

## **Video Lottery State Statues and Administrative Rule**

### **SDCL 42-7A-1. Definitions. Terms used in this chapter mean:**

(6) "Licensed establishment," a bar or lounge owned or managed by an individual, partnership, corporation, or association licensed to sell alcoholic beverages for consumption upon the premises where sold;

**SDCL 42-7A-37.1. Restrictions on licensed establishment.** A business licensed pursuant to subdivisions 35-4-2(12) and (16) may not be a licensed establishment for video lottery placement pursuant to subdivision 42-7A-1(6) unless it is a bar or lounge. For the purposes of this section, a bar or lounge is an enterprise primarily maintained and operated for the selling, dispensing, and consumption of alcoholic beverages on the premises and may also include the sale and service of food. A bar or lounge may be physically connected to another enterprise within the same building, which enterprise may be owned or operated by the same person. There may be interior access between a bar or lounge and a connected enterprise. However, there shall be a floor to ceiling opaque wall separation between the two enterprises. A separation wall may be constructed to provide visual and physical access for employees from areas in the building not open to the public. The bar or lounge shall have a separate entrance and exit. A separate entrance and exit is not required if entrance to the bar may only be obtained from the other distinct enterprise and the public may not enter the other enterprise by first passing through the bar or lounge. All video lottery machines shall be adequately monitored during business hours. Adequate monitoring shall be accomplished by the personal presence of an employee or by an employee using video cameras or mirrors and periodic inspections of the bar or lounge. No new license may be issued to any establishment after July 1, 1992, unless such establishment complies with this section. No license may be renewed to any establishment after July 1, 1993, unless such establishment complies with this section.

**SDCL 42-7A-44. Rules for placement of video lottery machines--Number limited-- Placement in bar or lounge with on-sale license.** The placement of video lottery machines in licensed establishments shall be subject to the rules of the commission promulgated pursuant to chapter 1-26. No more than ten video lottery machines may be placed in any licensed establishment. The bar or lounge with an on-sale license issued pursuant to subdivision 35-4-2(12) or (16) shall be restricted to persons twenty-one years of age or older. The entrance to the area where video lottery machines are located shall display a sign that the premises are restricted to persons twenty-one years or older. Notwithstanding the restrictions in § 35-4-79, persons under the age of twenty-one may only enter the premises where video lottery machines are located provided they are accompanied by a parent, guardian, or spouse of twenty-one years or older.

**42-7A-64. Additional criteria for on-sale alcoholic beverage licensees in video lottery licensed establishments.** A municipality or county may consider, in addition to the criteria for the issuance of an on-sale alcoholic beverage license, the following criteria for authorizing video lottery machine placement in establishments issued an on-sale alcoholic beverage license pursuant to subdivisions 35-4-2(12) and (16):

- 1) The number of establishments currently licensed for video lottery;
- 2) The proximity of the business to other establishments licensed for video lottery;
- 3) The type of business and manner in which the applicant proposes to operate it;
- 4) The location of the business in relation to other businesses, residential areas, or activities within the same general area;
- 5) The extent to which minors frequent a business connected to the one proposed; and
- 6) The effect the proposed business has on economic development.

The governing board shall certify on each application filed with the Department of Revenue for a license granted under **subdivisions 35-4-2(12) and (16)** whether the business premises is authorized for video lottery machine placement. An existing video lottery license may not be denied renewal or transfer based upon the criteria set forth in this section. The lottery may issue a video lottery license to those establishments certified pursuant to this section. Notwithstanding the above provisions, a county or municipality may not restrict the number of alcoholic beverage licenses issued under subdivisions 35-4-2(12) and (16) and certified for video lottery to a number less than those licensed as video lottery establishments on March 1, 1994.

#### **Administrative Rules:**

**48:02:11:01. Location of machines in establishment.** All video lottery machines in licensed establishments must be physically located as follows:

- 1) In the sight and control of the owner, manager, or an employee of the licensed establishment from the location at which alcoholic beverages are dispensed;
- 2) In an area where alcoholic beverages are regularly dispensed and consumed in the ordinary and usual course of business;
- 3) In an area that ensures public access to the machines is restricted to persons legally entitled by age to be on the premises;
- 4) In an area which is at all times monitored by the owner, manager, or employee of the licensed establishment to prevent access or play of video lottery machines by persons under the age of 21.

**48:02:11:02. Restrictions on multiple alcoholic beverage licenses.** Persons who hold more than one license for the on-sale consumption of alcoholic beverages may have machines placed for each license issued provided the following requirements are met:

- 1) Separate application, qualification, and fees are submitted and approved for each premises licensed for the on-sale consumption of alcoholic beverages;
- 2) Separate establishment licenses are issued by the lottery for each premises licensed for the on-sale consumption of alcoholic beverages;
- 3) Separate and distinct physical facilities are maintained and utilized for the sale and consumption of alcoholic beverages for each establishment license approved by the lottery;
- 4) No more than one establishment license is issued to any person for the same legally described premises contained in the alcoholic beverage license.

**48:02:05:05. Duties of licensed establishments.** Specific duties of owners, managers, and designated employees of licensed establishments are as follows:

- 1) Provide a secure premise for the placement, operation, and play of video lottery machines;
- 2) Permit no one to tamper with or interfere with the approved operation of any video lottery machine;
- 3) Ensure that communication lines to the video lottery machines are at all times connected and prevent any person from tampering or interfering with the approved, continuing operation of the lines;
- 4) Contract only with persons authorized under this title to directly share in revenues generated from net machine income;
- 5) Ensure that video lottery machines are placed and remain as placed within the sight and control of the owner, manager, or designated employee while engaging in the actual dispensing of alcoholic beverages from the location where alcoholic beverages are dispensed;
- 6) Ensure that video lottery machines are placed and remain as placed in the specific area of the licensed establishment where alcoholic beverages are regularly dispensed and consumed in the ordinary and usual course of business;
- 7) Monitor video lottery machines to prevent access to or play by persons who are under the age of 21 years or who are visibly intoxicated;
- 8) Commit no violations of the laws of this state concerning the sale, dispensing, and consumption on premises of alcoholic beverages that results in suspension or revocation of its license;
- 9) Maintain at all times change and cash in the denominations accepted by the video lottery machines located in the establishment;
- 10) Extend no credit for video lottery machine play;
- 11) Pay all credits upon presentment of a valid winning ticket in accordance with SDCL [42-7A-37](#) and chapter 48:02:12;
- 12) Exercise caution and good judgment in providing cash for checks presented for video lottery machine play;
- 13) Report promptly all malfunctions of video lottery machines to the operator and notify the lottery of an operator's failure to provide service and repair of machines and associated equipment as required under this title;
- 14) Conduct advertising and promotional activities of the video lottery in accordance with decency, dignity, honesty, and good taste so that it does not reflect adversely on the lottery or the state of South Dakota;
- 15) Install, post, and display prominently at locations within or about the premises signs, redemption information, and other promotional material as required by the lottery. Use of the trademarked video lottery logo must be approved by the lottery;
- 16) Immediately notify operators of all out-of-service machines; and
- 17) Immediately notify the lottery of an operator's failure to respond within 24 hours after notice to the operator of an out-of-service machine.