

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

DO NOT WRITE IN THIS SPACE
FILED

JUL 24 4 07 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: West Virginia Lottery TITLE NUMBER: 179

CITE AUTHORITY W. Va. Code §§29-22-5, 9(B), 10 and 17

AMENDMENT TO AN EXISTING RULE: YES NO

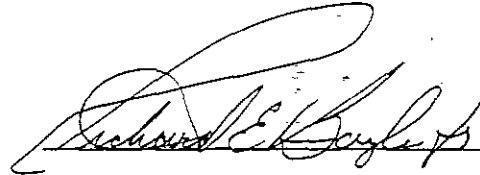
IF YES, SERIES NUMBER OF RULE BEING AMENDED: SERIES 1

TITLE OF RULE BEING AMENDED: STATE LOTTERY RULES AND REGULATIONS

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



10-00

CONSENT TO FILE RULE

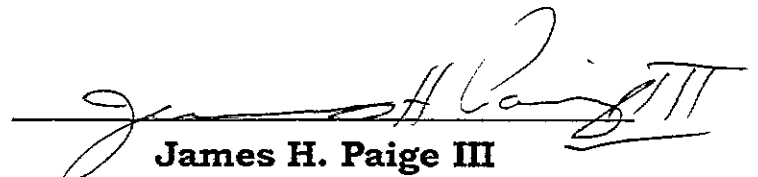
July 24, 1995

TO WHOM IT MAY CONCERN:

Title of Rule:	State Lottery Rules and Regulations
Title Number:	179
Series Number	1

Pursuant to West Virginia Code § 5F-2-2(a), the undersigned hereby consents to the filing of the foregoing rule.

Signed this twenty-fourth day of July, 1995.


James H. Paige III
Secretary of Tax and Revenue

**PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
WEST VIRGINIA LOTTERY
TITLE 179
SERIES 1 - Amended
1995**

STATE LOTTERY RULES AND REGULATIONS

A STATEMENT of CIRCUMSTANCES WHICH REQUIRE THIS RULE:

The West Virginia Legislature has amended the State Lottery Act by providing for an on-line game called TRAVEL. This amendment defines the game and makes other modernizing and updating revisions.

The West Virginia State Lottery Commission has prepared this proposed amended legislative rule and has ordered the Director of the Lottery to submit it to the public for review and comment.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: State Lottery Rules and Regulations

Type of Rule: Legislative Interpretive Procedural

Agency West Virginia Lottery

Address 312 MacCorkle Avenue, SE
Charleston, WV 25314

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

No fiscal impact on lottery expenses

3. Objectives of these rules:

To provide administrative background for the operation of the Lottery and awarding of lottery prizes.

Rule Title: State Lottery Rules and Regulations

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date: _____

Signature of Agency Head or Authorized Representative

DATE: July 24, 1995

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: WEST VIRGINIA LOTTERY

LEGISLATIVE RULE TITLE: STATE LOTTERY RULES AND REGULATIONS

1. Authorizing statute(s) citation W.Va. Code ss29-22-5,9(B), 10 & 17

2. a. Date filed in State Register with Notice of Hearing

MAY 26, 1995

b. What other notice, including advertising, did you give of the hearing?

ATTACHED LETTER AND MAILING LIST

c. Date of Hearing(s) WRITTEN COMMENTS, ONLY

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

JULY 26, 1995

f. Name and phone number(s) of agency person(s) to contact for additional information:

RICHARD E. BOYLE, Jr. or JOHN MELTON

558-0500

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

**PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
WEST VIRGINIA LOTTERY
TITLE 179
SERIES 1
1995**

STATE LOTTERY RULES AND REGULATIONS

A BRIEF SUMMARY of the PROPOSED RULE:

This is the third amendment to the original Lottery Legislative Rule which was filed initially in 1987 and approved during the 1988 Regular Session, and was amended during the 1991 and 1994 Regular Sessions. There are one major change and several minor changes.

The major change is the addition of language to define and facilitate the TRAVEL game authorized by Chapter 35 of the Acts of the Legislature, 1994, First Extraordinary Session. See also W.Va. Code §29-22-9(b)(5).

The minor changes include:

1. Recognizing the participation in one or more games jointly operated by the West Virginia Lottery and the lotteries of several other states other than the Multi-State Lottery Association;
2. Setting a five year minimum limit on convictions for misdemeanors which disqualify a person from seeking or maintaining a lottery license or permit, in order to be compatible with the State liquor laws;
3. Modifying the optional fees which the statute says the Commission may charge;
4. Removing the provision that all winner selection drawing events for on-line games must be televised live.
5. Modifying terms to match statutory terms; and,
6. Modifying the numbering system and structure of the Rule to comply with the requirements of the Secretary of State's Size and Format Rules found in 153 CSR 6.

FILED

JUL 24 4 07 PM '95

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
WEST VIRGINIA LOTTERY
TITLE 179
SERIES I
1995**

STATE LOTTERY RULES AND REGULATIONS

179-1-1. General

1.1. Scope and Purpose. - The purpose of these rules is to provide for the organization and structure of the operation of the West Virginia Lottery, provide for licensing of agents for sale and dispensing of lottery tickets and materials and lottery games, and the operation of computer terminals therefor.

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

1.3. Filing Date -

1.4. Effective Date -

179-1-2. Definitions

For the purposes of these regulations, the following words and phrases shall have the meaning ascribed to them in this Section unless the context of the regulations shall clearly indicate otherwise, or unless inconsistent with the manifest intention of the State Lottery Commission.

2.1. "Act" or "State Act" means the State Lottery Act, West Virginia Code §§29-22-1 et seq.

2.2. "Agency" means the State Lottery, its Director and the State Lottery Commission and its Commissioners which operate and administer the West Virginia State Lottery, pursuant to authority granted under the Act.

2.3. "Certification" means the day on which the a Mmulti-Sstate Llottery Aassociation certifies the number of winners and authorizes the payment of prizes for the POWERBALL® game and winners of any other game offered through the a Mmulti-Sstate Llottery Aassociation of which the West Virginia Lottery is a member.

2.4. "Bank" means and includes all commercial banks, mutual savings banks, savings and loan associations, credit unions, trust companies, and any other type or form of banking institution organized under the authority of the State of West Virginia or the United States of America whose principal place of business is within the State of West Virginia and is designated to perform such functions, activities, or service in connection with the operations of the Lottery for the deposit and handling of lottery funds, the accounting thereof and the safekeeping of records.

2.5. "Certified Drawing" - A drawing about which the Lottery and an independent certified public accountant attest that the drawing equipment functioned properly and that a random selection of a winning combination occurred.

2.6. "Commission" or "State Lottery Commission" means the State Lottery Commission created by the State Lottery Act, West Virginia Code §§29-22-1 et seq.

2.7. "Depository" means any person, including a bank or state agency, performing activities or services in connection with the operation of the Lottery for the deposit and handling of lottery funds, the accounting thereof, and the safekeeping of tickets.

2.8. "Director" means the individual appointed by the Governor to provide management and administration necessary to direct the Lottery office or any other person to whom the Director's authority is lawfully delegated.

2.9. "Drawing" - The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game.

2.10. "Employee of the Agency" means a person who is an employee of the agency and the commission unless the context clearly indicates otherwise.

2.11. "Game" means any individual or particular type of lottery authorized by the agency.

2.12. "Instant Game" - A game in which a ticket is purchased and upon removal of a latex covering on the front of the ticket or the opening of the sealed ticket, the ticket bearer determines his or her winnings, if any, which are payable upon presentation to a lottery retailer or to the Lottery for payment.

2.13. "Instant Ticket" - The ticket purchased for participation in an instant game.

2.14. "Lottery Game" means the public gaming system or games established and operated by the Lottery office.

2.15. "Lottery Retailer" or "Retailer" means any person licensed by the Commission to sell and dispense instant tickets and materials or lottery games, not to include operation of electronic computer terminals in such sales and dispensing, unless otherwise authorized.

2.16. "Licensed Lottery Sales Agent" or "~~Sales Agent~~" or "~~On-Line Agent~~" means any person licensed by the Commission to sell and dispense lottery tickets, materials, and to operate electronic terminals, and lottery games in such sales and dispensing.

2.17. "Lottery Ticket" or "Tickets" means tickets or other tangible evidence of participation used in lottery games or gaming systems.

2.18. "On-Line Game" - A lottery game in which a player pays a fee to a lottery agent and selects a combination of digits, numbers, or symbols, type and amount of play, and drawing date, and receives a computer-generated ticket with those selections printed on it. The Lottery will conduct a drawing to determine the winning combination(s) in accordance with the rules of the specific game being played. Each ticket bearer whose valid ticket includes a winning combination shall be entitled to a prize if a claim is submitted within the specified time period.

2.19. "On-Line Ticket" - A computer-generated ticket issued by an ~~on-line~~ licensed lottery sales agent to a player as a receipt for the combination a player has selected. That ticket shall be the only acceptable evidence of the combination of digits, numbers, and/or symbols selected. On-line tickets may be purchased only from ~~on-line~~ licensed lottery sales agents.

2.20. "Person" means human being, association, corporation, club, trust, estate, society, governmental entity, company, joint stock company, receiver, trustee, assignee, referee, and anyone acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of human beings.

2.21. "Play Numbers" - The numbers or symbols appearing in the designated areas as under the removable covering on the front of the ticket.

2.22. "Prize" means any award, financial or otherwise, awarded by the Commission.

2.23. "Provisional License" means a license issued by the Commission which temporarily authorizes a person to act as a lottery retailer or lottery sales agent pending processing of the annual license or renewal.

2.24. "On-line Terminal" - The electronic computer terminal through which an ~~on-line~~ licensed lottery sales agent enters the combination selected by a player and by which on-line tickets are generated and claims are validated.

2.25. "Ticket Bearer" - The person who has signed the ticket or has possession of the unsigned ticket.

2.26. "Ticket Number" - The preprinted number found on the back of each ticket which identifies that particular ticket as one (1) of a series of tickets.

2.27. "Ticket Stock Number" - The printed number or numbers appearing on the back of each ticket.

2.28. "TRAVEL" - An on-line lottery game based on the keno theme. The game matrix for TRAVEL is the same as for other on-line lotto-type games, an "X-Y-Z" game, where "X" equals the numbers picked by a lottery player, "Y" equals the numbers drawn by the lottery and "Z" equals the field of numbers from which "X" and "Y" are drawn. The lottery drawing of numbers is done automatically by computers, one computer generating hundreds of random number combinations and the other drawing from these number sets. Such drawings can occur by the minute, day or week.

2.29. "Unclaimed Prize" - The prize on a winning ticket for which no claim is made within 180 days after the drawing or winner selection event which made the ticket a winning ticket or 180 days after the announced end of an instant game.

2.30. "Unclaimed Prize Account" - The West Virginia Lottery account to which all unclaimed prizes are transferred after the 180 day period.

2.2831. "Validation" - The process of determining whether an instant or on-line ticket presented for payment is a winning ticket.

2.2932. "Validation Number" - The multi-digit number found on the face of the ticket. There must be a validation number on each ticket.

2.3033. "Winner of an instant game" means the holder of an instant lottery ticket determined to have the required match or the specific alignment of the play numbers, digits or symbols or the required sum of the play numbers or digits in accordance with the game rules for the specific game.

2.3134. "Winner selection" means the drawing process used by the West Virginia State Lottery Commission to select the winning numbers in on-line games with live televised drawings offered to the public by the Lottery Commission, except for the on-line game called TRAVEL which is authorized by section nine, article twenty-two, chapter twenty-nine of the West Virginia Code. Those games are Daily 3, Daily 4, Cash 25, POWERBALL, any other game offered through the Multi-State Lottery Association and any game labeled as a second chance drawing.

2.3235. "Winning Combination" means numbers or symbols chosen during the drawing process used by the West Virginia State Lottery Commission to select the winning numbers in on-line games with live televised drawings offered to the public by the Lottery Commission, except for the on-line game called TRAVEL which is authorized by section nine, article twenty-two, chapter twenty-nine of the West Virginia Code. Those games are Daily 3, Daily 4, Cash 25, POWERBALL, any other game

~~offered through the Multi State Lottery Association and any game labeled as a 'second chance drawing'.~~

~~2.3336. "Bonus-Incentive Plan(s)" - For each winning ticket of \$500.00 or more cashed, the lottery sales agent or lottery retailer selling the ticket will receive a one percent (1%) bonus. The one percent (1%) bonus is limited to a maximum of \$10,000.00 per prize. means one or more incentive plans the Commission may be developed as additional compensation for the agents and retailers. The bonuses and incentives combined may not exceed one percent (1%) of annual gross sales of agents and retailers from lotteries authorized pursuant to this article.~~

2.37. "Bar code validation" means a system which allows any winning lottery ticket, printed with computer readable bar codes, for a prize of up to \$600, to be read electronically at any Lottery location and paid by the retailer or licensed sales agent regardless of where the player purchased the ticket.

179-1-3. Financial Administration

3.1. Collection of Accounts - Agents/retailers will establish private banking accounts in which to deposit payments for the purchase of instant tickets or receipts from on-line sales.

3.1.1. The funds in each of the accounts established under this section shall be swept by electronic funds transfer ("wire transfers") to an account of the State Treasurer (see below - Revenues and Transfers Account).

3.1.2. The Director may authorize other methods of collection such as cash on delivery or intra-governmental transfers in the case of other state agencies.

3.2. State Lottery Fund - The Director shall establish a State Lottery Fund which shall consist of a group of accounts within the State Treasury.

3.2.1. Such accounts shall be established in accordance with applicable provisions of state law, and any applicable regulations of the State Treasurer.

3.2.2. In establishing the State Lottery Fund, there shall be established the following accounts:

3.2.2.1. Revenues and Transfers Account - This account shall consist of all revenue received from the sale of lottery tickets. Transfers will be made from this account for prizes, net profit, and operation and administration expenses, in amounts and for the purposes established by lottery legislation. Net profits are transferred to the accounts to which the Legislature has appropriated them. If net profits for any particular year exceed the amount appropriated by the Legislature, the excess funds will be held in this account until such time as they are appropriated. The funds in this account are invested in the State Consolidated Fund until the point of transfer and are interest bearing.

3.2.2.2. Operation and Administration Expenses Account - This account shall consist of transfers made from the Revenues and Transfers Account not to exceed fifteen percent (15%) of net lottery revenue. In the event that the balance of this account is equal to or greater than two hundred fifty thousand dollars (\$250,000), any excess over that amount shall be considered net profit and allocated as such.

3.2.2.3. Jackpot Prize Trust Account - This account shall consist of jackpot prizes accumulated for the purpose of buying annuities for the payment of prizes due the winners over a period of years. Also, as the annuities mature, the funds are held in this account until payment is made to the winners.

3.3. Prize Disbursement Account - The Director shall establish a Prize Disbursement Account, in a private banking institution, which shall permit the immediate payment of lottery prizes, by check, to the winners.

3.3.1. The total expenditures from the Prize Disbursement Account and the Jackpot Prize Trust Account combined with any prizes paid by the sales agents and retailers, must be a minimum annual average of forty-five percent (45%) of gross amount received.

3.3.2. The Prize Disbursement Account shall be a zero balance demand deposit account established by the Director in accordance with applicable law and regulations of the State Treasurer funded daily by transfers from the Revenue and Transfers Account in an amount equal to the preceding day's demand.

3.3.3. Access to the account for purposes of drawing checks shall be limited to those persons expressly authorized by the Director to operate secure check writing machines and who are provided security keys and computer keys for their operation incident to their official duties.

3.3.4. All checks issued from the Prize Disbursement Account shall prominently display the logo of the West Virginia Lottery.

3.3.5. Checks in payment of prizes drawn upon the Prize Disbursement Account may be issued under the signature of the Director or the authorized facsimile thereof.

3.3.6. The Director may also cause checks to be issued from the Prize Disbursement Account to lottery sales agents and lottery retailers to fulfill obligations of a bonus-incentive plan.

3.3.7. The agency shall settle retailer and agent accounts no less frequently than weekly, unless the Director specifies a different time.

3.3.8. The Director may make payments from Prize Disbursement Account to sales agents and retailers for purposes of refund or credit for unsold tickets, other ticket sales adjustments or instant game account adjustments.

179-1-4. Licensing

4.1. The Commission shall license as lottery sales agents and as lottery retailers those persons who will, in the judgment of the Commission, meet the statutory requirements for licensing, promote the sale of lottery tickets and materials, promote the best interest of the Lottery and of the State, and achieve the goals of the statute.

4.1.1. Any person interested in obtaining a license as a lottery retailer or licensed lottery sales ~~or on-line~~ agent must first file an application with the Director on a form supplied for that purpose by the Director. The application form shall be designed to solicit sufficient relevant information from an applicant to permit the Director to make the determination required by the Lottery Act and these rules for issuance of a license by the Commission.

4.1.2. License of a licensed lottery sales ~~or on-line~~ agent or lottery retailer in any capacity is a privilege personal to that person and is not a legal right. Such license is revocable by the Director or by a licensed lottery sales ~~or on-line~~ agent or lottery retailer by surrender of the license to the Director.

4.2. Eligibility for licensing.

Any person may submit an application for licensing as a lottery agent or retailer, except:

4.2.1. No person may submit an application who will engage in business solely as a licensed lottery sales ~~or on-line~~ agent or lottery retailer.

4.2.2. No person under the age of twenty-one (21) may submit an application for licensing as a lottery sales agent or lottery retailer.

4.2.3. No person may submit an application who is a member of the Commission or an employee of the agency, or who is the spouse, child, brother, sister or parent, by blood or marriage, residing as a member of the same household or in the principal place of abode of a member of the Commission or employee of the agency.

4.2.4. No person may submit an application who is a vendor of lottery tickets or material or data processing services, or, which is owned by, controlled by, or affiliated with a vendor of lottery tickets or materials or data processing services.

4.2.5. No foreign corporation may submit an application unless it is currently registered to do business within the State of West Virginia.

4.2.6. No establishment may qualify to receive an additional endorsement to sell the TRAVEL game unless that establishment complies with general law relating to the game TRAVEL.

4.3. Disqualification, grounds of refusal of a license. The Commission shall refuse to grant a license to any person who is subject to an exception to subsection 4.2. of these rules or to any applicant who has been convicted of any of the following violations: of

4.3.1. W. Va. Code §§29-22-1 et. seq. ~~or of~~

4.3.2. ~~a~~Any felony, ~~or.~~

4.3.3. ~~a~~Any crime related to theft or gambling or involving moral turpitude; ~~or any person who is subject to an exception to subsection 4.2. of these rules unless within the discretion of the Commission, it is determined that an appropriate amount of time has elapsed since such conviction to ensure rehabilitation of the applicant. Provided, That upon conviction of the crimes enumerated in this subsection 4.3.3 a current licensee shall be disqualified for a period of at least five years; Provided, however, that no applicant may be licensed if convicted of the crimes enumerated in this subsection 4.3.3 within the five year period immediately preceding the filing of an application for a license.~~

~~4.3-14.~~ Issuance of licenses. Upon receipt, review and investigation of applications and applicant background, the Commission may issue annual licenses for sales of lottery tickets in accordance with these rules. The Commission shall license only such persons or entities which, in its opinion, will best serve the public interest and public trust in the Lottery and promote the sales of lottery tickets. Prior to issuing any license, the Commission shall consider the following factors:

~~4.34-1.1.~~ The moral character and reputation of the applicant.

~~4.34-1.2.~~ The financial responsibility and security of the applicant and his business or activity.

~~4.34-1.3.~~ The accessibility of the public to the licensed premises proposed by applicant.

~~4.34-1.4.~~ The number and sufficiency of existing licenses to serve the public interest.

~~4.34-1.5.~~ The volume of applicant's expected lottery ticket sales.

~~4.34-1.6.~~ The security and efficient operation of the Lottery.

~~4.34-1.7.~~ Whether the applicant is ineligible under any provisions of the Lottery Act.

~~4.34-1.8.~~ Whether the applicant has received or will hold, either as principal, entity, subsidiary agent, or subcontractor more than twenty-five percent (25%) of licenses to act as lottery

sales agent in any one (1) county or municipality, or more than five percent (5%) of such licenses issued statewide, unless eligible for consideration for an exception under the Act.

4.34.1.9. Whether the applicant has provided false or misleading information or has misrepresented information regarding qualifications or fitness for licensure.

4.34.1.10. Whether the applicant is a West Virginia corporation or is currently licensed to do business within the State of West Virginia and whether the applicant's state taxes are current.

4.45. -. Revocation; grounds for removal or suspension of license or non-renewal of license.

4.45.1. The Commission may, for any reason outlined in Section 4 of these rules, or its subsections, or for other cause shown revoke, suspend, or decline to renew a license of a lottery sales agent or lottery retailer.

4.45.2. If at any time after issuance of a license, it is determined by the Director that a licensed lottery sales or on-line agent or lottery retailer would no longer meet the standards for the issuance of a license provided in these rules, he may immediately suspend such license, which suspension shall remain in effect until the reason for suspension has abated, or he may ask the Commission to revoke such license.

4.45.3. If the licensed lottery sales or on-line agent or lottery retailer fails to observe and comply with the procedures and the rules of the Commission or with the provisions of the Lottery Act, or orders or instructions of the Director, the Commission may suspend or revoke the license of such person.

4.45.4. Additional grounds for suspension or revocation of license.

4.45.4.1. Non-compliance with Lottery Act, Rules or Regulations. The Director may suspend or recommend to the Commission that it revoke the license of a licensed lottery sales or on-line agent or lottery retailer who does not comply with the Lottery Act and all rules, conditions, regulations, standards and other adopted, promulgated or issued thereunder the Commission or the Director.

4.45.4.2. Violation of prohibitions. The Commission may suspend or revoke the license of any licensed lottery sales or on-line agent or lottery retailer who violates one of the prohibitions set out below.

4.45.4.2.1. A licensed lottery sales or on-line agent or lottery retailer shall not sell a ticket at a price greater than or less than that stated by the Commission. No ticket may be sold on a credit basis by an agent or retailer.

4.45.4.2.2. A licensed lottery sales or on-line agent or lottery retailer shall not sell a ticket at a location or premises different than that shown on the license certificate.

4.45.4.2.3. A licensed lottery sales or on-line agent or lottery retailer shall not permit any other person to sell tickets consigned to him; provided that a licensed lottery sales or on-line agent or lottery retailer may sell tickets through his employees.

4.45.4.2.4. No licensed lottery sales or on-line agent or lottery retailer shall sell a ticket to any person under eighteen (18) years of age.

4.45.4.2.5. No licensed lottery sales or on-line agent or lottery retailer, directly or indirectly, on behalf of himself, or another, nor any organization, shall invite, solicit, demand, or offer or accept any payment, contribution, favor, or other consideration to influence the award, renewal or retention of a license.

4.45.4.2.6. A ticket shall not be purchased with food stamps or other government food subsidy coupons and the licensed lottery sales or on-line agent or lottery retailer shall not accept as consideration for a ticket food stamps or other government food subsidy coupons nor any other coupons whatsoever unless specifically sanctioned and/or offered by the West Virginia Lottery Commission and securely identified as such.

4.5.4.2.7. A licensed lottery sales agent or lottery retailer shall not transfer ticket stock between stores in the same chain unless the transfer is consented to in writing by a person authorized by the Director to grant such consent.

4.5.4.2.8. A licensed lottery sales agent or lottery retailer must verbally or in written form notify the Director, or a person authorized by the Director to grant written consent, that it intends to transfer instant tickets between individual stores within the same chain. Notification must occur prior to transfer of tickets.

§4.5.4.2.9. A licensed lottery sales agent or lottery retailer shall not sell any lottery ticket, lottery chance or lottery product unless the game being sold is approved by the Commission.

4.45.4.3. Grounds relating to the honest and efficient conduct of the Lottery. The Director may suspend or recommend to the Commission to revoke a licensed lottery sales or on-line agent's or lottery retailer's license for any of the following:

4.45.4.3.1. The licensed lottery sales or on-line agent or lottery retailer has made a fraudulent misrepresentation in connection with his application for a license, in any of his reports, or to any person in connection with a lottery transaction;

4.45.4.3.2. The licensed lottery sales or on-line agent or lottery retailer has failed to maintain the sales levels set for him by the Director;

4.45.4.3.3. The licensed lottery sales or on-line agent or lottery retailer has begun to engage in the sale of lottery tickets as his sole business, occupation or activity;

4.45.4.3.4. The licensed lottery sales or on-line agent or lottery retailer has failed to take adequate security precautions for the safe handling of tickets, lottery materials or ticket sales proceeds due from the licensed lottery sales or on-line agent's or lottery retailer's ticket sales;

4.45.4.3.5. The licensed lottery sales or on-line agent or lottery retailer has failed to regularly, promptly and accurately settle the accounts of his lottery transactions and pay the amounts due from the licensed lottery sales or on-line agent's or lottery retailer's ticket sales;

4.45.4.3.6. The licensed lottery sales or on-line agent or lottery retailer has failed to notify of any change in ownership;

4.45.4.3.7. The licensed lottery sales or on-line agent or lottery retailer has failed to open his books or records for reasonable inspection by the Lottery Commission or Director;

4.45.4.3.8. The licensed lottery sales or on-line agent or lottery retailer has failed to display his license or required advertising and display material; and

4.45.4.3.9. The licensed lottery sales or on-line agent or lottery retailer has failed to make a report of a violation of these rules or a conviction of any felony or crime related to theft or gambling or involving moral turpitude. At any time during the term of this Agreement, if a lottery retailer or a licensed lottery sales or on-line agent is convicted of a felony or a gambling related offense, the lottery retailer or licensed lottery sales or on-line agent or licensee shall within fourteen (14) days, notify the Director, in writing, of the conviction and the offense. For purposes of this section, a sales or on-line "agent" or lottery "retailer" includes any natural person or in the case of other persons, as defined in 2.14 and 2.15 any person who holds ownership or a controlling interest in such an entity.

4.56. Transfers of licenses; licensed premises.

4.56.1. Licenses nontransferable. Each license will authorize a specified person to sell tickets at a specified location. No license may be transferred to another person. If the control of a licensed lottery sales or on-line agent or lottery retailer changes hands, the licensed lottery sales or on-line agent or lottery retailer may not sell any more tickets until he has submitted a new license application and the Director has issued a new license.

4.56.2. Change of ~~sales or on-line agent or lottery retailer~~ location. If a licensed lottery sales or on-line agent or lottery retailer changes the location of his place of business, he shall not sell tickets

at the new location until the Director has authorized the transfer of lottery sales or on-line agent's or lottery retailer's license to the lottery sales or on-line agent's or lottery retailer's new location after he has considered all information concerning the licensed lottery sales or on-line agent's or lottery retailer's new location in the manner which would be required were the licensed lottery sales or on-line agent or lottery retailer making an initial application for a license at that location.

4.67. License term and renewal, fees.

4.67.1. Provisional licenses. Pending a final resolution of any question arising in respect of a licensing decision, the Director may issue a license subject to such terms and conditions as he may deem appropriate. Any provisional license shall expire on the expiration date shown on its face which in any case shall not be more than one (1) year from the date such license is issued.

4.67.2. Annual license. Every holder of a license other than a provisional license shall renew such license annually, by July 1.

4.67.3. Temporary license. For specific events and activities or under special conditions and for limited duration the Director may issue to organizations or other persons a temporary license for the duration of the event or conditions with such special terms as the Director may deem desirable.

4.67.4. License fees.

4.67.4.1. Upon initial application for licensing as a lottery retailer, the applicant shall pay to the Commission a non-transferable non-refundable license fee of twenty-five dollars (\$25.00).

4.67.4.2. Upon initial application for installation of an on-line terminal, the applicant shall submit a fee of five hundred dollars (\$500.00), which shall be a deposit refundable only under certain terms to be set out in the Lottery contract for on-line sales agents.

4.67.4.3. Upon application for renewal of licensing as a lottery retailer or licensed lottery sales or on-line agent, and for all licenses expiring June 30 of each year, the all lottery retailers shall submit an annual fee of twenty-five dollars (\$25.00) in an amount to be determined by the Commission.

4.67.4.4. After the initial year of operation as an on-line sales agent, the agent ~~will~~ may be charged a uniform weekly service fee of \$5.00 in an amount to be set by the Commission.

4.67.4.5. ~~Effective June 1, 1988, i~~In the event that a business changes ownership and an on-line terminal is in place and operating and the new owner(s) meet all other requirements for licensing as a lottery retailer, there will be no initial installation fee and the agent ~~will~~ may be charged a weekly service fee ~~of \$5.00~~ effective from the first day of operation.

4.78. Bonds

4.78.1. Each lottery sales agent shall participate in the Financial Guarantee Bond program provided by the Lottery in the amount of at least ~~five~~ ten thousand dollars (\$~~5,000~~10,000) for each terminal on the premises. Such bond shall be renewed on an annual continuing basis. Payment for bonding shall be made by Electronic Funds Transfer from sales agents' bank accounts to the Lottery's Revenues and Transfers Account each year.

4.78.2. If it is determined by the Director that the lottery sales agent should be bonded for an amount and in a form and manner different from the Lottery's Financial Guarantee Bond of at least ~~five~~ ten thousand dollars (\$~~5,000~~10,000), or if other such security should be provided by the agent to ensure the performance of the agent's duties and responsibilities as a licensed lottery agent or the indemnification of the Commission, it will be the Director's decision as to the amount, form and manner of the coverage.

4.89. Contract

4.89.1. The Director shall enter into a contract with each lottery retailer and lottery sales agent. Such contract will set out the duties, responsibilities, and obligations pertaining to the parties thereto, such contract to continue in effect during the period which the retailer or agent complies with applicable statutes, rules and regulations, fee requirement, and any other duties or requirements under the terms of the contract.

179-1-5. Instant Games

~~The Commission authorizes the implementation of instant lottery games and on-line games which meet the criteria generally set forth herein.~~

5.1. The Director is hereby authorized by the Commission to select, operate and contract to and for the operation of instant games which meet the criteria generally set forth herein.

5.2. Instant game criteria.

5.2.1. The price of an instant game ticket shall not be more than five dollars (\$5.00) except by special promotions authorized by the Director.

5.2.2. Winners of an instant game are determined by the matching or specified alignment of the play numbers, digits and symbols on the tickets. The ticket bearer must notify the Lottery of the win and submit the winning ticket to the Lottery as specified by the Director. The winning ticket must be validated by the Lottery through the use of the validation number and any other means as specified by the Director.

5.2.3. The instant game shall be designed to pay out prizes in amounts on a numerical frequency to be determined by the Director.

5.2.4. The duration of ticket sales for an instant game shall be determined by the Director. The start date and closing date of the instant game shall be publicly announced.

5.2.5. The frequency of drawing and method of selection of a winner in any instant game shall be determined by the Director in specific game rules.

5.2.6. At the Director's discretion, an instant game may include a special prize drawing or drawings. ~~The general criteria for the special prize drawing shall be as follows: as well as other methods of awarding the moneys accumulated in the unclaimed prize fund which will also stimulate the broad variety of games offered by the West Virginia Lottery, following Commission procedure for the payment of additional prizes from the unclaimed prize fund within the game rules structure.~~

~~(a) Finalists for a special prize drawing shall be selected in an elimination drawing(s) from redeemed tickets or in a manner meeting the criteria stated in specified game rules as determined by the Director. Participation in the elimination drawing(s) shall be limited to such tickets which are actually received and validated by the Director on or before a date to be announced by the Director. The Director may reserve the right to place any semi-finalist whose entry was not entered in the elimination drawing(s) and who is subsequently determined to have been entitled to such entry into elimination drawing of a subsequent instant game, and the determination of the Director shall be final.~~

~~(b) The number of prizes and the amount of each prize in the special prize drawings(s) shall be determined by the Director to correspond with the size and length of the instant game and to comply with 5.2.5. above.~~

~~(c) The dates and times as well as the procedures for conducting the elimination drawing and special prize drawing shall be determined by the Director.~~

5.2.7. Procedures for claiming instant prizes are as follows:

~~(a) 5.2.7.1. Until the implementation of computerized instant game bar code validation,~~ To claim an instant game prize of twenty-five dollars (\$25.00) or less, the claimant shall present the winning ticket to the lottery retailer or licensed lottery sales or on-line agent from whom the ticket was purchased or mail the signed ticket to the Director. The lottery retailer or lottery retail sales or on-line agent shall verify the claim and, if applicable the claim is a valid winner, make payment of the amount due the claimant. In the event the lottery retailer or licensed lottery sales or on-line agent cannot verify the claim, the claimant shall fill out a claim form, as provided by the Director, which shall be obtained from any lottery retailer or licensed lottery sales or on-line agent and present or mail the completed form, together with the disputed ticket to the Director. If the claim is validated by the Director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be promptly notified.

~~(b)~~5.2.7.2. Until the implementation of computerized instant game bar code validation, to claim an instant prize of more than twenty-five dollars (\$25.00) and up to six hundred dollars (\$600) the claimant shall complete a claim form, as provided by the Director, which is obtained from any lottery retailer sales or on-line agent or the Director and present the completed form together with the winning ticket to a participating lottery retailer or to an licensed lottery sales on-line agent. In the event the lottery retailer or lottery retail sales agent cannot verify the claim, the claimant shall fill out a claim form, as provided by the Director, which shall be obtained from any lottery retailer or lottery retail sales agent and present or mail the completed form, together with the disputed ticket to the Director. If the claim is validated by the Director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be promptly notified.

5.2.7.3. Effective with the implementation of computerized instant game bar code validation, to claim an instant game prize of \$600 or less, a claimant shall present the winning ticket to any lottery retailer or licensed lottery sales agent or mail the signed ticket to the Director. The lottery retailer or licensed lottery sales agent shall verify the claim and, if the claim is a valid winner, make payment of the amount due the claimant. In the event the lottery retailer or licensed lottery sales agent cannot verify the claim, the claimant shall fill out a claim form, as provided by the Director, which shall be obtained from any lottery retailer or licensed lottery sales agent and present or mail the completed form, together with the disputed ticket to the Director. If the claim is validated by the Director, a check shall be forwarded to the claimant in payment of the amount due. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be promptly notified.

5.2.7.4. To claim an instant prize over six hundred dollars (\$600), the claimant shall complete a claim form and mail or present the form together with the winning ticket to the Director. Upon validation by the Director, a check shall be forwarded to the claimant in payment of the amount due, less any applicable federal and state income tax withholdings and less any withholding requested by the child support enforcement division. In the event that the claim is not validated by the Director, the claim shall be denied and the claimant shall be notified within five (5) days of the determination.

~~(e)~~5.2.7.5. Any ticket not passing all the validation checks specified by the Director is invalid and ineligible for any prize and shall not be paid. However, the Director may, solely at his option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price from any other current game). In the event a defective ticket is purchased, the only responsibility or liability of the Director shall be the replacement of the defective ticket with another unplayed ticket (or tickets of equivalent sale price from any other current game).

5.3. Confidentiality of tickets. No licensed lottery sales or on-line agent or lottery retailer or its employees or agents shall attempt to ascertain the numbers or symbols appearing in the designated

areas under the removable latex coverings or otherwise attempt to identify winning tickets by any means.

5.4. Notification to Commission. The Director shall provide Commission members with copies of specific game rules with the exception of rules for instant games. The Chairman or a quorum of the Commission may ask for review of the ~~instant~~ game rules at the next scheduled meeting of the Commission following receipt of draft rules, and shall adopt or refer rules to lottery staff for revision at that meeting.

5.5.4. Official end of game.

5.5.1. The Director shall announce the official end of each instant game. A player may submit a low-tier winning ticket to the licensed agent from whom the ticket was purchased or to the Lottery and a high-tier winning ticket to the Lottery for prize payment up to one hundred eighty (180) days after the official end of game. In order to participate in a special prize drawing a player must redeem a ticket which qualifies for entry into that special prize drawing within the time limits set forth by the Director governing the conduct of that specific game.

5.5.2. A lottery retailer or licensed lottery sales ~~or on-line~~ agent may continue to sell tickets for each instant game after the official end of that game up to one hundred eighty (180) days thereafter.

5.5.3. A licensed lottery sales ~~or on-line~~ agent or lottery retailer must return to the Lottery full packs of unsold and unopened lottery tickets for each game within thirty (30) days of the official end of that game in order to receive credit from the Lottery as provided for in the licensed lottery sales ~~or on-line~~ agent or lottery retailer contract. The Lottery has no obligation to grant credit for tickets returned more than thirty (30) days after the official end of that game.

5.6.4. Ticket validation requirements. Any ticket not passing all the validation requirements in ~~subsection 1~~ of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize. To be a valid West Virginia Lottery instant game ticket, a ticket must meet all of the following validation requirements.:

~~(a)~~5.6.1. The ticket must have been issued by the Director in an authorized manner.

~~(b)~~5.6.2. The ticket shall not be altered, mutilated, unreadable, reconstructed, or tampered with in any manner.

~~(c)~~5.6.3. The ticket must not be counterfeit in whole or in part.

~~(d)~~5.6.4. The ticket must not be stolen nor appear in any list of omitted tickets on file with the Lottery.

(e) 5.6.5. The ticket must be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.

(f) 5.6.6. The ticket must have ~~exactly one (1)~~ the correct number of play symbols and exactly one (1) caption under each of the rub-off spots, exactly one (1) pack-ticket number, exactly one (1) agent verification code, ~~and exactly one (1) validation number and exactly one (1) readable bar code.~~ They must be present in their entirety, legible, right-side up, and not reversed in any manner.

(g) 5.6.7. The validation number of an apparent winning ticket shall appear on the Lottery's official list of validation numbers of winning tickets; and a ticket with that validation number shall not have been previously paid.

(h) 5.6.8. The ticket must pass all additional confidential validation requirements established by the Director.

5.6.2.7. Any ticket not passing all the validation requirements in subsection 1 of this section and the specific validation requirements contained in the rules for its specific game is invalid and ineligible for any prize.

5.6.3.8. The Director may replace any invalid ticket with an unplayed ticket of equivalent sales price from any current instant game. In the event a defective ticket is purchased, the only responsibility or liability of the Lottery shall be the replacement of the defective ticket game, or issue a refund of the sales price. However, if the ticket is partially mutilated or if the ticket is not intact but it still can be validated by other validation tests, the Director may pay the prize for that ticket in his discretion.

~~5.78. On-line games authorized director's authority. The Director is authorized to select and operate on-line games which meet the criteria generally set forth herein.~~

§179-1-6. 5.8.1 On-line games criteria:

6.1 The Director is hereby authorized by the Commission to select, operate and contract to and for the operation of on-line games which meet the criteria generally set forth herein.

6.1.1 The base price of an on-line ticket shall not be less than fifty cents (.50).

~~5.86.1.2.~~ The manner and frequency of drawings may vary with the type of on-line games.

~~5.86.1.3.~~ The times, locations, and drawing procedures shall be determined by the Director.

~~5.86.1.4.~~ A ticket bearer entitled to a prize shall submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line licensed lottery sales agent through use of the validation number and any other means as specified by the Director.

6.1.5. At the Director's discretion, an on-line game may include a special prize drawing or drawings as well as other methods of awarding the moneys accumulated in the unclaimed prize fund which will also stimulate the broad variety of games offered by the West Virginia Lottery, following Commission procedure for the payment of additional prizes from the unclaimed prize fund within the game rules structure.

~~5.8.56.1.6.~~ Procedures for claiming on-line prizes are as follows:

~~5.8.56.1.6.1.~~ To claim an on-line game prize of six hundred dollars (\$600.00) or less within one hundred eighty (180) days of the drawing the claimant shall present the winning on-line ticket to any lottery sales agent or to the Lottery.

~~(a)6.1.6.1.1.~~ If the claim is presented to a lottery sales agent, the agent shall validate the claim and, if determined to be a winning ticket, make payment of the amount due the claimant. If the lottery sales agent cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery shall present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Such Nonwinning tickets will not be returned to the claimant.

~~(b)6.1.6.1.2.~~ If the claim is presented to the Lottery, the claimant shall complete a claim form, as provided by the Director, and submit it with the winning ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery shall present or mail a check to the claimant in payment of the amount due, less any applicable federal and state income tax withholdings and less any withholding requested by the child support enforcement division. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Such Nonwinning tickets will not be returned to the claimant.

~~5.8.56.1.6.2.~~ To claim an on-line prize of more than six hundred dollars (\$600), within one hundred eighty (180) days after the date of the drawing, the claimant shall obtain and complete a claim form, as provided by the Director, and submit it with the winning ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery shall present or mail a check to the claimant in payment of the amount due, less any applicable federal and state income tax withholdings. If the ticket is determined to be a nonwinning ticket, the claim shall be denied and the claimant shall be promptly notified. Such Nonwinning tickets will not be returned to the claimant.

~~5.9.1~~ 6.2. Drawing and end of sales prior to drawings.

6.2.1. Drawings shall be conducted in a location and at days and times designated by the Director.

~~5.96.2.2.~~ The Director shall announce ~~for each type of on-line game~~ the time for the end of sales prior to the drawings ~~for each type of on-line game~~. Agents and on-line terminals will not process orders for on-line tickets for that drawing after the time established by the Director.

~~5.96.2.3.~~ The Director shall designate the type of equipment to be used, shall establish procedures to randomly select the winning combinations for each type of on-line game, and shall require the presence of an independent accountant to witness all pre- and post-drawing tests, and the drawing or winner selection.

~~5.96.2.4.~~ The equipment used to determine the winning combination ~~shall not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer.~~ The equipment shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. Drawings shall not be certified until all validation checks are completed. No prizes shall be paid until after the drawing is certified.

~~5.96.2.5.~~ All on-line drawings shall be ~~broadcast live on television provided the facilities for such broadcasts are available and operational~~ made available to the public within one (1) hour of the actual live drawing. Results shall be placed upon the Lottery's telecommunications systems and shall be fed to available media outlets for broadcast and/or publication.

~~5.96.2.6.~~ The Director shall establish procedures governing the conduct of drawings for each type of on-line game. The procedures shall include provisions for deviations which include but are not limited to:

- ~~(a)6.2.6.1.~~ Drawing equipment malfunction before validation of winning combination.
- ~~(b)6.2.6.2.~~ Video and/or audio malfunction during the taping of the drawing.
- ~~(c)6.2.6.3.~~ Fouled drawing.
- ~~(d)6.2.6.4.~~ Delayed drawing.
- ~~(e)6.2.6.5.~~ Other equipment, facility and/or personnel difficulties.

~~5.96.2.7.~~ In the event a deviation occurs, ~~the~~ drawing will be completed under Lottery supervision. The drawing shall be video taped for later broadcast, if broadcast time is available. The drawing shall be certified and the deviation documented on the certification form. The winning combination will be provided to the media for dissemination to the public.

~~5.96.2.8.~~ If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all digits, or symbols, a "Foul" shall be called by the Lottery Drawing Official. Any digit/number/symbol drawn prior to a "Foul" being called will stand and be deemed official after passing Lottery validation tests.

~~5.96.2.9.~~ The Director shall delay payment of all prizes if any evidence exists, or there are grounds for suspicion, that tampering or fraud has occurred. Payment shall be made after an investigation is completed and the drawing certified. If the drawing is not certified, another drawing will be conducted to determine the actual winner.

5.10.1. 6.3 Validation requirements.

~~5.10~~ 6.3.1. To be a valid winning on-line ticket, all of the following conditions must be met:

(a) 6.3.1.1. All printing on the ticket shall be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and date printed on the ticket. The ticket shall not be valid unless the ticket number and other information is recorded in the Lottery computer and transaction master file.

(b) 6.3.1.2. The ticket shall be intact.

(c) 6.3.1.3. The ticket shall not be altered, mutilated, unreadable, reconstructed, or tampered with in any manner.

(d) 6.3.1.4. The ticket shall not be counterfeit or an exact duplicate of another winning ticket.

(e) 6.3.1.5. The ticket must have been issued by an authorized licensed lottery sales agent in an authorized manner.

(f) 6.3.1.6. The ticket must not have been stolen or canceled.

(g) 6.3.1.7. The ticket must not have been previously paid.

(h) 6.3.1.8. The ticket shall pass all other confidential security checks of the Lottery.

~~5.10~~ 6.3.2. Any ticket failing any validation requirements listed in the preceding section is invalid and ineligible for a prize subject to the condition of 5.10.3. and 5.10.4.

~~5.10~~ 6.3.3. The Director may replace an invalid on-line ticket with an on-line ticket for a future drawing of the same game. The Director may pay the prize for a ticket that is partially mutilated or is not intact if the on-line ticket can still be validated by the other validation requirements, at his discretion.

~~5-10~~ 6.3.4. In the event a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or the lottery sales agent shall be the replacement of the defective on-line ticket with another on-line ticket for a future drawing of the same game.

~~5-11.1.~~ 6.4. Payment of prizes by ~~on-line~~ licensed lottery sales agents.

6.4.1. An ~~on-line~~ licensed lottery sales agent shall pay to the ticket bearer prizes of six hundred dollars (\$600) or less for any validated claims presented within one hundred eighty (180) days of the drawing to that lottery sales agent. These prizes shall be paid during all normal business hours of that agent, provided, the on-line system is operational and claims can be validated.

~~5-11~~ 6.4.2. A licensed lottery sales ~~or on-line~~ agent may pay prizes in cash or by business check, certified check, ~~or~~ money order or a combination thereof. A licensed lottery sales ~~or on-line~~ agent that pays a prize with a check which is dishonored, in addition to full payment of the amount of the check and all NSF charges and any other legitimate banking charge, may be subject to suspension or revocation of its license.

~~5-12.~~ §179-1-7. Payment of prizes - general provisions for instant and on-line games.

~~5-12~~ 7.1. Each lottery retailer or licensed lottery sales ~~or on-line~~ agent shall pay all prizes authorized to be paid by the lottery retailer or licensed lottery sales ~~or on-line~~ agent by these rules during its normal business hours at the location designated on its license.

~~5-12~~ 7.2. A claim shall be entered in the name of a single person or legal entity. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses a federal employer's identification number (FEIN) as issued by the Internal Revenue Service and such number is shown on the claim form. Groups, family units, organizations, clubs or other organizations which are not a legal entity, or do not possess a federal employer's identification number, shall designate one individual in whose name the claim is to be entered.

~~5-12~~ 7.3. Unless otherwise provided in the rules for a specific type of game, a claimant shall sign the back of the ticket and complete and sign a claim form provided by the Director. The claimant shall submit the claim form and claimant's ticket to the Lottery in accordance with the instructions as stated on the claim form and on the back of the ticket. In the event of a difference or conflict in the name appearing on the ticket and the claim form, the name which appears on the ticket shall control. The claimant, by submitting the claim, agrees to the following provisions as a prerequisite to payment of the prize:

~~5-12~~ 7.3.1. The discharge of the State, the Lottery Commissioners, its officials, officers and employees of all further liability upon payment of the prize: and

~~5.12~~ 7.3.2. The authorization to use the claimant's name and the taking and use of photographs for any reasonable publicity purposes the Director deems desirable upon award of the prize.

~~5.12~~ 7.4. A prize must be claimed within the time limits prescribed by the Commission in the instructions for the conduct of a specific game, but in no case shall a prize be claimed later than one hundred eighty (180) days after the official end of that instant game or the on-line drawing for which that on-line ticket was purchased.

~~5.12~~ 7.5. The Director or Commission may deny awarding a prize to a claimant if the ticket is stolen, unissued, mutilated, altered, unreadable, counterfeit in whole or in part, miscut, misregistered, defective, printed or produced in error, multiply printed, or blank or partially blank.

~~5.12~~ 7.6. No person entitled to a prize may assign the right to claim it, except:

~~5.12~~ 7.6.1. That payment of a prize may be made to any court-appointed legal representative, including, but not limited to, guardians, executors, administrators, receivers, or other court-appointed assignees: or

~~5.12~~ 7.6.2. For the purpose of paying federal, state or local tax; or to satisfy executions, judgments, or orders or other processes legitimately obtained from federal or state courts.

~~5.12~~ 7.7. In the event that there is a dispute or it appears that a dispute may occur relative to any prize, the Commission or Director may refrain from making payment of the prize pending a final determination by the Commission or by a court or competent jurisdiction relative to the same.

~~5.12~~ 7.8. A ticket that has been legally issued by a licensed lottery sales agent or lottery retailer is a bearer instrument until signed. The person who signs the ticket is considered the bearer of the ticket. Payment of any prize may be made to the bearer, and all liability of the State, its officials, officers, commission, and employees of the agency terminates upon payment.

~~5.12~~ 7.9. All prizes shall be paid within a reasonable time after the claims are verified by the Director and a winner is determined. The date of the first installment payment of each prize to be paid in installment payments shall be the date the prize event is validated and certified. Subsequent installment payments shall be made annually from the date of the event in accordance with the type of prize awarded.

~~5.12~~ 7.10. The Director may, at any time, delay any payment in order to review a change in circumstance relative to the prize awarded, the payee, the claim, or any other matter that may have come to the Director's attention. All delayed payments shall be brought up to date immediately upon the Director's confirmation and continue to be paid on each originally scheduled payment date thereafter. If any prize is payable for the life of the claimant, only an individual may claim such prize,

and if claiming on behalf of a group, a corporation, or the like, the life of the claim shall not exceed twenty (20) years.

~~5-12~~ 7.11. The Director's decisions and judgments in respect to the determination of a winning ticket or any dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the Lottery.

~~5-12~~ 7.12. In the event a dispute between the Director and claimant occurs as to whether the ticket is a winning ticket, and if the ticket prize is not paid, the Director may, solely at the Director's opinion, replace the disputed ticket with an unplayed ticket or tickets of equivalent sales price from that game. This shall be the sole and exclusive remedy of the claimant.

~~5-12~~ 7.13. All prizes or portions thereof which remain unpaid at the time of a prize winner's death shall be payable to prize winner's estate.

~~5-12~~ 7.14. The Director may rely wholly on the presentment of certified copies of a court's appointment of an administrator or executor, guardian, conservator or any other evidence of a person entitled to the payment of any prize winnings then due.

~~5-12~~ 7.15. The payment to the estate of a deceased owner of any prize winnings by the Director shall absolve the Commission, Director and employees of the agency of any further liability for payment of said prize winnings. The Director need not look to pay the prize winnings beyond the estate or appointed representative.

~~5-12~~ 7.16. The Commission or Director may petition any court of competent jurisdiction to request a determination of the payee for payment of any prize winnings which are or may become due the estate of a deceased winner or a winner under a disability because of, but limited to, minority, mental deficiency, or physical or mental incapacity.

§179-1-6 ~~8.~~ Miscellaneous Rules Use of West Virginia Lottery Trademarks.

~~6~~ 8.1. ~~Licensing of trademark.~~ The Commission has determined to permit the use, display, and promotion of the Lottery Logo, trademark, and other advertising materials without charge to the user or compensation to the Commission for its use.

~~6~~ 8.1.1. Any use of the Lottery Logo or other trademarked or copyright materials, other intellectual property, or copy in advertising or production of consumer articles requires a prior written request and execution of the Lottery's License Agreement.

~~6~~ 8.1.2. Any request for licensing shall be made by submitting a form provided by the Director. Such form shall require information of sufficient quantity and detail to allow the determination of suitability for licensing of the applicant by the Director.

§ 8.1.3. Any request for authorization properly submitted shall include a representative sample or samples of the materials for which authority is sought.

§ 8.1.4. After review of the request and representative sample, the Director may issue a tentative authorization to proceed with production of proofs or samples of the merchandise.

§ 8.1.5. The applicant may be required to submit the final proofs or samples representative of actual production items to the Director for his final approval before proceeding to produce such items for sale or distribution.

§ 8.1.6. Upon receipt of notice of final approval, or upon execution of the License Agreement by both parties, if no final approval is required, the licensee may initiate production of goods or materials over the specified duration of the Licensing Agreement as set forth herein.

§ 8.1.7. The Director may, over the period of the License Agreement, exercise supervision over the quality of the materials produced under license, and may require as a condition to continuation of the license, changes in quality of the goods or material produced.

§ 8.1.8. The Director and Commission may at any time terminate an agreement to license in the event that the licensee fails to meet the requirement of the agreement, or in the event that the continuation of the license is not considered to be in the best interest of the Lottery or of the State of West Virginia.

**PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
WEST VIRGINIA LOTTERY
TITLE 179
SERIES 1
1995**

LOTTERY RULES AND REGULATIONS

**PUBLIC COMMENT PERIOD
MAY 26 - JUNE 27, 1995**

On May 26, 1995, copies of the proposed legislative rule captioned as above were filed with the office of the West Virginia Secretary of State and with the Legislative Rule-Making Review Committee [LRMRC]. The attached mailing list was used to mail direct invitations to comment to those persons known or believed to have an interest in commenting. During the advertised thirty-day period for receiving written comments from the public, the West Virginia Lottery received one personally delivered comment and one mail-delivered comment. Those comments and the West Virginia Lottery's responses are stated below.

**COMMENT OF GLEN LONG,
MARKETING DIRECTOR FOR GO-MART, INC.
AND
REPLY OF THE WEST VIRGINIA LOTTERY**

COMMENT CONCERNING RULE §4.5.4.2.7 -- PAGE 11: *A licensed lottery sales agent or lottery retailer shall not transfer ticket stock or instant tickets among or between stores in the chain unless the transfer is consented to in writing by a person authorized by the Director to grant such consent.*

We handle the purchase of instant tickets as one purchase of e.g., 150 packs of tickets for all seventy-five stores, rather than 2 packs of tickets for each of seventy-five locations. We are billed accordingly, and our bank account is debited the same way.

These instant tickets belong to the Corporation and are assigned to the individual locations. We do not require the lottery customer to return low tier prize winning tickets to the location from which they purchased their ticket.

We have cooperated with the Lottery's request to carry multiple games. On more than one occasion, we had to close stores for remodeling. In every instance we have partial packs of instant tickets that we could not return to the Lottery for credit. These were moved to other locations and sold.

A manager may order too many tickets of a particular game. Scientific Games will not let us return full books until the game has ended. When these mistakes are made, we move the tickets to other locations rather than tie up dollars and inventory.

When we buy a pack of tickets, we are responsible for payment to the lottery, payment of the low tier prizes, security, and sales. The Lottery is responsible only for the high tier prizes. We are required to pay the Lottery for any tickets which are stolen, even though we furnish you the effected numbers so that any high tier prize winning tickets can be removed from the valid prize listings.

To summarize, chain stores moving tickets between locations in no way affects lottery accounting or security.

Should this regulation be implemented, it would have the potential to impact the ability we currently enjoy to promote lottery sales. I would hate to have to limit the number of games authorized for purchase, or the quantities our stores purchase. This could dramatically affect sales and profits for both Go-Mart and the Lottery.

RESPONSE

The West Virginia Lottery appreciates this comment and the opportunity it has to explain the reasons for the amendment. In the case of instant ticket transfers which is the subject of the comment, the amendment sets forth in rule form a practice that has been in place for some time. The West Virginia Lottery's instant game vendor, Scientific Games Inc., has a computer generated "change of ownership" form which it creates when a chain transfers instant game packs from one retail store to another. Security considerations are what makes this rule necessary. The director has designated certain employees and vendors to give the written authority for each requested transfer.

The proposed amendment was not intended to say "You can't transfer instant tickets between two stores owned and operated by the same central chain office." Rather, it was intended to say "When you must do it, let the Lottery know what you're doing."

To make the rule clearer, the West Virginia Lottery will modify §4.5.4.2.7 and add new §4.5.4.2.8 to read as follows:

4.5.4.2.7. A licensed lottery sales agent or lottery retailer shall not transfer ticket stock between stores in the same chain unless the transfer is consented to in writing by a person authorized by the Director to grant such consent.

4.5.4.2.8. A licensed lottery sales agent or lottery retailer must verbally or in written form notify the Director, or a person authorized by the Director to grant written consent, that it intends to transfer instant tickets between individual stores within the same chain. Notification must occur prior to transfer of tickets.

**COMMENTS OF PHILIP A. REALE,
COUNSEL FOR GTECH CORPORATION
AND
REPLY OF THE WEST VIRGINIA LOTTERY**

COMMENT CONCERNING RULE §4.3.2 -- PAGE 8:

4.3. Disqualification, grounds of refusal of a license. The Commission shall refuse to grant a license to any person who is subject to an exception to subsection 4.2. of these rules or to any applicant who has been convicted of any of the following violations: of

4.3.1. W. Va. Code §§29-22-1 et. seq. or of

4.3.2. ~~a~~Any felony, or .

4.3.3. ~~a~~Any crime related to theft or gambling or involving moral turpitude; or any person who is subject to an exception to subsection 4.2. of these rules unless within the discretion of the Commission, it is determined that an appropriate amount of time has elapsed since such conviction to ensure rehabilitation of the applicant: Provided, That upon conviction of the crimes enumerated in this subsection 4.3.3 a current licensee shall be disqualified for a period of at least five years: Provided, however, that no applicant may be licensed if convicted of the crimes enumerated in this subsection 4.3.3 within the five year period immediately preceding the filing of an application for a license.

This section prohibits any person who has been convicted of a felony from qualifying for a lottery license. Application of this provision could unfairly result in the denial of licenses to prospective lottery retailers that have felony convictions of dated vintage and who have otherwise rehabilitated and become productive and useful members of society. Further, there may be some crimes defined and treated as felonies that would have little or no bearing on one's fitness to serve the State of West Virginia as a lottery retailer. By way of example and not limitation, it is possible for a part time farmer and full time proprietor of a general store in rural West Virginia to succumb to a felony conviction for infractions of environmental laws in the conduct of his or her farming operations, without possessing any criminal intent under certain federal statues and regulations. A practical example of such an occurrence is the citing of well respected citizens for disturbance of the wetlands of the United States of America. Not only is it immensely difficult to identify and determine whether a wetland is present on one's property, but also, the only intent that is necessary to be formed as an element of the crime being charged is an intent to fill an area of low lying ground. This general intent differs significantly from the specific criminal intent that accompanies most felonies. Moreover, cooperation with authorities and settlement of criminal charges classified as felonies are routine in order to avoid protracted litigation and bankruptcy.

Further, some conduct and behavior that previously constituted a felony under former law, may now be only a misdemeanor or decriminalized altogether. Because of cultural and societal changes, some victimless crimes, particularly in the area of what are not minor drug offenses, have been reduced to misdemeanors or decriminalized in their entirety. Acts of civil disobedience and perhaps some drug related offenses that rose to the level of a felony were common among the college age population in the turbulent 1960s, yet today, many of those same people who were charged with the commission of a felony a it related to acts of civil disobedience and possession and use of controlled substances, are today well-educated, productive members of society who, but for a felony conviction on their record, would make excellent candidates for a license to sell West Virginia Lottery product in their retail establishment, restaurant, bar or tourist facility.

Therefore, GTECH would encourage the Lottery Commission to revise this section to allow for some flexibility and discretion on the part of the Lottery Commission in determining whether an applicant should be refused a license. GTECH commends the Lottery Commission for building in just this type of flexibility in Section 4.3.3. A similar provision should be added to section 4.3.2 to allow and provide that:

Any felony, unless within the discretion of the Commission, it is determined that an appropriate amount of time has elapsed since such conviction to ensure rehabilitation of the applicant: Provided, That upon conviction of a felony, current licensees shall be disqualified for a period of at least five years: Provided, however, that no applicant may be licensed if convicted of a felony within the five year period immediately preceding the filing of an application for a license.

With the exercise of caution and reasonable discretion, the Lottery Commission is capable of prudently determining the propriety of individuals for awarding of a license to become a retailer of West Virginia Lottery products. With the absolute exclusion provided in the proposed language, some deserving and potentially profit generating lottery retailers may never get an opportunity to sell a single ticket.

RESPONSE

The West Virginia Lottery disagrees with this proposed change. The section will not be amended.

COMMENT CONCERNING RULE §4.5.4.2.6 -- PAGE 11: *A ticket shall not be purchased with food stamps or coupons and the licensed lottery sales ~~or on-line agent or lottery retailer shall not accept as consideration for a ticket food stamps or coupons.~~*

This section provides that a lottery ticket may not be purchased with food stamps or "coupons." While GTECH certainly does not contest that food stamps should be prohibited from substituting as tender for the purchase of lottery tickets, the word "coupons" unnecessarily restricts Lottery Commission sponsored promotional events that may utilize a form of coupon to represent purchasing power. For example, the Lottery Commission may offer a state-sponsored promotional campaign at a fair or festival in an area that has had traditionally disproportionate low sales of lottery tickets relative to other areas of the state. All purchases at the fair are undertaken through the redemption of coupons that are sanctioned and created by the West Virginia Lottery and which are purchased at various booths throughout the fair. The coupons represent currency while in the fair

grounds to ensure that proceeds are collected and directed to the benefit of the fair or festival organization. Accordingly, under the current rule, the Lottery Commission or its designee would be precluded from accepting the coupon in exchange for a lottery ticket. Thus, the rule as written may have unintended side effects that unduly restrict the ability of the Lottery Commission to promote its products.

Clearly, there is a just and valid purpose in prohibiting one who receives government subsidies in the form of food stamps or benefits under the Women, Infant and Children program (WIC benefits) from purchasing lottery tickets in exchange for the stamps or coupons by which such benefits have been traditionally extended. Likewise, there is a just and valid purpose in allowing the Lottery Commission to effect special promotions through the utilization of approved and sanctioned coupons that may be exchanged for lottery play or enhanced winning opportunities.

While food stamps are specifically mentioned in the proposed language, the term coupons is intended logically to cover other government subsidies and possibly private promotions not sanctioned by the West Virginia Lottery. Thus, GTECH suggests the language be revised to specifically address government subsidies and non-sanctioned coupon promotions by restricting the meaning of the section to that which we believe was originally intended. For a more appropriate policy covering this subject, GTECH suggests adoption of the following language:

4.5.2.6[sic] A ticket shall not be purchased with food stamps or other government food subsidy coupons and the licensed lottery sales ~~or on-line~~ agent or lottery retailer shall not accept as consideration for a ticket food stamps or other government food subsidy coupons, nor any other coupons whatsoever unless specifically sanctioned and/or offered by the West Virginia Lottery Commission and securely identified as such,

GTECH asserts that this language achieves the original intent of this section and further allows the Lottery Commission to engage in promotional endeavors without exceeding its own regulation. Therefore, this change should be considered and ultimately effected in the final version of the rule.

RESPONSE

The West Virginia Lottery agrees with this proposed change and the reason therefor. The section will be amended to read as follows:

4.45.4.2.6. A ticket shall not be purchased with food stamps or other government food subsidy coupons and the licensed lottery sales ~~or on-line~~ agent or lottery retailer shall not accept as consideration for a ticket food stamps or other government food subsidy coupons nor any other coupons whatsoever unless specifically sanctioned and/or offered by the West Virginia Lottery Commission and securely identified as such.

COMMENT CONCERNING RULE §4.5.4.2 -- PAGE 11: *Violation of prohibitions. The Commission may suspend or revoke the license of any licensed lottery sales or on-line agent or lottery retailer who violates one of the prohibitions set out below. §4.5.4.2.8.*

This section constitutes a new subdivision. It provides that licensed lottery sales agents or lottery retailers may not offer for sale any lottery ticket, lottery chance or lottery product that has not been approved by the Lottery Commission. GTECH believes that without this provision the regulations overlook an important fundamental aspect of lottery operations in West Virginia; which is that no lottery retailer should be permitted to sell any lottery product that is not approved by the Lottery Commission. Although such a prohibition is implicit in both the statute and regulations, specific language putting retailers on notice is imperative to ensure knowledge of the prohibition. GTECH therefore suggests the following language be included in the rule:

§4.5.4.2.8 A licensed lottery sales agent or lottery retailer may not sell any lottery ticket, lottery chance or lottery product unless the game being sold is approved by the Lottery Commission.

This language simply clarifies existing authority of the Lottery Commission to initiate enforcement proceedings against a lottery retailer for engaging in the practice of selling lottery products not approved by the Lottery Commission language for inclusion in the rule. It closes a potential loophole and serves a preventive function. GTECH suggests adoption of the above.

RESPONSE

The West Virginia Lottery agrees with this proposed change and the reason therefor. A new section 4.5.4.2.9 will be added to the rule to read as follows:

§4.5.4.2.9. *A licensed lottery sales agent or lottery retailer shall not sell any lottery ticket, lottery chance or lottery product unless the game being sold is approved by the Commission.*

CONCLUSION

The West Virginia State Lottery Commission wishes to thank Messrs. Long and Reale and the businesses they represent for their public-spirited participation in this rule-drafting process.



Gaston Caperton
Governor

Department of
Tax and Revenue
James H. Paige III
Secretary

West Virginia Lottery
Richard E. Boyle, Jr.
Director

Lottery Commission
David H. Gardner
C. Steven Hyre
William R. Laird, IV
Rebecca B. Miller
Lawrence Pack
Robert W. Walker

312 MacCorkle Ave., S.E.
P.O. Box 2067
Charleston
West Virginia 25327-2067

Phone 304-558-0500
Fax 304-558-3321
1-800-WVA-CASH

ORDER

THE WEST VIRGINIA STATE LOTTERY COMMISSION

Charleston, West Virginia

On the twenty-fifth day of May, 1995, this Commission, during a duly noticed public meeting, approved proposed amendments to its legislative rule concerning [179 C.S.R. 1] West Virginia Lottery operations and authorized the Director of the Lottery to file the proposed amended legislative rule with the Office of the Secretary of State, and further to provide for the receiving of written comments concerning said proposed amended legislative rule for a period of thirty days from the date said proposed amended legislative rule is filed.

It is therefore ORDERED, this twenty-fifth day of May, 1995, that the Director of the West Virginia Lottery sign and file the proposed amended legislative rule with the Office of the Secretary of State, and provide for the receiving of written comments concerning said proposed legislative rule for a period of thirty days from the date said proposed legislative rule is filed.

C. Steven Hyre
Chairman, West Virginia State
Lottery Commission

Robin Atkins
Recording Secretary



*Gaston Caperton
Governor*

*Department of
Tax and Revenue
James H. Paige III
Secretary*

*West Virginia Lottery
Richard E. Boyle, Jr.
Director*

*Lottery Commission
David H. Gardner
C. Steven Hyre
William R. Laird, IV
Rebecca B. Miller
Lawrence Pack
Robert W. Walker*

*312 MacCorkle Ave., S.E.
P.O. Box 2067
Charleston
West Virginia 25327-2067*

*Phone 304-558-0500
Fax 304-558-3321
1-800-WVA-CASH*

May 25, 1995

To interested individuals, businesses and associations --

Subject: **West Virginia Lottery --
Proposed Amended Regulations**

Dear sir or madam:

The West Virginia Lottery Commission has filed proposed amendments to its legislative regulations, 179 CSR 1.

I invite you to read the enclosed proposed amended regulations and extend to you the option to offer any written comments you think appropriate. The end of the comment period is Tuesday, June 27, 1995 at 4:30 p.m. The mailing address of the West Virginia Lottery is:

P.O. Box 2067
Charleston, WV 25327-2067

The postal service will not deliver mail addressed to our street address, but you are welcome to bring comments to our offices located at 312 MacCorkle Avenue, S.E., Charleston, West Virginia. We are next door to the Steak and Ale restaurant.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard E. Boyle, Jr.", written over a horizontal line.

Richard E. Boyle, Jr.
Director

Enclosure: Proposed Regulations

MR. LARRY BOWERS
KROGER #778
500 DELAWARE AVE.
CHARLESTON WV 25302

MR. RONALD STEWART
KWIK SHOP
410 MAIN STREET
SPENCER WV 25276

MR. HUGH LADD
LADD'S SPEEDY MART
3579 16TH STREET ROAD
HUNTINGTON WV 25701

MR. FRED MICKEL
MICKEL'S
158 EAST SECOND AVENUE
WILLIAMSON WV 25661

MS CLAUDIA FISHER
PANTRY STORES, INC.
PO DRAWER 110
CLARKSBURG WV 26301

MR. DANNY YOUNG
PARK SYSTEMS, INC.
3501 MACCORKLE AVENUE
CHARLESTON WV 25304

MR. RANDY BUFFINGTON
RANDY'S FOOD MART
515 WASHINGTON STREET
RAVENSWOOD WV 26164

MR. TOM CROWLEY
REX HECK'S NEWS
PO BOX 2304
CLARKSBURG WV 26302

MR. HENRY MIZE
RSD, 7-ELEVEN
PO BOX 711
MINERAL WELLS WV 26150

MR. JOHN WELCH, JR.
TWO JOHN'S SHORT SHOP
453 DRY HILL ROAD
BECKLEY WV 25801

MR. FRANK DECARIA
WEIRTON INT. MARKET
3047 MAIN ST.
WEIRTON WV 26060

MR. THOMAS BERRY
BERRY'S MARKET
1513 MARKET STREET
MOUNDSVILLE WV 26041

MS DONNA THOMASCHECK
BILL'S EXXON
PO BOX 567
BARRACKVILLE WV 26559

MS ANNA BROWNING
BUFFALO SHOPWISE
BOX 386
ACCOVILLE WV 25606

MR. DANNY TILLSON
CO MAC, INC.
PO BOX 2069
BECKLEY WV 25801

MR. GLENN LONG
GO MART STORES
PO DRAWER 390
GASSAWAY WV 26624

MR. FRED HAGENBUCH
HAGENBUCH FAMILY RESTAURANT
RD 1 BOX 49
RIDGELEY WV 26753

MS MARY GAMBLE
KISTLER GROCERY
BOX 69
KISTLER WV 26020