

West Virginia Lottery Commission

900 Pennsylvania Avenue, Charleston, WV 25302



WV Lottery Limited Video Lottery Retailer Handbook

**An Introductory Guide to Becoming a
Limited Video Lottery Retailer**

The application process:

Applications can be obtained from the WV Lottery website at www.wvlottery.com. Once on the website, go to Customer Service then scroll down and select Licensing. You should now see the LVL Retailer Application on the upper right side of the screen. The application can be downloaded or printed. Applications are also available by visiting WV Lottery Headquarters in Charleston, WV, or by calling the License Division of the WV Lottery at 304.558.0500 Ext. 278 or 1.800.982.2274 Ext. 278.

Complete the application in its entirety, making sure to follow the instructions provided with the application packet. The completed application and \$500 application fee can be returned in person at the WV Lottery headquarters building located at 900 Pennsylvania Avenue, Charleston, WV 25302. The completed application and fee can also be mailed to the West Virginia Lottery – License Division, P.O. Box 2067, Charleston, WV 25327-2067. Before submitting the application, make sure you satisfy the following requirements.

- Obtained a valid Class “A” Private Club or Non-Intoxicating Beer (Tavern) License from the WV Alcohol Beverage Control Administration (ABCA). You will be required to supply a copy of the ABCA license, or verify that you have a valid ABCA license for the same retail location for which you are seeking a Limited Video Lottery Retailer license.
- Verification of business registration with the WV Secretary of State’s office. You may contact the WV Secretary of State’s office at 304.558.6000 for questions concerning their registration requirements.
- An approved Workers’ Compensation policy or a valid exemption policy showing the effective dates and exemption number must be submitted with your application.
- You must register with the Unemployment Division of Workforce WV. You may contact Workforce WV at 304.558.2451. To register, contact their Status Determination Unit at 304.558.2677.
- Include a copy of your WV Business Registration Certificate issued by the WV State Tax Department. You may contact the WV State Tax Department at 304.558.8651.
- Unless the retail space is owned by you, please include a copy of the lease agreement where Limited Video Lottery (LVL) will be conducted.
- Include a copy of any contract or agreement with a WV Lottery licensed operator from whom you will lease the video lottery gaming machines and provide technical/repair service.

How much does it cost to be a Limited Video Lottery Retailer?

The initial application fee is \$500. Annual renewal fees are also \$500. The WV Lottery accepts the following forms of payment; certified check, cashier’s check, business check or money order. The WV Lottery also accepts credit/debit card and automated clearing house (ACH) payments made securely on the WV Lottery website. To pay online, please go to www.wvlottery.com once there, select “Customer Service” at the top of the home page, then scroll down and select “Licensing”. Once on the Licensing page you will see the online payment options on the upper right side.

Residency requirements:

In order to qualify for a Limited Video Lottery Retailer license, owners, officers and members must each satisfy residency requirements. Residency requirements can be found in WV Code §29-22B-504. All applicants must be a citizen of the United States and a resident of the state of West Virginia for the four year period immediately preceding the date of application. If the applicant is a corporation, partnership or other business entity, the chief executive officer and majority of the officers, directors, members and partners, both in number and percentage of ownership, must meet the residency requirements. For answers to specific questions concerning residency requirements, please contact the WV Lottery License Division at 304.558.0500 Ext. 278 or Ext. 245.

What does this mean?

If the business has one owner, that one person must have been a full-time resident of this state for the four year period immediately preceding the application. For businesses with multiple owners, officers or members, the majority of people and percentage of ownership must meet the residency requirements.

Example 1: A business has one owner. That person must meet all of the residency requirements in order to successfully qualify.

Example 2: A business has two owners. One person owns 51% and meets all other residency requirements. The second person owns 49% but resides in Ohio. Although the majority owner meets the residency requirement, the business itself would not qualify because the residency must be satisfied both in the number of owners and ownership percentage being residents of this state.

Example 3: A business has three owners, officers or members. Officer A owns 30% and has been a full-time resident of this state as required. Officer B also owns 30% and has been a resident of this state as required. Officer C owns 40% but has not been a resident of this state as required. This business would qualify because both the number of owners, officers, members and the percentage of ownership meet the requirements.

How is residency determined?

Residency is determined by meeting all of the following requirements:

- Maintains a bona fide full-time primary place of residence in this state.
- Is not registered to vote in any other state.
- If licensed to drive, holds a valid driver's license in this state and does not hold a current driver's license issued by any other state.
- Has "timely filed" personal income tax returns as a resident of the state of West Virginia for the four preceding calendar years (determined by including any authorized extension of time for filing the tax return).
- Does not claim to be a resident of any other state for any other reason.

Does the Lottery look at my personal income taxes?

No. The Lottery does not view your tax records. The Lottery only verifies that the taxes were filed with the WV State Tax Department within the required time period and that they were filed as a resident of this state for the four year period immediately preceding the filing of the LVL retailer application.

What if I live in West Virginia but work and pay personal income taxes in another state?

Under the laws governing the residency requirements, you would not qualify as a resident of this state. In order to pass the residency requirements, the applicant would need additional owners or officers on the application so the majority number of owners/officers and percentage owned would be residents of this state.

What does “timely filed” mean?

The returns were filed for each of the four years preceding the filing of the application for LVL licensure by the last day of the calendar or fiscal year in which the return or returns were due including any authorized extension of time.

Example – 2015 Personal Income taxes would have to have been filed on or before December 31, 2016 this includes any authorized extension.

Are there exceptions to the timely filed requirements?

Yes. For example, a person was not required to file a West Virginia personal income tax return because the low-income earned income exclusion applies (federal adjusted gross income is \$10,000 or less and earned income is \$10,000 or less). In this case, no West Virginia personal income tax return is required unless the difference between federal adjusted gross income and the amount of earned income excluded exceeds the amount of the allowable personal exemptions.

- The person was required to file a federal income tax return for the taxable year, but the person was not required to file a West Virginia personal income tax return for the same taxable year because the person was claimed as a deduction on his or her parent's income tax return for the taxable year.
- The person was not able to comply due to circumstances beyond the control of the person, and the inability to comply was not, in the determination of the commission, the result of a willful act or neglect by the person.
- If the applicant relied on a paid tax preparer, the return will be considered timely filed when filed within six months beyond the limit stated above *if* the paid preparer submits an affidavit stating the applicants' return was not filed within twelve months of the end of the taxable year due to an error or omission on the part of the paid preparer.
- If the commission determines that the applicants' financial records were destroyed by fire, flood or other natural or man-made disaster, the return will be considered timely filed when filed.

Are there business names that I am prevented from using?

Yes. Legislative Rule §179-5-33.4 states that a limited video lottery licensed retailer shall not use words commonly associated with gambling in either its corporation name or its doing-business-as (DBA) name. Legislative Rule §179-5-33.5 states a limited video lottery licensed retailer shall not use gambling symbols including but not limited to playing cards, roulette wheels, slot machines or dice on any sign or in any directions or advertising visible from outside the licensed retailers establishment.

For questions concerning your business entity and/or DBA name, please contact the WV Lottery License Division and speak with Elizabeth Webb, Manager of Licensing at 304.558.0500. Ext. 213.

Zoning compliance:

A business zoning compliance form, included with the application, must be completed by the appropriate city or county zoning building administrator or clerk. The business information can be completed by the applicant; however, the form must be signed by the city or county building official. In some instances, the city or county building official may not accept the form and may refuse to sign it due to the legal language of the form. In these cases, a letter from the appropriate city or county building official indicating that the business is or is not in compliance may satisfy this requirement.

Fingerprints, background checks and criminal offenses:

Each individual associated with an application is required to be fingerprinted for a criminal background check. Although applicants are fingerprinted for licensure with the ABCA, the WV Lottery requires their own set of fingerprints for licensing purposes. Once you have submitted the completed application and applicable fee, you will be required to contact the WV Lottery Security Department to schedule a fingerprint session. The WV Lottery Security Department can be contacted by calling 304.558.0500 Ext. 231 or 1.800.982.2274 Ext. 231. Please note that the WV Lottery does not contact the applicant to schedule this appointment.

What are disqualifying crimes?

Felony convictions related to theft, bribery, gambling or involving moral turpitude in West Virginia or any other state or foreign country. Additionally, an applicant may be disqualified for any conviction for a violation of the Limited Video Lottery Act §29-22B, any article or section of §19-23-1, or any conviction for a violation of the State Lottery Act §29-22, Racetrack Video Lottery Act §29-22A, Racetrack Table Games Act §29-22C, or the Authorized Gaming Facility Act (The Greenbrier) §29-25. For answers to specific questions concerning criminal offenses, please call the WV Lottery at 304.558.0500 and ask for Limited Video Lottery Security.

What happens next?

Upon receipt by the License Division, the application will be reviewed to ensure that all forms have been properly completed and returned and that the application fee has been paid. If everything is complete, the License Division will begin to process the application. This involves verifying information contained in the application; ABCA license, Secretary of State registration, Workers' Compensation and Unemployment are verified. Additionally, the License Division will verify that each person listed on the application meets the residency requirements outlined above.

Incomplete applications:

In accordance with §29-22B-509(b) of the Limited Video Lottery Act, incomplete applications cannot be considered. An incomplete application is defined by Legislative Rule §179-5-2.9 as an application that fails to include one or more of the required elements for licensure:

- A) Fingerprint information.
- B) All lottery forms completely filled in.
- C) Payment of the non-refundable fee for licensure.
- D) A valid Class “A” Private Club or Nonintoxicating Beer License.

In the event the License Division receives an incomplete application, the applicant will be notified in writing of the deficiencies and shall have fifteen (15) calendar days to submit the missing or incomplete information. Information received after the stated deadline will not be considered and may result in the disqualification of the application.

Preliminary site inspection:

The License Division will notify Limited Video Lottery Security of the application’s receipt. At this point, the applicant will be contacted by an Investigator from the Limited Video Lottery Security Division. The Investigator will conduct a preliminary site inspection to determine if the location meets the requirements to conduct Limited Video Lottery gaming on the premises. During the preliminary site inspection, the Investigator will check the outside area surrounding the premises to make sure that it complies with all applicable laws. The outside inspection may require the Investigator to take measurements to other locations that may potentially disqualify the proposed location from being licensed.

Why and how are measurements completed?

Measurements are required to determine if the proposed Limited Video Lottery retail location is at least 150 feet from an existing location that offers Limited Video Lottery or business that sells petroleum products capable of being used as fuel in an internal combustion engine, excluding an WV Authorized Truck Stop, and at least 300 feet from a church, school, daycare center or the perimeter of a public park. Please note that these locations cannot offer or grant any type of waiver to a proposed LVL retail location that would be disqualified for failing to meet the distance requirements. Additionally, the WV Lottery does not allow exceptions to these provisions unless that location is deemed to meet specific “grandfather” requirements. Grandfather status is determined by LVL Security.

Measurements are made from the nearest external wall of the proposed LVL location to the nearest external wall of a potentially disqualifying location listed above. All measurements are made using a straight line “as the crow flies” distance. Please note that the WV Lottery does not follow the same measuring guidelines as the ABCA when determining distance. A location may qualify for and receive an ABCA license using their measurement method yet fail to meet the distance requirements established and approved by the WV Lottery. For questions concerning WV Lottery measurements, please call 304.558.0500 and ask for Limited Video Lottery Security. Questions regarding ABCA measurements should be directed to the ABCA.

Can I apply for a Limited Video Lottery Retailer license at a gas station?

Legislative Rule Title 179 Series 5 was amended during the 2017 regular session of the WV Legislature to allow LVL gaming at an “Authorized West Virginia Truck Stop”. There are, however, still very specific requirements that must be met before a license will be issued. The applicant for the LVL retailer license at an Authorized West Virginia Truck Stop must attest that they are not owned or operated either directly or indirectly by a direct or indirect owner or related person of the business selling petroleum products. The term “related person” shall mean spouses, brothers, sisters (whether by whole or half-blood), and children or grandchildren. Additionally, the facility itself must meet the guidelines listed below. It is the responsibility of the applicant, not the owner of the truck stop to verify these qualifications. In addition to the qualifications below, the applicant must meet all other requirements for licensure. In all cases, the burden of proving qualification for any limited video lottery license rests solely with the applicant. Questions concerning Authorized West Virginia Truck Stops may be directed to the WV Lottery License Division.

What is an Authorized West Virginia Truck Stop?

An Authorized West Virginia Truck Stop is a facility that meets the following requirements found in Legislative Rule §179-2.12.2.a

- A) Is also a convenience store
- B) Has separate diesel islands for fueling commercial vehicles
- C) Has overnight parking spaces for commercial vehicles
- D) Is open 24 hours, and
- E) Has at least fifty (50) parking spaces

Will the Lottery inspect my retail location before I submit an application to be an LVL retailer?

No. The Lottery does not conduct site inspections, measurements or make declaratory rulings concerning a location’s ability to meet the qualifications prior to submission of the application and non-refundable application fee.

I’m approved, now what do I do?

Once you are approved, the License Division will print and mail your license which must be displayed at all times in the retail location. Additionally, the License Division will notify the licensed Limited Video Lottery Operator you have contracted with to advise them that the license has been approved, and they can submit the installation paperwork to the LVL Security Division. Unless you own your permits, you must use a licensed operator to lease the LVL gaming machines. The operator will submit installation paperwork to LVL Security notifying them that they will be transporting LVL gaming machines to your licensed retail location. Once this happens, an LVL Investigator will also be notified to schedule the date and time of the installation. During that time, the Investigator will conduct a final site inspection to make sure the location meets all final requirements and confirm the LVL gaming machines are correctly placed within the retail location. The Investigator will also verify that the required video surveillance system is in place, that security cameras are positioned correctly, and that the security system recorder is functioning and recording correctly.

Does the WV Lottery provide the video lottery gaming machines?

No. The WV Lottery does not sell or provide the video lottery machines needed for limited video lottery. You must have either purchased permits to own machines, or you must enter into a contract with a WV Lottery licensed operator to lease video lottery gaming machines for placement in your retail location once it's approved. A list of licensed operators may be found on the WV Lottery website under Video Lottery, Limited Video Information.

Placement of video lottery gaming machines:

Locations that have a valid Class "A" Private Club ABCA license may have the LVL gaming machines in an open, common area of the location, provided that no one under the age of 21 is permitted entry. However, many restaurants that have a Class "A" Private Club license allow patrons under the age of 21 to enter and enjoy a meal. In this instance, the LVL gaming machines must be located in a separate room with a door to restrict access to the gaming room to those persons age 21 and above.

Locations with a valid Class "A" Nonintoxicating Beer (Tavern) license cannot restrict entry into the location to persons age 21 and above and therefore must have the LVL gaming machines in a separate room with a door to restrict access to the gaming room to persons age 21 and above.

Any location that allows persons under age 21 to enter must have the LVL gaming machines in a separate room with a door and the door must remain closed. The LVL gaming machines are not permitted to be visible by any person under the age of 21. For questions concerning the placement of LVL gaming machines, please call 304.558.0500 and ask for LVL Security.

Can I have employees under age 21?

Yes. You may have employees under age 21, however, any person, including employees may not enter the restricted adult access area where the gaming machines are located. Employees under the age of 21 are also prohibited from validating cash out tickets from the gaming machines.

What if I have an ATM in my business?

By law, LVL retailers cannot provide access to an ATM. This means that any ATM located on the premises must be outside of the gaming area. If the LVL gaming area is in a separate room with a door, the ATM must be located outside of the gaming room. If the LVL gaming machines are in the open common area, the ATM must be in a separate room with a door. The room must be at a minimum six feet by six feet or 36 square feet in size. Doors to ATM rooms must remain closed. For questions concerning the correct placement of ATM's, please call 304.558.0500 and ask for LVL Security.

Do I have to sell food?

Kitchen requirements for retail premises with Class “A” Private Club licenses are regulated by the Alcohol Beverage Control Administration. Retail premises with a Class “A” Tavern license must, by Lottery law and policy, have and maintain a suitable kitchen and dining facility and related equipment for serving meals on the premises. A suitable kitchen must contain at a minimum the following.

- One (1) variable control microwave oven for five video lottery machines.
- One (1) sink with hot and cold running water.
- One (1) cold storage unit or refrigerator-and-freezer combination.
- Sufficient quantities of plates and/or bowls of paper, plastic or similar construction, plastic knives, forks and spoons, and drinking glasses and cups to serve beverages and meals.
- Licensed locations must have at least enough food on the premises to serve meals totaling three times the number of video lottery terminals in the tavern on any one (1) day.

Meals must be available at all times when the licensed location is open for limited video lottery business and consist of one (1) item or any combination of items. For example, fresh, canned and packaged chili, soup, spaghetti, fresh salad, fresh or prepackaged sandwiches, freshly prepared meats and vegetables and frozen dinner entrées are acceptable. Items that by themselves do not qualify as adequate are packaged potato chips and similar products; packaged crackers; packaged nuts; packaged desserts (fruit pies, cakes, cookies, etc.); sausages and similar products. The requirements can be found in the Limited Video Lottery Act §29-22B-328(a) (2) and Lottery Policy Statement 11-01. Please call 304.558.0500 and ask for LVL Security for answers to specific kitchen, dining and meal requirements.

Can I advertise my Limited Video Lottery business?

No. Retailers are strictly prohibited from advertising the LVL business. However, if an LVL retail location is inside a restaurant, the owner can advertise for the restaurant but cannot mention the LVL gaming machines. The WV Lottery furnishes each LVL retailer with a red decal that may be placed on the exterior of the business to alert the public that the location offers WV Lottery products. No other form of advertising is permitted by law. This includes advertising on social media, such as Facebook, Twitter or Instagram.

Can I offer promotions to attract business?

No. LVL retailers are not permitted to offer promotions to attract customers. LVL retailers may; however, provide complimentary soft drinks, chips and snacks to players, provided that complimentary drinks and snacks are not limited to players of LVL gaming machines. If a retailer chooses to offer complimentary beverages or snacks to players, they must also offer them to persons not playing LVL gaming machines.

Payment of credits:

A Limited Video Lottery retailer must immediately pay for all credits won upon presentment of a valid winning video lottery ticket. The full face value of the winning video lottery ticket must be paid including any change. The retailer may not round up or round down the value of the winning ticket. A retailer may not redeem tickets for credits awarded on an LVL gaming machine not located on its premises. The Lottery is not responsible for the payment of any video lottery credits won by any person. Tickets must be presented for payment no later than 10 days from the date the ticket is printed. The 10 days applies to the time period the customer has to redeem the ticket. The retailer does not have 10 days to pay the winning amount. The video lottery ticket must meet the following requirements:

- A) The ticket is fully legible.
- B) The ticket is not mutilated, altered unreadable, or tampered with in any manner.
- C) The ticket is not counterfeit in whole or part.
- D) The ticket is presented by a person legally authorized to play video lottery.

Can I cash checks or extend credit to customers?

No. LVL retailers may not accept checks in exchange for cash in order for a customer to play the LVL gaming machines at their retail location. Additionally, extending credit of any kind is strictly prohibited and a violation of the LVL Act.

What if the person presenting the ticket wasn't the person who played?

A video lottery ticket is "bearer instrument," meaning that whoever possesses the ticket, regardless of whether or not that person was the person who actually played and won the credits, shall be paid. Provided the person presenting the video lottery ticket is legally authorized to play video lottery, the retailer is obligated to pay the full face value of the ticket.

Can I pay a winning video lottery ticket by check?

Yes. §29-22B-704(4) (b) of the Limited Video Lottery Act states in part "...Credits shall be immediately paid in cash or by check when a player presents a valid ticket for payment."

When I validate a ticket for payment, can I keep the "change" as a tip?

No. As previously noted, the retailer is obligated by law to pay the full face value of the ticket. This includes any non-whole dollar amounts. If a person presents a valid ticket for \$8.37, the retailer must pay the exact amount. Not paying the change is one of the most common complaints received and investigated by LVL Security.

Am I required to have a technician license to clear money jams or change paper?

No. Any employee over the age of 21 can access the interior of a video gaming machine to clear a money jam, change printer paper or replace light bulbs. A technician's license is required to access the area inside the video gaming machine known as the logic area or brain box. LVL Security Investigators must be on site before a licensed service technician can access the logic area or brain box.

What if the video lottery game malfunctions when a customer is playing?

If a video lottery gaming machine is rendered totally inoperable during game play, the retailer shall return to the player, the current wager and all credits appearing on the video lottery game screen prior to the malfunction. The Lottery is not responsible for any video lottery terminal malfunction that causes a credit to be wrongfully awarded or denied to players. The retailer is solely responsible for any wrongful award or denial of credits. When a video lottery gaming machine malfunctions, the retailer is responsible for notifying a WV Lottery licensed LVL service technician, certified for that machine manufacturer, to make the necessary repairs to any circuit, processor or motherboards.

What if I have a contract dispute with my operator?

The WV Lottery is not party to contracts and agreements between operators and retailers and does not approve contracts. Disputes between operators and retailers have not been, and will not be, decided by the WV Lottery. The WV Lottery only reviews the contracts to determine the parties, terms, number of machines involved, and that the contract contains a lawful percentage split.

What if my questions have not been fully answered?

If you have questions that have not been answered by this handbook, please feel free to contact the WV Lottery. If your question is related to licensing, contact Marsha Sheets in the License Division at 304.558.0500 Ext. 278 or Elizabeth Webb, Manager of Licensing, at 304.558.0500 Ext. 213. If your questions are related to security, please call 304.558.0500 and ask for LVL Security. We will be happy to answer your questions and work with you to resolve any issues or concerns.