

HOUSE BILL No. 4144

February 4, 2003, Introduced by Reps. Hoogendyk, Vander Veen, Sheen and Drolet and referred to the Committee on Regulatory Reform.

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**
8 **expressed in this act:**

9 (a) The type of lottery to be conducted. ~~subject to~~
10 ~~section 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~~
 15 **1969 PA 306, MCL 24.245 and 24.246**, are unconstitutional and a
 16 statute requiring legislative review of administrative rules is
 17 not enacted within 90 days after the Michigan supreme court
 18 ruling. ~~Nothing in this subsection invalidates rules that have~~
 19 ~~been promulgated prior to the effective date of the amendatory~~
 20 ~~act that added this subsection.~~ **Rules promulgated before**
 21 **April 17, 1996 are not invalidated by this subsection.**

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

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

5 ~~(2) As used in this section, "person" means an individual,~~
6 ~~association, corporation, club, trust, estate, society, company,~~
7 ~~joint stock company, receiver, trustee, referee, any other person~~
8 ~~acting in a fiduciary or representative capacity who is appointed~~
9 ~~by a court, or any combination of individuals. Person includes~~
10 ~~any department, commission, agency, or instrumentality of the~~
11 ~~state, including any county, city, village, or township and any~~
12 ~~agency or instrumentality thereof.~~

13 (2) ~~-(3)-~~ Notwithstanding any other provision of law, a
14 person licensed ~~pursuant to this act may act~~ as a lottery sales
15 agent **may sell lottery tickets and shares**. A person lawfully
16 engaged in nongovernmental business on state property may be
17 licensed as a lottery sales agent.

18 (3) ~~-(4)-~~ A **lottery sales agent** license is not assignable or
19 transferable.

20 (4) ~~-(5)-~~ A licensed **lottery sales** agent or his or her
21 employee may sell lottery tickets or shares only on the premises
22 stated in the license of the agent. ~~Effective July 1, 1996, a~~
23 A licensed **lottery sales** agent who violates this subsection is,
24 at the commissioner's discretion, subject to 1 or more of the
25 following:

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

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

(c) Removal of his or her lottery terminal.

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

(5) Lottery tickets or shares shall not be sold through vending machines.

~~(6) (7)~~ The commissioner may require a bond from ~~any~~ a licensed **lottery sales** agent in an amount ~~as~~ provided in ~~the~~ rules **promulgated under this act.**

~~(7) (8)~~ A licensed **lottery sales** agent shall display his or her license or a copy ~~thereof~~ **of the license** conspicuously in accordance with ~~the~~ rules **promulgated under this act.**

~~(8) (9)~~ The commissioner may suspend or revoke the license of any **lottery sales** agent who violates this act or a rule promulgated ~~pursuant to~~ **under** this act.

~~(9) (10)~~ For purposes of terminal placement, the commissioner shall take into account with equal emphasis both of the following:

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

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

(10) As used in this section:

(a) "Person" means an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, any other person acting in a

1 fiduciary or representative capacity who is appointed by a court,
2 or any combination of individuals. Person includes a department,
3 commission, agency, or instrumentality of this state, including
4 any county, city, village, or township and any agency or
5 instrumentality thereof.

6 (b) "Vending machine" means a self-service device offered for
7 public use that dispenses a lottery ticket directly to a
8 purchaser.