

SUBSTITUTE FOR
HOUSE BILL NO. 5896

A bill to amend 1972 PA 239, entitled
"McCauley-Traxler-Law-Bowman-McNeely lottery act,"
by amending sections 11 and 23 (MCL 432.11 and 432.23), as
amended by 1996 PA 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) The commissioner shall promulgate rules
2 pursuant to the administrative procedures act of 1969, ~~Act~~
3 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
4 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 to
5 24.328, as necessary to implement this act.

6 (2) The rules authorized under this section may include any
7 of the following **subject to requirements and limitations in this**
8 **act:**

9 (a) The type of lottery to be conducted. ~~subject to section~~
10 ~~9(2).~~

1 (b) The price of tickets or shares in the lottery.

2 (c) The number and size of the prizes on the winning tickets
3 or shares.

4 (d) The manner of selecting the winning tickets or shares.

5 (e) The manner of payment of prizes to the holders of winning
6 tickets or shares. ~~, subject to section 32.~~

7 (f) The frequency of the drawings or selections of winning
8 tickets or shares.

9 (g) Without limit as to number, the type or types of
10 locations at which tickets or shares may be sold. ~~—subject to~~
11 ~~section 23(10).~~

12 (h) The method to be used in selling tickets or shares,
13 except that a person's name shall not be printed on the tickets
14 or shares.

15 (i) The licensing of agents to sell tickets or shares, but a
16 person under the age of 18 shall not be licensed as an agent.

17 (j) The manner and amount of compensation to be paid licensed
18 sales agents necessary to provide for the adequate availability
19 of tickets or shares to prospective buyers and for the
20 convenience of the public.

21 (k) The apportionment of the total annual revenues accruing
22 from the sale of lottery tickets or shares and from all other
23 sources for the payment of prizes to the holders of winning
24 tickets or shares, for the payment of costs incurred in the
25 operation and administration of the lottery, including the
26 expenses of the bureau and the costs resulting from any contract
27 or contracts entered into for promotional, advertising,

1 consulting or operational services or for the purchase or lease
2 of lottery equipment and materials, for the repayment of the
3 money appropriated to the state lottery fund, and for transfer to
4 the general fund.

5 (3) The commissioner may promulgate rules incorporating by
6 reference existing rules or regulations of any joint enterprise
7 as required as a condition for participation in that joint
8 enterprise. Any subsequent changes or additions to the rules or
9 regulations of the joint enterprise may be adopted by the
10 commissioner through the promulgation of a rule.

11 (4) This section is repealed if the Michigan supreme court
12 rules that sections 45 and 46 of the administrative procedures
13 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
14 ~~sections 24.245 and 24.246 of the Michigan Compiled Laws 1969 PA~~
15 **306, MCL 24.245 and 24.246**, are unconstitutional and a statute
16 requiring legislative review of administrative rules is not
17 enacted within 90 days after the Michigan supreme court ruling.
18 ~~Nothing in this subsection invalidates rules that have been~~
19 **This subsection does not invalidate rules** promulgated prior to
20 ~~the effective date of the amendatory act that added this~~
21 ~~subsection~~ **April 17, 1996.**

22 Sec. 23. (1) ~~A license as an agent to sell lottery tickets~~
23 ~~or shares shall not be issued to any~~ **The commissioner shall not**
24 **issue a license to a** person to engage in business exclusively as
25 a lottery sales agent. Before issuing a **lottery sales** license,
26 the commissioner shall consider factors such as the financial
27 responsibility and security of the person and his or her business

1 or activity, the accessibility of his or her place of business or
2 activity to the public, the sufficiency of existing licenses to
3 serve the public convenience, and the volume of expected sales.

4 (2) ~~As used in this section, "person" means an individual,~~
5 ~~association, corporation, club, trust, estate, society, company,~~
6 ~~joint stock company, receiver, trustee, referee, any other person~~
7 ~~acting in a fiduciary or representative capacity who is appointed~~
8 ~~by a court, or any combination of individuals. Person includes~~
9 ~~any department, commission, agency, or instrumentality of the~~
10 ~~state, including any county, city, village, or township and any~~
11 ~~agency or instrumentality thereof. Beginning the effective date~~
12 ~~of the amendatory act that added subsection (12), the~~
13 ~~commissioner shall issue an initial or renewal lottery sales~~
14 ~~license not later than 90 days after the applicant files a~~
15 ~~completed application. Receipt of the application is considered~~
16 ~~the date the application is received by any agency or department~~
17 ~~of this state. If the application is determined to be incomplete~~
18 ~~by the commissioner, the commissioner shall notify the applicant~~
19 ~~in writing, or make information electronically available, within~~
20 ~~30 days after receipt of the incomplete application, describing~~
21 ~~the deficiency and requesting the additional information. The~~
22 ~~90-day period is tolled upon notification by the commissioner of~~
23 ~~a deficiency until the date the requested information is received~~
24 ~~by the commissioner. The determination of the completeness of an~~
25 ~~application does not operate as an approval of the application~~
26 ~~for the license and does not confer eligibility of an applicant~~
27 ~~determined otherwise ineligible for issuance of a license.~~

1 (3) If the commissioner fails to issue or deny a lottery
2 sales license within the time required by this section, the
3 commissioner shall return the license fee and shall reduce the
4 license fee for the applicant's next renewal application, if any,
5 by 15%. The failure to issue a lottery sales license within the
6 time required under this section does not allow the commissioner
7 to otherwise delay the processing of the application, and that
8 application, upon completion, shall be placed in sequence with
9 other completed applications received at that same time. The
10 commissioner shall not discriminate against an applicant in the
11 processing of the application based upon the fact that the
12 license fee was refunded or discounted under this subsection.

13 (4) Beginning October 1, 2005, the commissioner shall submit
14 a report by December 1 of each year to the standing committees
15 and appropriations subcommittees of the senate and house of
16 representatives concerned with gaming issues. The commissioner
17 shall include all of the following information in the report
18 concerning the preceding fiscal year:

19 (a) The number of initial and renewal applications the
20 commissioner received and completed within the 90-day time period
21 described in subsection (2).

22 (b) The number of applications denied.

23 (c) The number of applicants not issued a license within the
24 90-day time period and the amount of money returned to licensees
25 and applicants under subsection (3).

26 (5) ~~(3)~~ Notwithstanding any other provision of law, a
27 person licensed ~~pursuant to this act may act~~ as a lottery sales

1 agent **may sell lottery tickets and shares**. A person lawfully
2 engaged in nongovernmental business on state property may be
3 licensed as a lottery sales agent.

4 (6) ~~-(4)-~~ A **lottery sales** license is not assignable or
5 transferable.

6 (7) ~~-(5)-~~ A licensed agent or his or her employee may sell
7 lottery tickets or shares only on the premises stated in the
8 **lottery sales** license. ~~of the agent. Effective July 1, 1996, a~~
9 A licensed agent who violates this subsection is, at the
10 commissioner's discretion, subject to 1 or more of the
11 following:

12 (a) Probation for not more than 2 years.

13 (b) A fine of not more than \$1,000.00.

14 (c) Removal of his or her lottery terminal.

15 ~~-(6)- The commissioner may issue temporary licenses upon~~
16 ~~conditions as he or she considers necessary for a term which~~
17 ~~shall not extend beyond 1 year after the effective date of this~~
18 ~~act.~~

19 (8) ~~-(7)-~~ The commissioner may require a bond from ~~any~~ a
20 licensed agent in an amount ~~as~~ provided in ~~the~~ rules
21 **promulgated under this act**.

22 (9) ~~-(8)-~~ A licensed agent shall display his or her license
23 or a copy ~~thereof~~ **of the license** conspicuously in accordance
24 with ~~the~~ rules **promulgated under this act**.

25 (10) ~~-(9)-~~ The commissioner may suspend or revoke the license
26 of ~~any~~ **an** agent who violates this act or a rule promulgated
27 ~~pursuant to~~ **under** this act.

1 (11) ~~-(10)-~~ For purposes of terminal placement, the
2 commissioner shall take into account with equal emphasis both of
3 the following:

4 (a) The total instant game sales for the 3 months immediately
5 preceding a market evaluation.

6 (b) The need to maximize net lottery revenues from the total
7 number of terminals placed.

8 (12) As used in this section:

9 (a) "Completed application" means an application complete on
10 its face and submitted with any applicable licensing fees and any
11 other information, records, approval, security, or similar item
12 required by law or rule from a local unit of government, a
13 federal agency, or a private entity but not from another
14 department or agency of this state.

15 (b) "Person" means an individual, association, corporation,
16 club, trust, estate, society, company, joint stock company,
17 receiver, trustee, referee, or other person acting in a fiduciary
18 or representative capacity who is appointed by a court, or any
19 combination of individuals. Person includes a department,
20 commission, agency, or instrumentality of the state, including a
21 county, city, village, or township and an agency or
22 instrumentality of the county, city, village, or township.