

HOUSE BILL No. 5790

April 21, 2004, Introduced by Reps. Spade, Sheltrown, Garfield, Bieda, Dennis, Gleason, Nitz, Farrah, Brown, Milosch and Anderson 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 in this**
8 **act**:

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

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

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

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

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

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

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

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

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

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

(k) The apportionment of the total annual revenues accruing from the sale of lottery tickets or shares and from all other sources for the payment of prizes to the holders of winning tickets or shares, for the payment of costs incurred in the operation and administration of the lottery, including the expenses of the bureau and the costs resulting from any contract 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.~~ **If the commissioner issues a**
12 **type of license to persons who hold class C licenses or**
13 **authorizes persons who hold class C licenses to conduct a type of**
14 **lottery, the commissioner shall issue the same type of license to**
15 **veterans' organizations that hold club licenses or shall**
16 **authorize veterans' organizations that hold club licenses to**
17 **conduct the same type of lottery. This subsection does not**
18 **exempt a veterans' organization that applies for or holds a**
19 **lottery sales agent's license from the requirements of this act**
20 **and rules promulgated under this act.**

21 (3) Notwithstanding any other provision of law, a person
22 licensed ~~pursuant to this act may act~~ as a lottery sales agent
23 **may sell lottery tickets and shares.** A person lawfully engaged
24 in nongovernmental business on state property may be licensed as
25 a lottery sales agent.

26 (4) A **lottery sales** license is not assignable or
27 transferable.

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

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

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

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

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

14 **(6) —(7)—** The commissioner may require a bond from ~~any~~ **a**
15 licensed agent in an amount ~~as~~ provided in ~~the~~ rules
16 **promulgated under this act.**

17 **(7) —(8)—** A licensed agent shall display his or her license
18 or a copy ~~thereof~~ **of the license** conspicuously in accordance
19 with ~~the~~ rules **promulgated under this act.**

20 **(8) —(9)—** The commissioner may suspend or revoke the license
21 of ~~any~~ **an** agent who violates this act or a rule promulgated
22 ~~pursuant to~~ **under** this act.

23 **(9) —(10)—** For purposes of terminal placement, the
24 commissioner shall take into account with equal emphasis both of
25 the following:

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

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

3 (10) As used in this section:

4 (a) "Class C license" means a license to sell at retail beer,
5 wine, mixed spirit drink, and spirits for consumption on the
6 premises under the liquor control code of 1998, 1998 PA 58, MCL
7 436.1101 to 436.2303.

8 (b) "Club license" means a license issued under section 532
9 of the liquor control code of 1998, 1998 PA 58, MCL 436.1532.

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

18 (d) "Veterans' organization" means an organization in this
19 state, or a branch, lodge, or chapter in this state of a state
20 organization or of a national organization chartered by the
21 congress of the United States, that is organized not for
22 pecuniary profit and whose members were members of the armed
23 services or forces of the United States.