

CHAPTER 311
FORMERLY
SENATE BILL NO. 220
AS AMENDED BY
SENATE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LOTTERIES.

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

Section 1. Amend Chapter 48, Title 29 of the Delaware Code as follows:

§ 4815 State Lottery Fund.

(b) All proceeds, net of proceeds returned to players pursuant to paragraph (b)(1) of this section, from the operation of the video lottery shall be electronically transferred daily or weekly at the discretion 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 and shall be applied as follows:

(1) *Proceeds returned to players.* — A portion of such proceeds, but not less than 87% of the total proceeds on an average annual basis received from the operation of a video lottery, shall be retained by and returned to the players under rules prescribed by the Director. Proceeds returned to players in excess of the payout authorized pursuant to § 4805(a)(15) of this title shall be the sole responsibility of the video lottery agent and the State Lottery's proceeds shall not be reduced on account of such excess payment. Subject to the recommendations of the Lottery Director, and approval of the Secretary of Finance, a video lottery agent may choose to offer free promotional play to players. The amount of free promotional play permitted shall be recommended by the Lottery Director and approved by the Secretary of Finance. The amount of money given away as free promotional play and used by players shall not be included in the amounts remaining after all payments to players. If the amount of money given away as free promotional play by a video lottery agent and used by players exceeds the amount authorized by the Lottery Director and the Secretary of Finance authorized during a fiscal year, the video lottery agent shall reimburse net proceeds the amount of the overage which will be distributed as outlined in paragraphs (b)(3) and (b)(4) of this section.

(2) *Certain administrative and vendor costs.* — The State shall retain a portion of such proceeds in an amount equal to 75% of all costs of equipment (both video lottery machines and related equipment), including video lottery machine license and proprietary fees, whether leased or owned by the State, used or under the control of such agent, the cost of the central computer used to monitor the equipment used by the agent, and related vendor fees, and from these proceeds, and the proceeds provided pursuant to paragraph (b)(4)a. of this section, remit these amounts to vendors.

(3)a. *Proceeds returned to the State.* — Except as otherwise provided by this paragraph, of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section, there shall be returned to the State 43 1/2%. For licensees which conducted 40 or fewer (but at least 1) days of live harness horse races during 1992, should such licensees' video lottery proceeds, net of proceeds returned to players, at the end of any fiscal year fall below \$107,500,000, then, in the subsequent fiscal year, there shall be returned to the State 42 1/2% of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section.

b. The State shall also receive the funds on each credit slip that has not been presented for redemption within 1 year from the date the slip is issued.

c. *Application of funds retained by the state lottery.* — The funds retained by the state lottery shall be applied as follows: first, to the administrative costs and expenses in respect of the video lottery including, but not limited to, administrative expenses including payroll and other employment costs attributable to the operation of the video lottery by the State Lottery Office, law-enforcement and security expenses, including payroll and other employment costs of the state lottery, the Office of the Attorney General and the Delaware State Police, attributable to the operation by the state lottery of a video lottery; second, \$1,000,000 or 1%, whichever is greater, of the proceeds returned to the State under this paragraph (b)(3), 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; third, costs of the Administrator of Racing and racing inspectors referenced

in Chapters 100 and 101 of Title 3; fourth, the State's contribution to the Delaware Standardbred Breeder's Program and Delaware Certified Thoroughbred Program (DCTP); and fifth, the remainder shall be paid into the State's General Fund.

d. The State's contribution to the Delaware Standardbred Breeder's Program pursuant to this subsection shall be \$750,000, and said amount is to be allocated equally as of January 1 of the calendar year among existing licensees which conduct live harness horse racing, but moneys shall not be expended for the program until such time as a plan has been approved pursuant to paragraph (b)(4)b.2. of this section. The State's contribution to the Delaware Certified Thoroughbred Program (DCTP) pursuant to this subsection shall be \$250,000, and said amount shall be allocated as of January 1 of each calendar year to the existing licensee which conducts live thoroughbred horse racing, but moneys shall not be expended for the program until such time as a plan has been approved pursuant to paragraph (b)(4)b.1. of this section.

(4) *Application of remaining proceeds.* — The proceeds remaining after payments as set forth in paragraphs (b)(1), (2) and (3) of this section shall be applied as follows:

a. *Balance of administrative and vendor costs.* — The State shall receive an amount equal to 25% of all costs of equipment (both video lottery machines and related equipment), including video lottery machine license and proprietary fees, whether leased or owned by the State, used or under the control of such agent, the cost of the central computer used to monitor the equipment used by the agent, and related vendor fees to be applied pursuant to paragraph (b)(2) of this section.

b. *Purses.* —

1. For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to 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, in an amount calculated as follows: 9% of the proceeds remaining after payments made under paragraph (b)(1) of this section. Five hundred thousand dollars of those proceeds, which would otherwise fund purses, on an annual basis, shall fund a Delaware Certified Thoroughbred Program (DCTP) to enhance the quantity of thoroughbred foals and/or yearlings stabled within Delaware for a period meeting the Delaware minimum residency requirement. The DCTP shall be administered by a Board comprised of the following:

- A. Four members of the Delaware Thoroughbred Horseman's Association;
- B. One member designated by the video lottery agent licensed to conduct live thoroughbred horse racing meets under Chapter 101 of Title 3;
- C. One member appointed by the Speaker of the House of the General Assembly;
- D. One member appointed by the President Pro Tempore of the Senate of the General Assembly;
- E. The Secretary of Agriculture or the Secretary's designee; and
- F. The Secretary of Finance or the Secretary's designee.

Members shall be chosen by the organizations they represent, and shall serve 4-year terms, except the 4 initial Board members selected by the Delaware Thoroughbred Horseman's Association shall serve an initial term of 2 years, and 4 years thereafter. The Board created hereunder must develop and present a plan for the administration of the DCTP no later than December 31, 2005. This plan and all subsequent plans amending the DCTP shall be subject to the written approval of the Secretary of Agriculture or the Secretary's designee, the Secretary of Finance or the Secretary's designee, and the Chairperson of the Thoroughbred Racing Commission or the Chairperson's designee. The Board shall transmit minutes and actions from all meetings to the Chairperson of the Delaware Thoroughbred Racing Commission within 10 days of the meeting. The Board shall submit an annual report detailing the allocation of such funds of the DCTP to the Commission and make available to the State Auditor such information as may be required to perform an annual audit of funds allocated from the DCTP. The Board may also, at its discretion, use funds from the DCTP for advertising, promotion, education and administrative purposes directly related to the

program, however, the total amount for these purposes cannot exceed 5% of the total allocation. Funds dedicated to the DCTP shall not be subject to a 1-year payout requirement, but payouts may be dispersed throughout the year.

2. For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, such agents shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) to be applied under the direction of the Delaware Harness Racing Commission to purses for races conducted at such agent's racetrack in accordance with § 10048 of Title 3, in an amount calculated as follows: 10.75% of the proceeds remaining after payments made under paragraph (b)(1) of this section.

One million five hundred thousand dollars of those proceeds, which would otherwise fund purses, on an annual basis (\$750,000 to come from each licensee which conducts live harness horse racing) to be set aside for purses under this paragraph (b)(3)b.2. shall be used to fund a Delaware Standardbred Breeder's Program which shall be administered by a board comprised of 4 members from the Delaware Standardbred Owners Association, 1 member from the Standardbred Breeders and Owners of Delaware, Inc., 1 member from each video lottery agent licensed to conduct harness racing meets under Chapter 100 of Title 3, 1 member appointed by the Speaker of House of the General Assembly, 1 member appointed by the President Pro Tempore of the Senate of the General Assembly, the Secretary of Agriculture or the Secretary's designee, and the Secretary of Finance or the Secretary's designee. Members shall be chosen by the organizations they represent, and shall serve 4-year terms except that 4 of the initial board selected by the members of the Delaware Standardbred Owners Association shall serve an initial term of 2 years, and 4 years thereafter. The board created hereunder will present a plan for the administration of the Program to the General Assembly no later than May 15, 1999. This plan, and all subsequent amendments to the plan, shall be subject to the written approval of the Secretary of Agriculture or the Secretary's designee, the Chairperson of the Delaware Harness Racing Commission or the Chairperson's designee, and the Secretary of Finance or the Secretary's designee. The board shall transmit minutes of all meetings and any proposed actions to the Delaware Harness Racing Commission within 10 days after each meeting. The board shall transmit an annual report detailing the allocation of proceeds from the fund and make available to the State Auditor or the State Auditor's representative such information as may be required to perform an annual audit of funds allocated from the Delaware Standardbred Breeder's Program. In addition to funding special purses for Delaware standardbred horses, the board created hereby may also use the funds dedicated to this Program for advertising, promotion, educational and administrative purposes. Funds dedicated to the Delaware Standardbred Breeder's Program shall not be subject to the 1-year payout requirement of § 10048 of Title 3.

3. For video lottery agents licensed to conduct harness horse racing meets under Chapter 100 of Title 3 on January 1, 1993, such agents, which in the future also conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) administered by either the Delaware Thoroughbred Racing Commission or the Delaware Harness Racing Commission, as appropriate, in accordance with the formula set forth in paragraph (b)(4)b.2. of this section, for races conducted at such agent's racetrack based on the ratio of live horse racing days to total live racing days and live harness horse racing days to total live racing days.

4. For video lottery agents licensed to conduct horse racing meets under Chapter 101 of Title 3 on January 1, 1993, such agents, which in the future also conduct harness horse racing meets under Chapter 100 of Title 3, shall be paid and shall pay additional purses (and related administrative expenses of the horse racing association) administered by either the Delaware Thoroughbred Racing Commission or the Delaware Harness Racing Commission, as appropriate, in accordance with the formula set forth in paragraph (b)(4)b.1. of this section, for races conducted at such agent's racetrack based on the ratio of live horse racing days to total live racing days and live harness racing days to total live racing days.

c. Jockey health and other welfare benefits. — For video lottery agents which are licensed only to conduct thoroughbred horse racing meetings under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents annually shall be paid and shall pay the sum of \$175,000 plus an additional \$175,000 (which shall be subtracted from the amount such agent is paid and shall pay as additional purses under paragraph (b)(4)b.1. of this section) for a total payment of \$350,000 annually, adjusted for inflation by the Delaware Thoroughbred Racing

Commission, which shall be payable to fund a Delaware Jockeys Health and Welfare Benefit Fund on July 20 of each year. The Fund shall be used to provide, for jockeys who regularly ride in Delaware, health and other welfare benefits for active, disabled and retired jockeys pursuant to reasonable criteria for benefit eligibility. The Jockeys Health and Welfare Benefit Fund shall be administered by a Board, known as the Jockeys Health and Welfare Benefit Board, comprised of 1 member of the Delaware Thoroughbred Racing Commission, 1 member from the licensed agent under Chapter 101 of Title 3 or Chapter 4 of Title 28, 1 member of the Delaware Horsemen's Association, and 1 representative from the organization that represents the majority of the jockeys who are licensed and ride regularly in Delaware, 1 jockey who is licensed and rides regularly in Delaware, and 1 retired Delaware jockey who is participating in the benefit program. The Chairman of the Commission shall serve as an ex officio member and vote on matters in the event of a tie vote on any issue. Members shall be appointed by the Commission and shall serve 2-year terms. In addition to providing funding for jockey health and other welfare benefits, the fund may expend reasonable expenses for administrative purposes.

d. *Commissions to agents.* — The portion of such proceeds remaining after the payments required by paragraphs (b)(4)a., b. and c. of this section shall be paid to such video lottery agent as commission. For video lottery agents licensed only to conduct horse racing meets under Chapter 101 of Title 3 or Chapter 4 of Title 28, such agents shall pay \$250,000 of the proceeds received under this section to fund the video lottery agent's contribution to the Delaware Certified Thoroughbred Program (DCTP) annually. Said amount shall be allocated as of January 1 of each calendar year.

For video lottery agents licensed only to conduct harness racing meets under Chapter 100 of Title 3, each agent shall pay \$375,000 of the proceeds received under this section to fund the video lottery agent's contribution to the Delaware Standardbred Breeder's Program annually. Said amount shall be allocated as of January 1 of each calendar year.

Section 4. Lottery & Gaming Study Commission.

The Lottery & Gaming Study Commission created by Senate Bill No. 145 of the 147th General Assembly (the "Commission") shall be reconvened no later than September 15, 2014. The Commission shall consist of nine persons. The President Pro Tempore of the Senate shall appoint two members of the Senate and the Minority Leader of the Senate shall appoint one member of the Senate to serve on the Commission. The Speaker of the House of Representatives shall appoint two members of the House of Representatives and the Minority Leader of the House of Representatives shall appoint one member of the House of Representatives to serve on the Commission. The President of the State Chamber of Commerce shall appoint one member. The Secretary of Finance and Director of the Delaware Economic Development Office shall serve as members of the Commission. The Chairperson of the Commission shall be appointed by the Governor from among its members. The Commission shall be responsible for examining the competitive marketplace confronting Delaware gaming, including the business performance and business plans of existing lottery agents, the marketing efforts and investments made by Delaware video lottery agents, and the division of revenue from the video lottery, sports lottery, table games and internet gaming among all affected parties. The Commission shall make findings and recommendations to the Governor, Speaker of the House, and President Pro Tempore of the Senate no later than January 15. Staffing for the Commission shall be provided by the Department of Finance. Any licensed video lottery agent or any organization that represents the majority of owners or trainers racing at the racetrack of any licensed video lottery agent is hereby required to provide promptly any information requested by the Commission through the Commission's chairperson.

Section 5. Report on the Harness and Thoroughbred Industries.

With available funding, the Secretary of Agriculture shall commission an independent study to determine the economic impact of Delaware's Thoroughbred and Standardbred equine industry on Delaware's agricultural and general economy. The study will include measuring the size, scope and financial impact of Thoroughbred and Standardbred equine operations in Delaware. The study will measure the revenue, expenditures and job creation generated by the horse racing industry in Delaware and will determine the capital value of land and buildings of equine operations in the State. The study will also include data on purses earned from Delaware gaming revenues as well as purses earned from races in neighboring states. A report of the study shall be completed

and submitted to the Governor, the Speaker of the House and the President Pro Tempore of the Senate by no later than November 30, 2014. Any licensed video lottery agent or any organization that represents the majority of owners and trainers racing at the racetrack of any licensed video lottery agent shall provide information requested by the Secretary of Agriculture within 30 days from the date of request for information is made.

Section 6. Section 1 shall be effective July 1, 2015.

Approved July 15, 2014