

Offered: 4/15/86  
Referred: Finance

Original sponsor: Thompson

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 338 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act establishing a state lottery; authorizing an  
7 advisory vote on the lottery; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

11 CHAPTER 18. STATE LOTTERY.

12 ARTICLE 1. ADMINISTRATION.

13 Sec. 05.18.010. CREATION OF CORPORATION. The Alaska State  
14 Lottery Corporation is established for the purpose of generating  
15 revenue for the state. The corporation is a public corporation and is  
16 an instrumentality of the state within the Department of Revenue.

17 Sec. 05.18.020. BOARD OF DIRECTORS. (a) The powers of the  
18 corporation are vested in the board of directors. The board consists  
19 of five members who qualify under AS 39.05.100. The governor shall  
20 appoint each member subject to confirmation by the legislature in  
21 joint session under AS 39.05.080. No more than three of the five  
22 members may be members of the same political party. The governor  
23 shall appoint one member to serve as chairperson of the board.

24 (b) Members serve staggered terms of five years. A vacancy on  
25 the board does not impair the authority of the board to exercise the  
26 powers and perform the duties of the corporation.

27 (c) A member of the board is entitled to compensation at a rate  
28 of \$150 for each day the member is engaged in the actual performance  
29 of duties as a member of the board. The board may provide by

1 regulation for compensation for partial days during which an appointed  
2 member is engaged in actual performance of duties as a member of the  
3 board.

4 (d) In addition to compensation under (c) of this section, a  
5 member of the board is entitled to per diem and travel allowances  
6 authorized for members of boards and commissions under AS 39.20.180.

7 (e) A member of the board may not have a pecuniary interest in a  
8 contract or agreement entered into by the corporation.

9 Sec. 05.18.030. MEETINGS. (a) The board shall meet at least  
10 quarterly at the call of the chairperson, at the request of a majority  
11 of the members, or at a regularly scheduled time set by the board.

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

15 Sec. 05.18.040. DUTIES AND POWERS OF BOARD. (a) The board is  
16 responsible for the management of the corporation but shall delegate  
17 certain powers and duties to the executive director in accordance with  
18 AS 05.18.060 - 05.18.070. In managing the corporation the board shall

19 (1) be responsible for the management of the financial and  
20 legal obligations of the corporation;

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

23 (3) determine policy direction for the operation and admin-  
24 istration of the lottery;

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

28 (5) report to the governor and the legislature each year,  
29 including a full and complete statement of lottery revenue, prize

1 disbursement and other expenses, and recommendations for changes in  
2 this chapter;

3 (6) report to the governor and the legislature as frequent-  
4 ly as the board determines necessary on conclusions from the analysis  
5 of the reaction of state residents to the lottery, and on matters that  
6 require changes in the law to prevent violations or evasions of this  
7 chapter or to correct undesirable conditions in connection with the  
8 operation or administration of the lottery;

9 (7) monitor the operation of the lottery throughout the  
10 state; and

11 (8) study and investigate the operation and administration  
12 of the lottery laws of other states and of federal laws that affect  
13 the lottery.

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

16 Sec. 05.18.050. REGULATIONS. The board shall adopt regulations  
17 under the Administrative Procedure Act (AS 44.62) to establish

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

19 (2) the price of lottery products;

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

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

23 (5) the frequency of the drawings or selections of winning  
24 lottery products;

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

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

28 (8) the manner of payment of prizes to the holders of the  
29 winning lottery products;

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

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

5           (11) the prizes that an agent or an employee of the agent  
6 can award; and

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

11           Sec. 05.18.060. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The  
12 corporation shall be under the immediate supervision and direction of  
13 an executive director who is qualified by training and experience to  
14 direct the work of the corporation. The governor shall appoint the  
15 director. The director may not engage in another profession or occu-  
16 pation.

17           (b) Subject to the approval of the board, the director may  
18 appoint deputies required to carry out the functions and duties of the  
19 corporation. The director may appoint professional, technical, and  
20 clerical employees necessary to perform the duties of the corporation.

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

23           (d) The corporation may not employ a person who has been con-  
24 victed, including conviction based on a guilty plea or plea of nolo  
25 contendere, of a felony or other crime if the felony or other crime is  
26 substantially related to the qualifications, functions, or duties of  
27 the employee.

28           Sec. 05.18.070. DUTIES OF DIRECTOR. The director shall

29           (1) supervise the operation and administration of the

1 lottery;

2 (2) act as secretary to the board;

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

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

6 (5) make available for inspection by the board, upon re-  
7 quest, all books, records, files, and other information and documents  
8 of the corporation;

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

11 (7) suspend or revoke a contract issued under this chapter  
12 for a violation of this chapter or the regulations adopted under this  
13 chapter;

14 (8) subject to the approval of the board enter into con-  
15 tracts for the operation and administration of the lottery, except  
16 that agent contracts are not subject to the approval of the board; and

17 (9) provide each month to the board a full and complete  
18 statement of the lottery revenue, prize disbursements and other ex-  
19 penses for the preceding month.

20 Sec. 05.18.080. SUBPOENAS. (a) The director or the board may  
21 subpoena witnesses and documents in a matter over which the corpo-  
22 ration has jurisdiction, control or supervision. The director or the  
23 board may administer oaths and affirmations to persons whose testimony  
24 is required.

25 (b) If a person fails to obey a subpoena, or if a person refuses  
26 to answer a relevant question or to exhibit a document when ordered to  
27 do so by the director or the board, the director or the board may  
28 apply to the superior court for an order directing the person to  
29 comply with the subpoena or the order. The court may order the person

1 to comply.

2 ARTICLE 2. LOTTERY RETAIL SALES AGENTS.

3 Sec. 05.18.100. LOTTERY RETAIL SALES AGENTS. (a) The director  
4 may contract with persons on behalf of the corporation to be lottery  
5 retail sales agents.

6 (b) A lottery retail sales agent may

7 (1) sell lottery products;

8 (2) award prizes as allowed under regulations of the board;

9 and

10 (3) hire employees to perform the services under (1) and  
11 (2) of this subsection.

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

15 Sec. 05.18.105. QUALIFICATIONS FOR AGENT CONTRACTS. (a) A  
16 person who wishes to contract with the corporation to be an agent  
17 shall apply on a form provided by the corporation. The director may  
18 charge the applicant a fee to cover the costs of processing the appli-  
19 cation and checking the background of the applicant.

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

22 (1) the financial responsibility and security of the appli-  
23 cant and the applicant's business or activity;

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

26 (3) the ability of the applicant to promote the retail sale  
27 of lottery products;

28 (4) the sufficiency of existing agent contracts to serve  
29 the public 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  
4 agent if the applicant  
5 (1) would be engaged in business exclusively as an agent;  
6 (2) is an individual under the age of 18; or  
7 (3) has been convicted of a felony or gambling misdemeanor,  
8 including conviction based on a guilty plea or plea of nolo contendere.  
9  
10 Sec. 05.18.110. DURATION OF AGENT CONTRACTS. The director may  
11 contract with an agent for a term of not more than two years, but may  
12 renew the contract.  
13 Sec. 05.18.120. REVOCATION OR SUSPENSION OF AGENT CONTRACTS.  
14 (a) The director shall suspend or cancel the contract of an agent who  
15 violates AS 05.18.320.  
16 (b) The director may suspend or cancel the contract of an agent  
17 who violates a regulation adopted under this chapter or a provision of  
18 this chapter other than AS 05.18.320.  
19 (c) The director shall conduct proceedings to suspend or cancel  
20 an agent contract under the Administrative Procedure Act (AS 44.62).  
21 Sec. 05.18.130. COMPENSATION OF AGENTS. (a) The director shall  
22 establish the levels of compensation for agents. The director may  
23 establish bonus or incentive awards.  
24 (b) When establishing the compensation for agents the director  
25 shall consider  
26 (1) the time and the cost of overhead necessary to make the  
27 lottery products available at convenient times and for sufficient  
28 hours to accommodate the public;  
29 (2) the time necessary for an agent to keep adequate

1 records of the sales of lottery products and to prepare the deposits  
2 and reports required under AS 05.18.140;

3 (3) other criteria the director considers relevant.

4 Sec. 05.18.140. DEPOSIT OF RECEIPTS AND REPORTS. (a) Each  
5 agent shall deposit to the credit of the state in a bank designated by  
6 the director all money received by the agent from the sale of lottery  
7 products.

8 (b) Each agent shall file with the director on a form provided  
9 by the corporation weekly reports of the receipts and transactions in  
10 the sale of lottery products.

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

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

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

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

22 (e) The amount, including any interest or service charge, owed  
23 to the corporation by an agent is a lien on the property of the agent  
24 at the time that the corporation files a claim of lien in the record-  
25 er's office of the recording district of the principal place of busi-  
26 ness of the agent.

27 Sec. 05.18.150. BOND. (a) Each applicant for an agent contract  
28 shall, at the time of application under AS 05.18.105, file with the  
29 corporation and maintain during the term of an agent contract a bond

1 running to the state with a corporate surety qualified to do business  
2 in the state. The amount of the bond shall be determined by the  
3 board.

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

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

8 ARTICLE 3. PRIZES.

9 Sec. 05.18.200. ASSIGNMENT OF PRIZES. A person may not assign a  
10 right to a prize. However, a prize may be paid to a person other than  
11 the prize winner under a court order or to the estate of a deceased  
12 prize winner. The state is discharged of all further liability when a  
13 prize has been paid under this section.

14 Sec. 05.18.210. PAYMENT OF PRIZES TO PERSONS UNDER 18 YEARS.

15 (a) If a person entitled to a prize is under the age of 18 years, and  
16 if the prize is \$5,000 or less, the director may deliver the prize to  
17 an adult member of the minor's family, or to a guardian of the minor,  
18 in the form of a check or draft payable to the order of the minor. If  
19 the prize is more than \$5,000, the director may deliver the prize by  
20 depositing the amount of the prize in a bank to the credit of an adult  
21 member of the minor's family, or a guardian of the minor, as custodian  
22 for the minor. The person named as custodian shall have the same  
23 duties and powers as a person designated as a custodian under AS 45.-  
24 60.

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

27 (c) In this section, the terms "bank", "guardian" and "member"  
28 of a "minor's family" have the meanings given in AS 45.60.091.

29 Sec. 05.18.220. UNCLAIMED PRIZE MONEY. The director shall

1 retain unclaimed prize money for the person entitled to it for one  
2 year after the prize is awarded. If the winner does not claim the  
3 prize money within the year, the corporation shall return the money  
4 and accrued interest to the state lottery fund.

5 ARTICLE 4. MISCELLANEOUS PROVISIONS.

6 Sec. 05.18.300. STATE LOTTERY FUND AND APPROPRIATIONS. There is  
7 created in the general fund the state lottery fund. The state lottery  
8 fund consists of all revenue received from the sale of lottery prod-  
9 ucts and all other money credited or transferred to the fund from  
10 another fund or source. The commissioner of administration shall  
11 separately account for money that the corporation deposited in the  
12 fund. The annual estimated balance in the account may be used by the  
13 legislature to make appropriations to the corporation to carry out the  
14 purposes of this chapter.

15 Sec. 05.18.310. AUDIT. The board shall have an audit of the  
16 books and accounts of the corporation performed at least once in each  
17 year by certified public accountants. The board may have special  
18 audits performed at any time on its own motion or at the request of  
19 the director. The board shall file a copy of each audit with the  
20 commissioner of revenue and the legislature.

21 Sec. 05.18.320. PROHIBITED ACTS. (a) A person may not

22 (1) act as an agent or sell a lottery product unless the  
23 person has a contract with the corporation to be an agent, or is an  
24 employee of an agent and sells lottery products or awards lottery  
25 prizes under the supervision of the agent;

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

28 (3) sell or offer to sell a lottery product to a person  
29 under the age of 18;

1           (4) knowingly present a counterfeit or altered lottery  
2 product for payment or transfer a counterfeit or altered lottery  
3 product to another person to present for payment;

4           (5) with intent to defraud, falsely make, alter, forge,  
5 utter, pass or counterfeit a lottery product; or

6           (6) impersonate a lottery representative.

7           (b) An agent, the governor, or an officer, employee, or contrac-  
8 tor of the corporation or of the governor, may not purchase a lottery  
9 product or receive a lottery prize.

10          (c) An agent may not wilfully withhold funds owed to the lot-  
11 tery.

12          (d) This section does not prohibit a person from giving a lot-  
13 tery product to another person of any age.

14          Sec. 05.18.330. ASSIGNMENT OF CONTRACTS. A person that enters  
15 into a contract under this chapter may not assign the contract without  
16 the approval of the board.

17          Sec. 05.18.340. PENALTY. A person that violates AS 05.18.140 -  
18 05.18.200, 05.18.320 or 05.18.330 is guilty of a class C felony.

19          Sec. 05.18.350. STATEMENT OF ODDS. Each lottery product must  
20 indicate the odds of winning a prize in the particular lottery game  
21 represented by the lottery product.

22          Sec. 05.18.360. APPLICABILITY OF OTHER LAWS. No other law  
23 regarding the sale of lottery products or the administration of a  
24 lottery applies to the sale of lottery products under this chapter.

25                           ARTICLE 5. GENERAL PROVISIONS.

26          Sec. 05.18.900. DEFINITIONS. In this chapter, unless the con-  
27 text requires otherwise,

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

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

3           (3) "board" means the board of directors of the corpo-  
4 ration;

5           (4) "corporation" means the Alaska State Lottery Corpo-  
6 ration;

7           (5) "director" means the executive director of the corpo-  
8 ration;

9           (6) "lottery" or "state lottery" means the lottery estab-  
10 lished and operated under this chapter;

11           (7) "lottery product" means a ticket, receipt, card, or  
12 other item, except a lottery prize, received by a person from an agent  
13 or an employee of an agent as evidence of participation in the lot-  
14 tery;

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

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

23 \* Sec. 2. AS 39.25.110(11) is amended by adding a new subparagraph to  
24 read:

25                           (G) Alaska State Lottery Corporation;

26 \* Sec. 3. AS 39.50.200(b) is amended by adding a new paragraph to read:

27                           (48) Alaska State Lottery Corporation (AS 05.18).

28 \* Sec. 4. The lieutenant governor shall place before the qualified  
29 voters of the state at the next general election the following question,

1 advisory to the legislature. The question shall appear on the ballot in  
2 substantially the following form:

3 Q U E S T I O N

4 The legislature has passed a law to establish a state  
5 lottery in 1987. Should the state operate a lottery?

6 Yes [ ] No [ ]

7 \* Sec. 5. Sections 1 - 3 of this Act take effect March 15, 1987.

8 \* Sec. 6. Section 4 of this Act takes effect immediately in accordance  
9 with AS 01.10.070(c).