

HOUSE BILL NO. 240

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY THE HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL TRADE,
AND TOURISM**

Introduced: 4/4/03

**Referred: House Special Committee on Economic Development, International Trade, and Tourism, House
Special Committee on Ways and Means, Finance**

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a state lottery."**

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 commission.** (a) The Alaska State Lottery
7 Commission is established for the purpose of generating revenue for the state. The
8 commission is established in the Department of Revenue. The commission consists of
9 five members appointed by the governor, subject to confirmation by the legislature.
10 One member shall be appointed from each of the four judicial districts of the state.
11 The fifth member shall be an at-large member. Not more than three of the five
12 members may be members of the same political party. The governor shall appoint one
13 member to serve as chair of the commission.

14 (b) Members serve staggered terms of five years. A member may be
15 reappointed but may not serve for more than 10 years.

1 (c) A member of the commission does not receive a salary for service on the
2 commission but is entitled to per diem and travel expenses authorized for members of
3 boards and commissions under AS 39.20.180.

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

6 (e) A person may not serve as a member of the commission if that person

7 (1) has been convicted of

8 (A) a felony; or

9 (B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a
10 comparable provision of municipal, state, or federal law;

11 (2) holds a license, permit, or registration under AS 05.15; or

12 (3) is an elected official of the state or of a political subdivision of the
13 state.

14 (f) A person may not serve as a member of the commission until the
15 investigation required under AS 18.65.080(b) is completed.

16 (g) Three members of the commission constitute a quorum for the transaction of
17 business.

18 (h) The governor may remove a member for cause, including incompetence, ne-
19 glect of duty, or misconduct in office. A member being removed for cause shall be given
20 a copy of the charges and afforded an opportunity to publicly present a defense in person
21 or by counsel upon not less than 10 days' notice. If a member is removed for cause, the
22 governor shall file with the lieutenant governor a complete statement of all charges made
23 against the member and the governor's findings based on the charges, together with a
24 complete record of the proceedings.

25 (i) The governor may immediately suspend a member for a violation of law or
26 for misconduct in office pending removal from office under (a) of this section.

27 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
28 the call of the chair, at the request of a majority of the members, or at a regularly
29 scheduled time set by the commission.

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

1 **Sec. 05.18.030. Duties and powers of commission.** The commission shall

2 (1) enter into contracts and agreements necessary to carry out the
3 provisions of this chapter;

4 (2) adopt regulations necessary to carry out the provisions of this
5 chapter;

6 (3) determine policy direction for the operation and administration of
7 the lottery;

8 (4) report to the governor and the legislature each year, including a full
9 and complete statement of lottery revenue, prize disbursement, and other expenses,
10 and recommendations for changes in this chapter;

11 (5) report to the governor and the legislature as frequently as the
12 commission determines necessary on conclusions from the analysis of the reaction of
13 state residents to the lottery, and on matters that require changes in the law to prevent
14 violations or evasions of this chapter or to correct undesirable conditions in connection
15 with the operation or administration of the lottery;

16 (6) monitor the operation of the lottery throughout the state;

17 (7) study and investigate the operation and administration of the lottery
18 laws of other states and of federal laws that affect the lottery; and

19 (8) conduct two lotteries each year with one winner at each lottery; the
20 winner of the lottery shall receive 50 percent of the ticket sales for that lottery less the
21 expenses of the lottery not to exceed five percent of the total sales; the remaining
22 revenues from the ticket sales shall be deposited in the general fund.

23 **Sec. 05.18.040. Regulations.** The commission shall adopt regulations under
24 AS 44.62 (Administrative Procedure Act) to establish

25 (1) the manner of conducting the lotteries identified under
26 AS 05.18.030(8), and the calculation and awarding of prizes;

27 (2) the procedures for contracting with persons to be agents;

28 (3) the manner and amount of compensation to be paid agents;

29 (4) other matters necessary or desirable to carry out this chapter, to
30 operate the lottery efficiently and economically, and to make the purchase of lottery
31 tickets and the distribution of prizes convenient.

1 **Sec. 05.18.050. Executive director and employees.** (a) The commission
2 shall employ an executive director who is qualified by training and experience to
3 conduct the day-to-day work of the commission. The director may not engage in
4 another profession or occupation.

5 (b) Subject to the approval of the commission, the director may appoint
6 deputies required to carry out the functions and duties of the commission. The
7 director may appoint professional, technical, and clerical employees necessary to
8 perform the duties of the commission.

9 (c) The director and other employees of the commission are in the exempt
10 service under AS 39.25.110.

11 (d) The commission may not employ a person who has been convicted,
12 including conviction based on a guilty plea or plea of nolo contendere, of an offense
13 that disqualifies a person from being a member of the commission.

14 **Sec. 05.18.060. Duties of director.** The director shall

- 15 (1) supervise the operation and administration of the lottery;
- 16 (2) act as secretary to the commission;
- 17 (3) contract with agents to sell lottery tickets;
- 18 (4) meet at least quarterly with the commission on the operation and
19 administration of the lottery;
- 20 (5) make available for inspection by the commission, upon request, all
21 books, records, files, and other information and documents of the commission;
- 22 (6) advise the commission and make recommendations to improve the
23 operation and administration of the lottery;
- 24 (7) suspend or revoke a contract issued under this chapter for a
25 violation of this chapter or the regulations adopted under this chapter;
- 26 (8) subject to the approval of the commission, enter into contracts for
27 the operation and administration of the lottery, except that agent contracts are not
28 subject to the approval of the commission; and
- 29 (9) provide each six months to the commission a full and complete
30 statement of the lottery revenue, prize disbursements, and other expenses for the
31 preceding period.

1 **Sec. 05.18.070. Subpoenas.** (a) The director or the commission may
 2 subpoena witnesses and documents in a matter over which the commission has
 3 jurisdiction, control, or supervision. The director or the commission may administer
 4 oaths and affirmations to persons whose testimony is required.

5 (b) If a person fails to obey a subpoena, or if a person refuses to answer a
 6 relevant question or to exhibit a document when ordered to do so by the director or the
 7 commission, the director or the commission may apply to the superior court for an
 8 order directing the person to comply with the subpoena or the order. The court may
 9 order the person to comply.

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

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

13 (b) A lottery retail sales agent may

14 (1) sell lottery tickets;

15 (2) hire employees to perform the services under (1) of this subsection.

16 (c) An agent shall supervise each employee of the agent in the employee's
 17 performance of the services under (b)(1) of this section.

18 **Sec. 05.18.110. Qualifications for agent contracts.** (a) A person who
 19 wishes to contract with the commission to be an agent shall apply on a form provided
 20 by the commission. The director shall charge the applicant a fee to cover the costs of
 21 processing the application and checking the background of the applicant.

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

24 (1) the financial responsibility and security of the applicant and the
 25 applicant's business or activity;

26 (2) the accessibility of the applicant's place of business or activity to
 27 the public;

28 (3) the ability of the applicant to promote the retail sale of lottery
 29 tickets;

30 (4) the sufficiency of existing agent contracts to serve the public
 31 convenience;

1 (5) the volume of expected sales; and

2 (6) other factors the director determines are relevant.

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

5 (1) would be engaged in business exclusively as an agent;

6 (2) is an individual under 18 years of age; or

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

9 **Sec. 05.18.120. Duration of agent contracts.** The director may contract with
10 an agent for a term of not more than two years, but may renew the contract.

11 **Sec. 05.18.130. Revocation or suspension of agent contracts.** (a) The
12 director shall suspend or cancel the contract of an agent who violates AS 05.18.320.

13 (b) The director may suspend or cancel the contract of an agent who violates a
14 regulation adopted under this chapter or a provision of this chapter other than
15 AS 05.18.320.

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

18 **Sec. 05.18.140. Compensation of agents.** (a) The director shall establish the
19 levels of compensation for agents. The director may establish bonus or incentive
20 awards.

21 (b) When establishing the compensation for agents, the director shall consider

22 (1) the time and the cost of overhead necessary to make the lottery
23 tickets available at convenient times and for sufficient hours to accommodate the
24 public;

25 (2) the time necessary for an agent to keep adequate records of the
26 sales of lottery tickets and to prepare the deposits and reports required under
27 AS 05.18.150;

28 (3) other criteria the director considers relevant.

29 **Sec. 05.18.150. Deposit of receipts and reports.** (a) Each agent shall
30 deposit to the credit of the state in a bank designated by the director all money
31 received by the agent from the sale of lottery tickets.

1 (b) Each agent shall file with the director on a form provided by the
2 commission weekly reports of the receipts and transactions in the sale of lottery
3 tickets.

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

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

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

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

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

16 **Sec. 05.18.160. Bond.** (a) Each applicant for an agent contract shall, at the
17 time of application under AS 05.18.110, file with the commission and maintain during
18 the term of an agent contract a bond running to the state with a corporate surety
19 qualified to do business in the state. The amount of the bond shall be determined by
20 the commission.

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

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

25 **Article 3. Prizes.**

26 **Sec. 05.18.200. Assignment of prizes.** A person may not assign a right to a
27 prize. However, a prize may be paid to a person other than the prize winner under a
28 court order or to the estate of a deceased prize winner. The state is discharged of all
29 further liability when a prize has 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 18 years of age, the director may deliver the prize by

1 depositing the amount of the prize in a bank to the credit of an adult member of the
 2 minor's family, or a guardian of the minor, as custodian for the minor. The person
 3 named as custodian shall have the same duties and powers as a person designated as a
 4 custodian under AS 13.46.

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

7 (c) In this section,

8 (1) "bank" has the meaning given in AS 45.14.105;

9 (2) "guardian" has the meaning given in AS 13.06.050;

10 (3) "member of the minor's family" has the meaning given in
 11 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 commission shall return
 15 the money and accrued interest to the state lottery fund.

16 **Article 4. Miscellaneous Provisions.**

17 **Sec. 05.18.300. State lottery fund and appropriations.** There is created in
 18 the general fund the state lottery fund. The state lottery fund consists of all revenue
 19 received from the sale of lottery tickets and all other money credited or transferred to
 20 the fund from another fund or source.

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

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

27 (1) knowingly act as an agent or sell a lottery ticket unless the person
 28 has a contract with the commission to be an agent, or is an employee of an agent and
 29 sells lottery tickets under the supervision of the agent;

30 (2) knowingly sell a lottery ticket at a price greater than that fixed by
 31 the commission;

1 (3) knowingly sell or offer to sell a lottery ticket to a person under 18
2 years of age;

3 (4) knowingly present a counterfeit or altered lottery ticket for
4 payment or transfer a counterfeit or altered lottery ticket to another person to present
5 for payment;

6 (5) with intent to defraud, falsely make, alter, forge, utter, pass or
7 counterfeit a lottery ticket; or

8 (6) impersonate a lottery representative.

9 (b) A lottery retail sales agent, the governor, or an officer, employee, or
10 contractor of the commission or the Office of the Governor may not purchase a lottery
11 ticket or receive a lottery prize.

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

13 (d) This section does not prohibit a person from giving a lottery ticket to
14 another person of any age.

15 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

16 **Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract
17 under this chapter may not assign the contract without the approval of the commission.

18 **Sec. 05.18.340. Penalty.** A person that violates AS 05.18.150 - 05.18.200,
19 05.18.320, or 05.18.330 is guilty of a class C felony.

20 **Sec. 05.18.350. Statement of odds.** Each lottery ticket must indicate the odds
21 of winning a prize in the particular lottery game represented by the lottery ticket.

22 **Sec. 05.18.360. Applicability of other laws.** Other laws regarding the sale of
23 lottery tickets or the administration of a lottery do not apply to the sale of lottery
24 tickets under this chapter.

25 **Article 5. General Provisions.**

26 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
27 otherwise,

28 (1) "agent" means a person who has contracted with the commission to
29 be a lottery retail sales agent under this chapter;

30 (2) "agent contract" means a contract under AS 05.18.100 between the
31 state and a person for the person to be an agent;

- 1 (3) "commission" means the Alaska State Lottery Commission;
- 2 (4) "director" means the executive director of the commission;
- 3 (5) "lottery" or "state lottery" means the lottery established and
4 operated under this chapter;
- 5 (6) "lottery ticket" means a ticket, receipt, card, or other item, received
6 by a person from an agent or an employee of an agent as evidence of participation in
7 the lottery;
- 8 (7) "operation and administration" includes accounting, sales,
9 promotion, and security;
- 10 (8) "person" has the meaning given in AS 01.10.060 and also includes
11 an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or
12 representative capacity, whether appointed by a court or otherwise, and a department,
13 commission, agency, or instrumentality of the state, including a municipality and an
14 agency or instrumentality of a municipality.

15 * **Sec. 2.** AS 11.66.280(2) is amended to read:

16 (2) "gambling" means that a person stakes or risks something of value
17 upon the outcome of a contest of chance or a future contingent event not under the
18 person's control or influence, upon an agreement or understanding that that person or
19 someone else will receive something of value in the event of a certain outcome;
20 "gambling" does not include

21 (A) bona fide business transactions valid under the law of
22 contracts for the purchase or sale at a future date of securities or commodities
23 and agreements to compensate for loss caused by the happening of chance,
24 including contracts of indemnity or guaranty and life, health, or accident
25 insurance; [OR]

26 (B) playing an amusement device that

27 (i) confers only an immediate right of replay not
28 exchangeable for something of value other than the privilege of
29 immediate replay; and

30 (ii) does not contain a method or device by which the
31 privilege of immediate replay may be cancelled or revoked;

1 (C) an activity authorized by the Department of Revenue under
 2 AS 05.15 or AS 05.18;

3 * **Sec. 3.** AS 18.65.080 is amended by adding a new subsection to read:

4 (b) The Department of Public Safety shall investigate and ascertain whether a
 5 person appointed by the governor to serve as a member of the Alaska Gaming
 6 Commission has been convicted of a crime set out in AS 05.18.010(e).

7 * **Sec. 4.** AS 39.25.110(11) is amended to read:

8 (11) the officers and employees of the following boards, commissions,
 9 and authorities:

- 10 (A) [REPEALED
 11 (B)] Alaska Permanent Fund Corporation;
 12 **(B)** [(C)] Alaska Industrial Development and Export Authority;
 13 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;
 14 **(D)** [(E)] Alaska Commission on Postsecondary Education;
 15 **(E)** [(F)] Alaska Aerospace Development Corporation;
 16 **(F) Alaska State Lottery Commission;**

17 * **Sec. 5.** AS 39.50.200(b) is amended by adding a new paragraph to read:

18 (57) Alaska State Lottery Commission (AS 05.18).