

# HOUSE BILL No. 5896

May 12, 2004, Introduced by Reps. Taub, Richardville, Shackleton, Stahl, Palsrok, Voorhees, Amos, Meyer, LaJoy, Garfield, Nitz, Milosch, Pumford, Hummel, Steil, Koetje, Bisbee, Hune, Tabor, Shaffer, DeRossett, Ehardt, Gaffney, Newell, Caswell, Walker, Moolenaar, Acciavatti, Kooiman, Huizenga, Caul, Hoogendyk, Nofs and Sheen and referred to the Committee on Government Operations..

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.~~ If an application for a  
12 lottery sales license is filed after the effective date of the  
13 amendatory act that added subsection (12), the commissioner shall  
14 grant or deny the application not later than 6 months after the  
15 applicant files a complete application. If the commissioner  
16 determines that an application is incomplete, the commissioner  
17 shall notify the applicant in writing within 10 days after  
18 receipt of the incomplete application, describing the deficiency  
19 and the documents or information required to make the application  
20 complete. The 6-month period is tolled from the date the  
21 commissioner notifies the applicant that the application is  
22 incomplete until the date the additional documents or information  
23 is received by the commissioner.

24       (3) If the commissioner fails to grant or deny an application  
25 within the time required by this section, the commissioner shall  
26 return the license fee and shall reduce the applicant's next  
27 license renewal fee by 15%. The commissioner shall not process,

1 investigate, or consider the application of an applicant whose  
2 license fee is returned under this subsection in a time or manner  
3 different than other applications.

4 (4) Beginning January 31, 2005, the commissioner shall submit  
5 a report by January 31 of each year to the standing committees  
6 and appropriations subcommittees of the senate and house of  
7 representatives concerned with gaming issues. The commissioner  
8 shall include in the report all of the following information for  
9 the preceding calendar year:

10 (a) The number of lottery sales license applications the  
11 commissioner processed within 6 months and the number of  
12 applications the commissioner did not process within 6 months.

13 (b) The average length of time it took the commissioner to  
14 grant or deny each application not processed within 6 months.

15 (c) The number of lottery sales license applications the  
16 commissioner denied, reported in summary form in categories  
17 describing general reasons for denial.

18 (d) The number of applications that required a request for  
19 additional information.

20 (e) The average time for an applicant to respond to a request  
21 for additional information.

22 (f) The amount of money returned to applicants under  
23 subsection (3).

24 (5) ~~-(3)-~~ Notwithstanding any other provision of law, a  
25 person licensed ~~pursuant to this act may act~~ as a lottery sales  
26 agent **may sell lottery tickets and shares**. A person lawfully  
27 engaged in nongovernmental business on state property may be

1 licensed as a lottery sales agent.

2       (6) ~~-(4)-~~ A **lottery sales** license is not assignable or  
3 transferable.

4       (7) ~~-(5)-~~ A licensed agent or his or her employee may sell  
5 lottery tickets or shares only on the premises stated in the  
6 **lottery sales** license. ~~of the agent. Effective July 1, 1996, a~~  
7 A licensed agent who violates this subsection is, at the  
8 commissioner's discretion, subject to 1 or more of the  
9 following:

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

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

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

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

17       (8) ~~-(7)-~~ The commissioner may require a bond from ~~any~~ a  
18 licensed agent in an amount ~~as~~ provided in ~~the~~ rules  
19 **promulgated under this act.**

20       (9) ~~-(8)-~~ A licensed agent shall display his or her license  
21 or a copy ~~thereof~~ **of the license** conspicuously in accordance  
22 with ~~the~~ rules **promulgated under this act.**

23       (10) ~~-(9)-~~ The commissioner may suspend or revoke the license  
24 of ~~any~~ **an** agent who violates this act or a rule promulgated  
25 ~~pursuant to~~ **under** this act.

26       (11) ~~-(10)-~~ For purposes of terminal placement, the  
27 commissioner shall take into account with equal emphasis both of

1 the following:

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

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

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