

SENATE BILL NO. 389

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY SENATOR CRAFT

**Introduced: 2/7/92
Referred: L&C, Judiciary, 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 Corporation
7 is established for the purpose of generating revenue for the state. The corporation is a public
8 corporation and is an instrumentality of the state within the Department of Revenue.

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

14 (b) Members serve staggered terms of five years. A vacancy on the board does not

1 impair the authority of the board to exercise the powers and perform the duties of the
2 corporation.

3 (c) A member of the board is entitled to per diem and travel allowances authorized for
4 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 agreement
6 entered into by the corporation.

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

10 (b) An action of the board is not binding unless taken at a meeting where three or more
11 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 for
13 the management of the corporation but shall delegate certain powers and duties to the executive
14 director in accordance with AS 05.18.060 - 05.18.070. In managing the corporation the board
15 shall

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

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

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

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

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

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

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

31 (8) study and investigate the operation and administration of the lottery laws of

1 other states and of federal laws that affect the lottery.

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

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

- 6 (1) the type of lottery to be conducted;
- 7 (2) the price of lottery products;
- 8 (3) the numbers and sizes of the prizes for the winning lottery products;
- 9 (4) the manner of selecting the winning lottery products;
- 10 (5) the frequency of the drawings or selections of winning lottery products;
- 11 (6) the type and number of locations where lottery products may be sold;
- 12 (7) the method to be used in selling lottery products;
- 13 (8) the manner of payment of prizes to the holders of the winning lottery
14 products;
- 15 (9) the procedures for contracting with persons to be agents;
- 16 (10) the manner and amount of compensation to be paid agents;
- 17 (11) the prizes that an agent or an employee of the agent can award; and
- 18 (12) other matters necessary or desirable to carry out this chapter, to operate the
19 lottery efficiently and economically, and to make the purchase of lottery products and the
20 distribution of prizes convenient.

21 Sec. 05.18.060. EXECUTIVE DIRECTOR AND EMPLOYEES. (a) The corporation
22 shall be under the immediate supervision and direction of an executive director who is qualified
23 by training and experience to direct the work of the corporation. The governor shall appoint the
24 director. The director may not engage in another profession or occupation.

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

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

30 (d) The corporation may not employ a person who has been convicted, including
31 conviction based on a guilty plea or plea of nolo contendere, of a felony or other crime if the

1 feiomy or other crime is substantially related to the qualifications, functions, or duties of the
2 employee.

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

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

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

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

28 ARTICLE 2. LOTTERY RETAIL SALES AGENTS.

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

31 (b) A lottery retail sales agent may

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

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

6 Sec. 05.18.105. QUALIFICATIONS FOR AGENT CONTRACTS. (a) A person who
7 wishes to contract with the corporation to be an agent shall apply on a form provided by the
8 corporation. The director may charge the applicant a fee to cover the costs of processing the
9 application and checking the background of the applicant.

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

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

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

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

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

16 (5) the volume of expected sales; and

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

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

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

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

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

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

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

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

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

31 (c) The director shall conduct proceedings to suspend or cancel an agent contract under

1 the Administrative Procedure Act (AS 44.62).

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

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

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

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

9 (3) other criteria the director considers relevant.

10 Sec. 05.18.140. DEPOSIT OF RECEIPTS AND REPORTS. (a) An agent shall deposit
11 to the credit of the state in a bank designated by the director all money received by the agent
12 from the sale of lottery products.

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

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

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

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

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

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

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

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

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

3 ARTICLE 3. PRIZES.

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

8 Sec. 05.18.210. PAYMENT OF PRIZES TO PERSONS UNDER 18 YEARS. (a) If a
9 person entitled to a prize is under the age of 18 years, and if the prize is \$5,000 or less, the
10 director may deliver the prize to an adult member of the minor's family, or to a guardian of the
11 minor, in the form of a check or draft payable to the order of the minor. If the prize is more
12 than \$5,000, the director may deliver the prize by depositing the amount of the prize in a
13 financial institution to the credit of an adult member of the minor's family, or a guardian of the
14 minor, as custodian for the minor. The person named as custodian has the same duties and
15 powers as a person designated as a custodian under AS 13.46.

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

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

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

24 ARTICLE 4. MISCELLANEOUS PROVISIONS.

25 Sec. 05.18.300. AUDIT. The board shall have an audit of the books and accounts of the
26 corporation performed at least once in each year by certified public accountants. The board may
27 have special audits performed at any time on its own motion or at the request of the director.
28 The board shall file a copy of each audit with the commissioner of revenue and the legislature.

29 Sec. 05.18.310. PROHIBITED ACTS. (a) A person may not

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

1 lottery prizes under the supervision of the agent;

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

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

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

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

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

9 Sec. 05.18.320. ASSIGNMENT OF CONTRACTS. A person that enters into a contract
10 under this chapter may not assign the contract without the approval of the board.

11 Sec. 05.18.330. PENALTY. A person that violates AS 05.18.140 - 05.18.200, 05.18.310,
12 or 05.18.320 is guilty of a class C felony.

13 Sec. 05.18.340. STATEMENT OF ODDS. A lottery product must indicate the odds of
14 winning a prize in the particular lottery game represented by the lottery product.

15 Sec. 05.18.350. APPLICABILITY OF OTHER LAWS. Except for AS 11, no other law
16 regarding the sale of lottery products or the administration of a lottery applies to the sale of
17 lottery products under this chapter.

18 ARTICLE 5. GENERAL PROVISIONS.

19 Sec. 05.18.900. DEFINITIONS. In this chapter, unless the context requires otherwise,

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

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

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

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

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

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

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

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

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

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

9 (e) The board of directors of the Alaska Railroad Corporation, the Alaska State Lottery
10 Corporation, and [THE BOARD OF DIRECTORS OF] the Alaska Aerospace Development
11 Corporation shall adopt procedures to govern the procurement of supplies, services, professional
12 services, and construction. The procedures must be substantially equivalent to the procedures
13 prescribed in this chapter and in regulations adopted under this chapter.

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

15 (c) The lists may be used by the chief procurement officer or an agency when issuing
16 invitations to bid or requests for proposals under this chapter. The lists may be used by the
17 legislative council, the court system, the Alaska State Lottery Corporation, the Alaska State
18 Housing Authority, and the Alaska Railroad Corporation.

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

20 (G) Alaska State Lottery Corporation;

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