

Act No. 293
Public Acts of 2012
Approved by the Governor
August 1, 2012
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August 1, 2012
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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Kowall, Hansen and Emmons

ENROLLED SENATE BILL No. 601

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 the title and sections 11 and 18 (MCL 432.11 and 432.18), the title as amended by 1996 PA 95 and sections 11 and 18 as amended by 2004 PA 383, and by adding section 45.

The People of the State of Michigan enact:

TITLE

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 funds; 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.

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, other than a name used in advertising or a promotion under section 18(2) or (3), 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.

Sec. 18. (1) The commissioner, subject to the applicable laws relating to public contracts, may enter into contracts for the operation of the lottery, or any part of the lottery, and into contracts for the promotion of the lottery. A contract awarded or entered into by the commissioner shall not be assigned by the other contracting party except by specific approval of the commissioner.

(2) The commissioner may contract with 1 or more persons to allow the placement of advertising or promotional material, including, but not limited to, the placement of discount coupons for retail goods and NASCAR logos, images, and drivers' pictures and names, on lottery tickets, shares, and other available media under the control of the bureau. However, except for advertising that promotes responsible consumption of alcoholic beverages, the commissioner shall not allow the placement of advertising for the promotion of the consumption of alcoholic beverages or tobacco products on lottery tickets under the control of the bureau under this subsection.

(3) The commissioner may contract with 1 or more persons to allow the placement of advertising or promotional material on available media related to the bureau's club keno game or to sponsor individual draws in the club keno game. If the commissioner enters into a contract under this subsection, the commissioner shall allow at least 1 minute between games of club keno during which 1 or more advertisements may be exhibited.

(4) A contract entered into under subsection (3) shall provide that any advertisements exhibited between club keno games shall comply with content regulations for televised broadcasts adopted by the federal communications commission, with the exception that the advertising under subsection (3) may include advertisements for alcoholic beverages with only any restrictions imposed by the commissioner, or the administrative commissioners of the liquor control commission acting under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, and rules promulgated under the code.

(5) If a contract under subsection (3) will involve advertisements for alcoholic beverages, 10 days or more before entering into the contract the bureau shall provide the administrative commissioners of the liquor control commission, as described in section 209 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1209, with all available information about the proposed contract, the contracting party, and the proposed advertisements. Within 10 days after the information is provided by the bureau, the administrative commissioners shall advise the bureau of any objections or any proposed conditions to be placed on the contract or advertising. Objections and proposed conditions under this subsection shall relate only to matters under the jurisdiction of the liquor control commission. The commissioner shall comply with all objections and require the contractor to comply with any proposed conditions under this subsection. The failure of the administrative commissioners to respond to information under this subsection constitutes a waiver of any objections or proposed conditions.

(6) In considering a proposed contract and advertising under subsection (5), if the proposed contractor is a licensee under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the administrative commissioners shall, among other relevant factors, consider whether the licensee has a history of violations of the code or rules promulgated under the code.

(7) The commissioner shall solicit bids from responsible persons for advertising or promotional contracts under subsection (3). The commissioner shall select from among the bids received so as to produce the maximum amount of net revenues for this state consonant with the general welfare of the citizens of this state. In deciding whether to enter into a contract under subsection (3), the commissioner shall consider whether the terms of the contract are comparable to the terms of similar advertising or promotional contracts relating to lottery or other gaming in other states.

(8) Money from an advertising contract under subsection (3) shall be deposited in the club keno advertising fund created in section 45.

(9) As used in this section, "NASCAR" means the national association for stock car auto racing, inc.

Sec. 45. (1) The club keno advertising fund is created within the state treasury.

(2) The commissioner may receive money or other assets from any source for deposit into the club keno advertising fund. The state treasurer shall direct the investment of the club keno advertising fund. The state treasurer shall credit to the club keno advertising fund interest and earnings from fund investments.

(3) Money in the club keno advertising fund at the close of the fiscal year shall remain in the club keno advertising fund and shall not lapse to the general fund.

(4) The bureau shall be the administrator of the club keno advertising fund for auditing purposes.

(5) Money in the club keno advertising fund shall be distributed as follows:

(a) If the advertising conducted under section 18(3) involves advertisements for alcoholic beverages, 20% of the first \$400,000.00 deposited into the fund in each state fiscal year or 0.4% of the money deposited into the fund in each state fiscal year, whichever is less, shall be paid to the liquor control commission for reimbursement of the commission's costs related to the advertising.

(b) If subdivision (a) applies, the balance or, if subdivision (a) does not apply, all of the first \$400,000.00 deposited into the fund in each state fiscal year or 2% of the money deposited into the fund in each state fiscal year, whichever is less, shall be used by the bureau for reimbursement of the bureau's costs related to advertising conducted under section 18(3).

(c) The balance of the money deposited into the fund shall be disbursed to the state school aid fund.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor