

**SUBSTITUTE FOR
HOUSE BILL NO. 5790**

A bill to amend 1972 PA 239, entitled
"McCauley-Traxler-Law-Bowman-McNeely lottery act,"
by amending sections 23, 41, and 43 (MCL 432.23, 432.41, and
432.43), section 23 as amended by 2004 PA 272 and sections 41 and
43 as amended by 1997 PA 72.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 23. (1) The commissioner shall not issue a license to
2 a person to engage in business exclusively as a lottery sales
3 agent. Before issuing a lottery sales license, the commissioner
4 shall consider factors such as the financial responsibility and
5 security of the person and his or her business or activity, the
6 accessibility of his or her place of business or activity to the
7 public, the sufficiency of existing licenses to serve the public
8 convenience, and the volume of expected sales.

9 (2) If the commissioner issues a type of license to persons

1 who hold class C licenses or authorizes persons who hold class C
2 licenses to conduct a type of lottery, the commissioner shall
3 issue the same type of license to veterans' organizations that
4 hold club licenses or shall authorize veterans' organizations
5 that hold club licenses to conduct the same type of lottery.
6 This subsection does not exempt a veterans' organization that
7 applies for or holds a lottery sales agent's license from the
8 requirements of this act and rules promulgated under this act.

9 (3) ~~-(2)-~~ Beginning ~~the effective date of the amendatory act~~
10 ~~that added subsection (12)-~~ July 23, 2004, the commissioner shall
11 issue an initial or renewal lottery sales license not later than
12 90 days after the applicant files a completed application.
13 Receipt of the application is considered the date the application
14 is received by any agency or department of this state. If the
15 application is determined to be incomplete by the commissioner,
16 the commissioner shall notify the applicant in writing, or make
17 information electronically available, within 30 days after
18 receipt of the incomplete application, describing the deficiency
19 and requesting the additional information. The 90-day period is
20 tolled upon notification by the commissioner of a deficiency
21 until the date the requested information is received by the
22 commissioner. The determination of the completeness of an
23 application does not operate as an approval of the application
24 for the license and does not confer eligibility of an applicant
25 determined otherwise ineligible for issuance of a license.

26 (4) ~~-(3)-~~ If the commissioner fails to issue or deny a
27 lottery sales license within the time required by this section,

1 the commissioner shall return the license fee and shall reduce
2 the license fee for the applicant's next renewal application, if
3 any, by 15%. The failure to issue a lottery sales license within
4 the time required under this section does not allow the
5 commissioner to otherwise delay the processing of the
6 application, and that application, upon completion, shall be
7 placed in sequence with other completed applications received at
8 that same time. The commissioner shall not discriminate against
9 an applicant in the processing of the application based upon the
10 fact that the license fee was refunded or discounted under this
11 subsection.

12 (5) ~~(4)~~ Beginning October 1, 2005, the commissioner shall
13 submit a report by December 1 of each year to the standing
14 committees and appropriations subcommittees of the senate and
15 house of representatives concerned with gaming issues. The
16 commissioner shall include all of the following information in
17 the report concerning the preceding fiscal year:

18 (a) The number of initial and renewal applications the
19 commissioner received and completed within the 90-day time period
20 described in subsection ~~(2)~~ (3).

21 (b) The number of applications denied.

22 (c) The number of applicants not issued a license within the
23 90-day time period and the amount of money returned to licensees
24 and applicants under subsection ~~(3)~~ (4).

25 (6) ~~(5)~~ Notwithstanding any other provision of law, a
26 person licensed as a lottery sales agent may sell lottery tickets
27 and shares. A person lawfully engaged in nongovernmental

1 business on state property may be licensed as a lottery sales
2 agent.

3 (7) ~~-(6)-~~ A lottery sales license is not assignable or
4 transferable.

5 (8) ~~-(7)-~~ A licensed agent or his or her employee may sell
6 lottery tickets or shares only on the premises stated in the
7 lottery sales license. A licensed agent who violates this
8 subsection is, at the commissioner's discretion, subject to 1 or
9 more of the following:

10 (a) Probation for not more than 2 years.

11 (b) A fine of not more than \$1,000.00.

12 (c) Removal of his or her lottery terminal.

13 (9) ~~-(8)-~~ The commissioner may require a bond from a licensed
14 agent in an amount provided in rules promulgated under this act.

15 (10) ~~-(9)-~~ A licensed agent shall display his or her license
16 or a copy of the license conspicuously in accordance with rules
17 promulgated under this act.

18 (11) ~~-(10)-~~ The commissioner may suspend or revoke the
19 license of an agent who violates this act or a rule promulgated
20 under this act.

21 (12) ~~-(11)-~~ For purposes of terminal placement, the
22 commissioner shall take into account with equal emphasis both of
23 the following:

24 (a) The total instant game sales for the 3 months immediately
25 preceding a market evaluation.

26 (b) The need to maximize net lottery revenues from the total
27 number of terminals placed.

1 (13) ~~-(12)-~~ As used in this section:

2 (a) "Class C license" means a license to sell at retail beer,
3 wine, mixed spirit drink, and spirits for consumption on the
4 premises under the liquor control code of 1998, 1998 PA 58, MCL
5 436.1101 to 436.2303.

6 (b) "Club license" means a license issued under section 532
7 of the liquor control code of 1998, 1998 PA 58, MCL 436.1532.

8 (c) ~~-(a)-~~ "Completed application" means an application
9 complete on its face and submitted with any applicable licensing
10 fees and any other information, records, approval, security, or
11 similar item required by law or rule from a local unit of
12 government, a federal agency, or a private entity but not from
13 another department or agency of this state.

14 (d) ~~-(b)-~~ "Person" means an individual, association,
15 corporation, club, trust, estate, society, company, joint stock
16 company, receiver, trustee, referee, or other person acting in a
17 fiduciary or representative capacity who is appointed by a court,
18 or any combination of individuals. Person includes a department,
19 commission, agency, or instrumentality of the state, including a
20 county, city, village, or township and an agency or
21 instrumentality of the county, city, village, or township.

22 (e) "Veterans' organization" means an organization in this
23 state, or a branch, lodge, or chapter in this state of a state
24 organization or of a national organization chartered by the
25 congress of the United States, that is organized not for
26 pecuniary profit and whose members were members of the armed
27 services or forces of the United States.

1 Sec. 41. (1) A special fund to be known as the "state
2 lottery fund" is created in the department of treasury. Except
3 as provided in subsection (3), the state lottery fund consists of
4 all revenues received from the sale of state lottery tickets or
5 shares and all other money credited or transferred to the fund
6 from any other fund or sources pursuant to law including interest
7 earnings on common cash attributable to the state lottery fund.
8 Revenue derived from the sale of tickets or shares of any joint
9 enterprise shall be treated in the manner provided for in the
10 joint enterprise participation agreement executed by the
11 commissioner. The commissioner shall deposit net revenue from
12 any joint enterprise in the state lottery fund. Earnings
13 resulting from installment payment of any lottery prizes shall be
14 used for payment of prizes to lottery winners and the prize
15 structure formulated pursuant to sections 11 and 12 shall be
16 established accordingly.

17 (2) The investment authority of the state treasurer with
18 regard to the state lottery fund shall be the same as his or her
19 investment authority with regard to retirement system funds. To
20 assure a continuing availability of money with which to pay state
21 lottery prize installments and to compensate for variations in
22 the yield on investments, every 6 months the commissioner and the
23 state treasurer shall review the status of the installment prize
24 investments and shall agree on an amount to be restricted out of
25 the total revenues of the state lottery fund as a reserve against
26 a drop in yield. If the commissioner and the state treasurer
27 fail to agree on the amount to be reserved, the matter shall be

House Bill No. 5790 (H-2) as amended December 2, 2004

1 referred to the state administrative board for a decision on the
2 amount to be reserved.

3 (3) Except as provided in ~~subsection (4)~~ **subsections (4)**
4 **and (5)**, after the payment of prizes to the holders of winning
5 state lottery tickets or shares or the payment pursuant to
6 section 32 of the liabilities to this state of holders of winning
7 state lottery tickets or shares, and the payment of the
8 reasonable expenses of the bureau in its operation of the
9 lottery, the net revenue in the state lottery fund and any money
10 or interest generated by the state lottery fund and share of
11 common cash shall be deposited in the state school aid fund and
12 shall be distributed as provided by law.

13 (4) Ten percent of each year's state lottery advertising
14 budget but not to exceed \$1,000,000.00 shall be deposited in the
15 compulsive gaming prevention fund created in **section 3 of the**
16 **compulsive gaming prevention act, 1997 PA 70, MCL 432.253.**

17 (5) **Thirty percent of the revenue from lottery games**
18 **conducted by veterans' organizations under section 23(2) shall be**
19 **deposited in the Michigan veterans' trust fund established in**
20 **section 37 of article IX of the state constitution of 1963[.**

21

22] **The balance of the**
23 **revenue from lottery games conducted by veterans' organizations**
24 **under section 23(2) shall be deposited in the state school aid**
25 **fund.**

26 Sec. 43. Subject to section 41(1), the money in the state
27 lottery fund is appropriated only for the payment of prizes to

1 the holders of winning state lottery tickets or shares, for the
2 payment pursuant to section 32 of the liabilities to this state
3 of holders of winning state lottery tickets or shares, for
4 reasonable expenses of the bureau in its operation of the state
5 lottery, for deposit in the compulsive gaming prevention fund as
6 provided in section 41(4), **for deposit in the Michigan veterans'**
7 **trust fund as provided in section 41(5)**, and for deposit in the
8 state school aid fund as provided in section 41(3) **and (5)**.