

**SENATE BILL NO. 178**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY SENATOR TAYLOR**

**Introduced: 4/8/03**

**Referred: Labor and Commerce, 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 of  
13 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,  
26 and 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  
29 residents to the lottery and on matters that require changes in the law to prevent  
30 violations or evasions of this chapter or to correct undesirable conditions in connection  
31 with the 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  
11 products;

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

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

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

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

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

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

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

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

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

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

1 (b) Subject to the approval of the board, the director may appoint deputies  
 2 required to carry out the functions and duties of the corporation. The director may  
 3 appoint professional, technical, and clerical employees necessary to perform the duties  
 4 of the corporation.

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

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

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

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

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

1 (b) If a person fails to obey a subpoena, or if a person refuses to answer a  
 2 relevant question or to exhibit a document when ordered to do so by the director or the  
 3 board, the director or the board may apply to the superior court for an order directing  
 4 the person to comply with the subpoena or the order. The court may order the person  
 5 to comply.

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

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

9 (b) A lottery retail sales agent may

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

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

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

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

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

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

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

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

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

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

9 **Sec. 05.18.110. 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. 05.18.120. Revocation or suspension of agent contracts.** (a) The  
12 director shall suspend or cancel the contract of an agent who violates AS 05.18.330.

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 05.18.330.

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

18 **Sec. 05.18.130. 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 products 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 products and to prepare the deposits and reports required under  
27 AS 05.18.140; and

28 (3) other criteria the director considers relevant.

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

1 (b) An agent shall file with the director on a form provided by the corporation  
 2 a report of the receipts and transactions in the sale of lottery products. A report  
 3 required under this subsection shall be filed once every two weeks.

4 (c) The director may 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 products.

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

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

16 **Sec. 05.18.150. Bond.** (a) An applicant for an agent contract shall, at the  
 17 time of application under AS 05.18.105, file with the corporation 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 board.

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

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

### 25 **Article 3. Prizes.**

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

31 **Sec. 05.18.210. Payment of prizes to persons under 18 years of age.** (a) If

1 a person entitled to a prize is under 18 years of age and if the prize is \$5,000 or less,  
 2 the director may deliver the prize to an adult member of the minor's family, or to a  
 3 guardian of the minor, in the form of a check or draft payable to the order of the  
 4 minor. If the prize is more than \$5,000, the director may deliver the prize by  
 5 depositing the amount of the prize in a financial institution to the credit of an adult  
 6 member of the minor's family, or a guardian of the minor, as custodian for the minor.  
 7 The person named as custodian has the same duties and powers as a person designated  
 8 as a custodian under AS 13.46.

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

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

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

#### 17 **Article 4. Miscellaneous Provisions.**

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

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

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

31 (1) act as an agent or sell a lottery product unless the person has a

1 contract with the corporation to be an agent or is an employee of an agent and sells  
2 lottery products or awards lottery prizes under the supervision of the agent;

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

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

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

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

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

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

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

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

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

### 23 **Article 5. General Provisions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (c) The lists may be used by the chief procurement officer or an agency when

1 issuing invitations to bid or requests for proposals under this chapter. The lists may be  
2 used by the legislative council, the court system, **the Alaska State Lottery**  
3 **Corporation**, and the Alaska Railroad Corporation.

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

5 (G) Alaska State Lottery Corporation;

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