

SENATE BILL NO. 145

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 4/15/99

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing a state lottery; and providing for an effective date."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 05 is amended by adding a new chapter to read:

4 **Chapter 18. State Lottery.**

5 **Article 1. Administration.**

6 **Sec. 05.18.010. Creation of corporation.** The Alaska State Lottery
7 Corporation is established for the purpose of generating revenue for the state. The
8 corporation is a public corporation and is an instrumentality of the state within the
9 Department of Revenue.

10 **Sec. 05.18.020. Board of directors.** (a) The powers of the corporation are
11 vested in the board of directors. The board consists of five members who qualify
12 under AS 39.05.100. The governor shall appoint each member. No more than three
13 of the five members may be members of the same political party. The governor shall
14 appoint one member to serve as chair of the board.

15 (b) Members serve staggered terms of five years. A vacancy on the board

1 does not impair the authority of the board to exercise the powers and perform the
2 duties of the corporation.

3 (c) A member of the board is entitled to per diem and travel allowances
4 authorized for members of boards and commissions under AS 39.20.180.

5 (d) A member of the board may not have a pecuniary interest in a contract or
6 agreement entered into by the corporation.

7 **Sec. 05.18.030. Meetings.** (a) The board shall meet at least quarterly at the
8 call of the chair, at the request of a majority of the members, or at a regularly
9 scheduled time set by the board.

10 (b) An action of the board is not binding unless taken at a meeting where three
11 or more of the members are present and vote in favor of the action.

12 **Sec. 05.18.040. Duties and powers of board.** (a) The board is responsible
13 for the management of the corporation but shall delegate certain powers and duties to
14 the executive director in accordance with AS 05.18.060 and 05.18.070. In managing
15 the corporation, the board shall

16 (1) be responsible for the management of the financial and legal
17 obligations of the corporation;

18 (2) generally manage the corporation on a self-sustaining basis for the
19 purpose of revenue generation;

20 (3) determine policy direction for the operation and administration of
21 the lottery;

22 (4) report to the governor and the legislature each quarter on the total
23 lottery revenue, prize disbursement, and other expenses for the preceding quarter;

24 (5) report to the governor and the legislature each year, including a full
25 and complete statement of lottery revenue, prize disbursement, and other expenses, and
26 make recommendations for changes to this chapter;

27 (6) report to the governor and the legislature as frequently as the board
28 determines necessary on conclusions from the analysis of the reaction of state residents
29 to the lottery and on matters that require changes in the law to prevent violations or
30 evasions of this chapter or to correct undesirable conditions in connection with the
31 operation or administration of the lottery;

- 1 (7) monitor the operation of the lottery throughout the state; and
 2 (8) study and investigate the operation and administration of the lottery
 3 laws of other states and of federal laws that affect the lottery.

4 (b) The board may do all things necessary and appropriate to exercise the
 5 corporation's duties and powers under this chapter.

6 **Sec. 05.18.050. Regulations.** The board shall adopt regulations under
 7 AS 44.62 (Administrative Procedure Act) to establish

8 (1) the type of lottery to be conducted;

9 (2) the price of lottery products;

10 (3) the numbers and sizes of the prizes for the winning lottery products;

11 (4) the manner of selecting the winning lottery products;

12 (5) the frequency of the drawings or selections of winning lottery
 13 products;

14 (6) the type and number of locations where lottery products may be
 15 sold;

16 (7) the method to be used in selling lottery products;

17 (8) the manner of payment of prizes to the holders of the winning
 18 lottery products;

19 (9) the procedures for contracting with persons to be agents;

20 (10) the manner and amount of compensation to be paid agents;

21 (11) the prizes that an agent or an employee of the agent can award;
 22 and

23 (12) other matters necessary or desirable to carry out this chapter, to
 24 operate the lottery efficiently and economically, and to make the purchase of lottery
 25 products and the distribution of prizes convenient.

26 **Sec. 05.18.060. Executive director and employees.** (a) The corporation shall
 27 be under the immediate supervision and direction of an executive director who is
 28 qualified by training and experience to direct the work of the corporation. The
 29 governor shall appoint the director. The director may not engage in another profession
 30 or occupation.

31 (b) Subject to the approval of the board, the director may appoint deputies

1 required to carry out the functions and duties of the corporation. The director may
 2 appoint professional, technical, and clerical employees necessary to perform the duties
 3 of the corporation.

4 (c) The director and other employees of the corporation are in the exempt
 5 service under AS 39.25.110.

6 (d) The corporation may not employ a person who has been convicted,
 7 including conviction based on a guilty plea or plea of nolo contendere, of a felony or
 8 of another crime if the other crime is substantially related to the qualifications,
 9 functions, or duties of the employee.

10 **Sec. 05.18.070. Duties of director.** The director shall

11 (1) supervise the operation and administration of the lottery;

12 (2) act as secretary to the board;

13 (3) contract with agents to sell lottery products;

14 (4) meet at least quarterly with the board on the operation and
 15 administration of the lottery;

16 (5) make available for inspection by the board, on request, all books,
 17 records, files, and other information and documents of the corporation;

18 (6) advise the board and make recommendations to improve the
 19 operation and administration of the lottery;

20 (7) suspend or revoke a contract issued under this chapter for a
 21 violation of this chapter or the regulations adopted under this chapter;

22 (8) subject to the approval of the board, enter into contracts for the
 23 operation and administration of the lottery, except that agent contracts are not subject
 24 to the approval of the board; and

25 (9) provide each month to the board a full and complete statement of
 26 the lottery revenue, prize disbursements, and other expenses for the preceding month.

27 **Sec. 05.18.080. Subpoenas.** (a) The director or the board may subpoena
 28 witnesses and documents in a matter over which the corporation has jurisdiction,
 29 control, or supervision. The director or the board may administer oaths and
 30 affirmations to persons whose testimony is required.

31 (b) If a person fails to obey a subpoena, or if a person refuses to answer a

1 relevant question or to exhibit a document when ordered to do so by the director or
 2 the board, the director or the board may apply to the superior court for an order
 3 directing the person to comply with the subpoena or the order. The court may order
 4 the person to comply.

5 **Article 2. Lottery Retail Sales Agents.**

6 **Sec. 05.18.100. Lottery retail sales agents.** (a) The director may contract
 7 with persons on behalf of the corporation to be lottery retail sales agents.

8 (b) A lottery retail sales agent may

- 9 (1) sell lottery products;
 10 (2) award prizes as allowed under regulations of the board; and
 11 (3) hire employees to perform the services under (1) and (2) of this
 12 subsection.

13 (c) An agent shall supervise each employee of the agent in the employee's
 14 performance of the services under (b)(1) and (2) of this section.

15 **Sec. 05.18.105. Qualifications for agent contracts.** (a) A person who wishes
 16 to contract with the corporation to be an agent shall apply on a form provided by the
 17 corporation. The director may charge the applicant a fee to cover the costs of
 18 processing the application and for checking the background of the applicant.

19 (b) Before contracting with an applicant to be an agent, the director shall
 20 consider

- 21 (1) the financial responsibility and security of the applicant and the
 22 applicant's business or activity;
 23 (2) the accessibility of the applicant's place of business or activity to
 24 the public;
 25 (3) the ability of the applicant to promote the retail sale of lottery
 26 products;
 27 (4) the sufficiency of existing agent contracts to serve the public
 28 convenience;
 29 (5) the volume of expected sales; and
 30 (6) other factors the director determines are relevant.

31 (c) The director may not contract with an applicant to be an agent if the

1 applicant

2 (1) is not a resident of the state or is not a corporation, partnership, or
3 association licensed to conduct business in the state;

4 (2) would be engaged in business exclusively as an agent;

5 (3) is an individual under the age of 18; or

6 (4) has been convicted of a felony or gambling misdemeanor, including
7 conviction based on a guilty plea or plea of nolo contendere.

8 **Sec. 05.18.110. Duration of agent contracts.** The director may contract with
9 an agent for a term of not more than two years, but may renew the contract.

10 **Sec. 05.18.120. Revocation or suspension of agent contracts.** (a) The
11 director shall suspend or cancel the contract of an agent who violates AS 05.18.330.

12 (b) The director may suspend or cancel the contract of an agent who violates
13 a regulation adopted under this chapter or a provision of this chapter other than
14 AS 05.18.330.

15 (c) The director shall conduct proceedings to suspend or cancel an agent
16 contract under AS 44.62 (Administrative Procedure Act).

17 **Sec. 05.18.130. Compensation of agents.** (a) The director shall establish the
18 levels of compensation for agents. The director may establish bonus or incentive
19 awards.

20 (b) When establishing the compensation for agents, the director shall consider
21 (1) the time and the cost of overhead necessary to make the lottery
22 products available at convenient times and for sufficient hours to accommodate the
23 public;

24 (2) the time necessary for an agent to keep adequate records of the
25 sales of lottery products and to prepare the deposits and reports required under
26 AS 05.18.140;

27 (3) other criteria the director considers relevant.

28 **Sec. 05.18.140. Deposit of receipts and reports.** (a) An agent shall deposit
29 to the credit of the state in a bank designated by the director all money received by
30 the agent from the sale of lottery products.

31 (b) An agent shall file with the director on a form provided by the corporation

1 a report of the receipts and transactions in the sale of lottery products. A report
2 required under this subsection shall be filed once every two weeks.

3 (c) The director may impose a service charge on an agent if the payor bank
4 dishonors

5 (1) a check that is deposited to the credit of the state by the agent; or

6 (2) an electronic transfer of funds to the state lottery account from the
7 account of the agent for money received from the sale of lottery products.

8 (d) The director may charge an agent with interest on money that is not paid
9 to the state within 10 days after the due date and may impose an additional service
10 charge in an amount to cover administrative costs if the debt is referred for collection.

11 (e) The amount, including interest or service charge, owed to the corporation
12 by an agent is a lien on the property of the agent at the time that the corporation files
13 a claim of lien in the recorder's office of the recording district of the principal place
14 of business of the agent.

15 **Sec. 05.18.150. Bond.** (a) An applicant for an agent contract shall, at the
16 time of application under AS 05.18.105, file with the corporation and maintain during
17 the term of an agent contract a bond running to the state with a corporate surety
18 qualified to do business in the state. The amount of the bond shall be determined by
19 the board.

20 (b) The bond required by this section remains in effect until cancelled by
21 action of the surety, the principal, or the corporation.

22 (c) The state or another person may not bring an action on the bond more than
23 three years after cancellation of the bond.

24 **Article 3. Prizes.**

25 **Sec. 05.18.200. Assignment of prizes.** A person may not assign a right to a
26 prize. A prize may be paid to a person other than the prize winner under a court
27 order, to the estate of a deceased prize winner, or to the Department of Revenue to
28 satisfy a judgment. The state is discharged of all further liability when a prize has
29 been paid under this section.

30 **Sec. 05.18.210. Payment of prizes to persons under 18 years.** (a) If a
31 person entitled to a prize is under the age of 18 years and if the prize is \$5,000 or less,

1 the director may deliver the prize to an adult member of the minor's family, or to a
 2 guardian of the minor, in the form of a check or draft payable to the order of the
 3 minor. If the prize is more than \$5,000, the director may deliver the prize by deposit-
 4 ing the amount of the prize in a financial institution to the credit of an adult member
 5 of the minor's family, or a guardian of the minor, as custodian for the minor. The
 6 person named as custodian has the same duties and powers as a person designated as
 7 a custodian under AS 13.46.

8 (b) The state is discharged of all further liability after payment of a prize to
 9 a minor under this section.

10 (c) In this section, the terms "financial institution" and "member of the minor's
 11 family" have the meanings given in AS 13.46.990.

12 **Sec. 05.18.220. Unclaimed prize money.** The director shall retain unclaimed
 13 prize money for the person entitled to it for one year after the prize is awarded. If the
 14 winner does not claim the prize money within the year, the corporation shall return the
 15 money and accrued interest to the state lottery fund.

16 **Article 4. Miscellaneous Provisions.**

17 **Sec. 05.18.300. Lottery education account and appropriations.** There is
 18 created in the general fund the lottery education account. The account consists of the
 19 proceeds received from the sale of lottery products and all other money credited or
 20 transferred to the account. The commissioner of administration shall separately
 21 account for money deposited in the account. The annual estimated balance in the
 22 account may be appropriated by the legislature to make appropriations to support
 23 education in the state.

24 **Sec. 05.18.310. Audit.** The board shall have an audit of the books and
 25 accounts of the corporation performed at least once in each year by certified public
 26 accountants. The board may have special audits performed at any time on its own
 27 motion or at the request of the director. The board shall file a copy of each audit with
 28 the commissioner of revenue and the legislature.

29 **Sec. 05.18.320. Prohibited acts.** (a) A person may not

30 (1) act as an agent or sell a lottery product unless the person has a
 31 contract with the corporation to be an agent or is an employee of an agent and sells

1 lottery products or awards lottery prizes under the supervision of the agent;

2 (2) sell a lottery product at a price greater than that fixed by the
3 corporation; or

4 (3) sell or offer to sell a lottery product to a person under the age of
5 18.

6 (b) An agent, the governor, or an officer, employee, or contractor of the
7 corporation may not directly or through another person purchase a lottery product or
8 receive a lottery prize.

9 (c) An agent may not withhold funds owed to the lottery.

10 (d) This section does not prohibit a person from giving a lottery product to
11 another person of any age.

12 **Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract
13 under this chapter may not assign the contract without the approval of the board.

14 **Sec. 05.18.340. Penalty.** A person that with criminal negligence violates
15 AS 05.18.140 - 05.18.200, 05.18.320, or 05.18.330 is guilty of a class C felony. In
16 this section, "criminal negligence" has the meaning given in AS 11.81.900.

17 **Sec. 05.18.350. Statement of odds.** A lottery product must indicate the odds
18 of winning a prize in the particular lottery game represented by the lottery product.

19 **Sec. 05.18.360. Applicability of other laws.** Except for AS 11, no other law
20 regarding the sale of lottery products or the administration of a lottery applies to the
21 sale of lottery products under this chapter.

22 **Article 5. General Provisions.**

23 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
24 otherwise,

25 (1) "agent" means a person who has contracted with the corporation to
26 be a lottery retail sales agent under this chapter;

27 (2) "agent contract" means a contract under AS 08.18.100 between the
28 state and a person for the person to be an agent;

29 (3) "board" means the board of directors of the corporation;

30 (4) "corporation" means the Alaska State Lottery Corporation;

31 (5) "director" means the executive director of the corporation;

1 (6) "lottery" or "state lottery" means the lottery established and
2 operated under this chapter;

3 (7) "lottery product" means a ticket, receipt, card, or other item, except
4 a lottery prize, received by a person from an agent or an employee of an agent as
5 evidence of participation in the lottery;

6 (8) "operation and administration" includes accounting, sales,
7 promotion, and security;

8 (9) "person" has the meaning given in AS 01.10.060 and also includes
9 an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or
10 representative capacity, whether appointed by a court or otherwise, and a department,
11 commission, agency, or instrumentality of the state, including municipalities and the
12 agencies and instrumentalities of them.

13 * **Sec. 2.** AS 36.30.015(e) is amended to read:

14 (e) The board of directors of the Alaska Railroad Corporation, **Alaska State**
15 **Lottery Corporation**, and [THE BOARD OF DIRECTORS OF] the Alaska Aerospace
16 Development Corporation shall adopt procedures to govern the procurement of
17 supplies, services, professional services, and construction. The procedures must be
18 substantially equivalent to the procedures prescribed in this chapter and in regulations
19 adopted under this chapter. Notwithstanding the other provisions of this subsection,
20 the Alaska Railroad Corporation, **Alaska State Lottery Corporation**, and the Alaska
21 Aerospace Development Corporation shall comply with AS 36.30.170(b), and, when
22 the Department of Transportation and Public Facilities authorizes the Alaska Railroad
23 Corporation to perform construction work instead of the Department of Transportation
24 and Public Facilities, the Alaska Railroad Corporation shall use competitive sealed
25 bidding or competitive sealed proposals under AS 36.30.100 - 36.30.270 to procure the
26 supplies, services, professional services, and construction services necessary for the
27 work and, to ensure the state obtains the lowest cost for the project, may submit a bid
28 or proposal for the work.

29 * **Sec. 3.** AS 36.30.050(c) is amended to read:

30 (c) The lists may be used by the chief procurement officer or an agency when
31 issuing invitations to bid or requests for proposals under this chapter. The lists may

1 be used by the legislative council, the court system, **the Alaska State Lottery**
2 **Corporation**, and the Alaska Railroad Corporation.

3 * **Sec. 4.** AS 39.25.110(11) is amended by adding a new subparagraph to read:

4 (G) Alaska State Lottery Corporation;

5 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).