottery machine, table game equipment or any equipment, supplies, information or data in connection with the operations of a lottery under State control (including the operations of a video lottery agent in accordance with Chapter 48 of Title 29) shall not be a violation of Sections 1401-1412 of this Title."

Section 28. Amend § 10048, Title 3 of the Delaware Code by striking subsection (1)b.3. in its entirety and substituting in lieu thereof a new subsection (1)b.3. to read as follows:

"No authorization of any increase in the number of video lottery agents."

Section 29. State positions created under Section 22, Section 23, and Section 26 of this Act may not be held by State legislators.

Approved January 28, 2010