

Act No. 272
Public Acts of 2004
Approved by the Governor
July 22, 2004
Filed with the Secretary of State
July 23, 2004
EFFECTIVE DATE: July 23, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 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

ENROLLED HOUSE BILL No. 5896

AN ACT to amend 1972 PA 239, entitled "An act to establish and operate a state lottery and to allow state participation in certain lottery-related joint enterprises with other sovereignties; to create a bureau of state lottery and to prescribe its powers and duties; to prescribe certain powers and duties of other state departments and agencies; to license and regulate certain sales agents; to create the state lottery fund; to provide for the distribution of lottery revenues and earnings for certain purposes; to provide for an appropriation; and to provide for remedies and penalties," 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:

Sec. 11. (1) The commissioner shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement this act.

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

- (a) The type of lottery to be conducted.
- (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.
- (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.
- (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, consulting or operational services or for the purchase or lease of lottery equipment and materials, for the repayment of the money appropriated to the state lottery fund, and for transfer to the general fund.

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

(4) This section is repealed if the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.245 and 24.246, are unconstitutional and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling. This subsection does not invalidate rules promulgated prior to April 17, 1996.

Sec. 23. (1) The commissioner shall not issue a license to a person to engage in business exclusively as a lottery sales agent. Before issuing a lottery sales license, the commissioner shall consider factors such as the financial responsibility and security of the person and his or her business or activity, the accessibility of his or her place of business or activity to the public, the sufficiency of existing licenses to serve the public convenience, and the volume of expected sales.

(2) Beginning the effective date of the amendatory act that added subsection (12), the commissioner shall issue an initial or renewal lottery sales license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is determined to be incomplete by the commissioner, the commissioner shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the commissioner of a deficiency until the date the requested information is received by the commissioner. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

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

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

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

(b) The number of applications denied.

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

(5) Notwithstanding any other provision of law, a person licensed as a lottery sales agent may sell lottery tickets and shares. A person lawfully engaged in nongovernmental business on state property may be licensed as a lottery sales agent.

(6) A lottery sales license is not assignable or transferable.

(7) A licensed agent or his or her employee may sell lottery tickets or shares only on the premises stated in the lottery sales license. A licensed agent who violates this subsection is, at the commissioner's discretion, subject to 1 or more of the following:

(a) Probation for not more than 2 years.

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

(c) Removal of his or her lottery terminal.

(8) The commissioner may require a bond from a licensed agent in an amount provided in rules promulgated under this act.

(9) A licensed agent shall display his or her license or a copy of the license conspicuously in accordance with rules promulgated under this act.

(10) The commissioner may suspend or revoke the license of an agent who violates this act or a rule promulgated under this act.

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

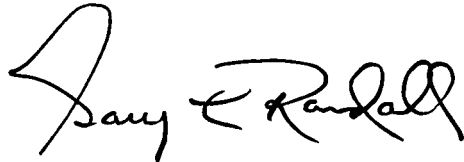
- (a) The total instant game sales for the 3 months immediately preceding a market evaluation.
- (b) The need to maximize net lottery revenues from the total number of terminals placed.

(12) As used in this section:

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor