

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) am
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 per diem and travel
28 allowances authorized for members of boards and commissions under
29 AS 39.20.180.

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

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

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

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

13 (1) be responsible for the management of the financial and
14 legal obligations of the corporation;

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

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

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

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

26 (6) report to the governor and the legislature as frequent-
27 ly as the board determines necessary on conclusions from the analysis
28 of the reaction of state residents to the lottery, and on matters that
29 require changes in the law to prevent violations or evasions of this

1 chapter or to correct undesirable conditions in connection with the
2 operation or administration of the lottery;

3 (7) monitor the operation of the lottery throughout the
4 state; and

5 (8) study and investigate the operation and administration
6 of the lottery laws of other states and of federal laws that affect
7 the lottery.

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

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

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

13 (2) the price of lottery products;

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

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

17 (5) the frequency of the drawings or selections of winning
18 lottery products;

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

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

22 (8) the manner of payment of prizes to the holders of the
23 winning lottery products;

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

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

28 (11) the prizes that an agent or an employee of the agent
29 can award; and

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

5 Sec. 05.18.060. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The
6 corporation shall be under the immediate supervision and direction of
7 an executive director who is qualified by training and experience to
8 direct the work of the corporation. The governor shall appoint the
9 director. The director may not engage in another profession or occu-
10 pation.

11 (b) Subject to the approval of the board, the director may
12 appoint deputies required to carry out the functions and duties of the
13 corporation. The director may appoint professional, technical, and
14 clerical employees necessary to perform the duties of the corporation.

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

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

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

23 (1) supervise the operation and administration of the lot-
24 tery;

25 (2) act as secretary to the board;

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

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

29 (5) make available for inspection by the board, upon

1 request, all books, records, files, and other information and docu-
2 ments of the corporation;

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

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

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

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

14 Sec. 05.18.080. SUBPOENAS. (a) The director or the board may
15 subpoena witnesses and documents in a matter over which the corpo-
16 ration has jurisdiction, control or supervision. The director or the
17 board may administer oaths and affirmations to persons whose testimony
18 is required.

19 (b) If a person fails to obey a subpoena, or if a person refuses
20 to answer a relevant question or to exhibit a document when ordered to
21 do so by the director or the board, the director or the board may
22 apply to the superior court for an order directing the person to
23 comply with the subpoena or the order. The court may order the person
24 to comply.

25 ARTICLE 2. LOTTERY RETAIL SALES AGENTS.

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

29 (b) A lottery retail sales agent may

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

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

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

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

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

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

20 (3) the ability of the applicant to promote the retail sale
21 of lottery products;

22 (4) the sufficiency of existing agent contracts to serve
23 the public convenience;

24 (5) the volume of expected sales; and

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

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

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

29 (2) is an individual under the age of 18; or

1 (3) has been convicted of a felony or gambling misdemeanor,
2 including conviction based on a guilty plea or plea of nolo contend-
3 ere.

4 Sec. 05.18.110. DURATION OF AGENT CONTRACTS. The director may
5 contract with an agent for a term of not more than two years, but may
6 renew the contract.

7 Sec. 05.18.120. REVOCATION OR SUSPENSION OF AGENT CONTRACTS.
8 (a) The director shall suspend or cancel the contract of an agent who
9 violates AS 05.18.320.

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

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

15 Sec. 05.18.130. COMPENSATION OF AGENTS. (a) The director shall
16 establish the levels of compensation for agents. The director may
17 establish bonus or incentive awards.

18 (b) When establishing the compensation for agents the director
19 shall consider

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

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

26 (3) other criteria the director considers relevant.

27 Sec. 05.18.140. DEPOSIT OF RECEIPTS AND REPORTS. (a) Each
28 agent shall deposit to the credit of the state in a bank designated by
29 the director all money received by the agent from the sale of lottery

1 products.

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

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

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

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

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

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

21 Sec. 05.18.150. BOND. (a) Each applicant for an agent contract
22 shall, at the time of application under AS 05.18.105, file with the
23 corporation and maintain during the term of an agent contract a bond
24 running to the state with a corporate surety qualified to do business
25 in the state. The amount of the bond shall be determined by the
26 board.

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

29 (c) The state or another person may not bring an action on the

1 bond more than three years after its cancellation.

2 ARTICLE 3. PRIZES.

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

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

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

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

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

23 Sec. 05.18.220. UNCLAIMED PRIZE MONEY. The director shall
24 retain unclaimed prize money for the person entitled to it for one
25 year after the prize is awarded. If the winner does not claim the
26 prize money within the year, the corporation shall return the money
27 and accrued interest to the state lottery fund.

28 ARTICLE 4. MISCELLANEOUS PROVISIONS.

29 Sec. 05.18.300. STATE LOTTERY FUND AND APPROPRIATIONS. There is

1 created in the general fund the state lottery fund. The state lottery
2 fund consists of all revenue received from the sale of lottery prod-
3 ucts and all other money credited or transferred to the fund from
4 another fund or source. The commissioner of administration shall
5 separately account for money that the corporation deposited in the
6 fund. The annual estimated balance in the account may be used by the
7 legislature to make appropriations to the corporation to carry out the
8 purposes of this chapter.

9 Sec. 05.18.310. AUDIT. The board shall have an audit of the
10 books and accounts of the corporation performed at least once in each
11 year by certified public accountants. The board may have special
12 audits performed at any time on its own motion or at the request of
13 the director. The board shall file a copy of each audit with the
14 commissioner of revenue and the legislature.

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

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

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

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

24 (4) knowingly present a counterfeit or altered lottery
25 product for payment or transfer a counterfeit or altered lottery
26 product to another person to present for payment;

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

29 (6) impersonate a lottery representative.

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

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

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

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

11 Sec. 05.18.340. PENALTY. A person that violates AS 05.18.140 -
12 05.18.200, 05.18.320 or 05.18.330 is guilty of a class C felony.

13 Sec. 05.18.350. STATEMENT OF ODDS. Each lottery product must
14 indicate the odds of winning a prize in the particular lottery game
15 represented by the lottery product.

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

19 ARTICLE 5. GENERAL PROVISIONS.

20 Sec. 05.18.900. DEFINITIONS. In this chapter, unless the con-
21 text requires otherwise,

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

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

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

28 (4) "corporation" means the Alaska State Lottery Corpo-
29 ration;

1 (5) "director" means the executive director of the corpo-
2 ration;

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

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

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

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

17 * Sec. 2. AS 39.25.110(11) is amended by adding a new subparagraph to
18 read:

19 (G) Alaska State Lottery Corporation;

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

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

22 * Sec. 4. The lieutenant governor shall place before the qualified
23 voters of the state at the next general election the following question,
24 advisory to the legislature. The question shall appear on the ballot in
25 substantially the following form:

26 Q U E S T I O N

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

29 Yes [] No []

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

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