

Act No. 167  
Public Acts of 1996  
Approved by the Governor  
April 17, 1996  
Filed with the Secretary of State  
April 17, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

Introduced by Reps. Jaye, Dobb, Walberg, Goschka and Clack

# **ENROLLED HOUSE BILL No. 4478**

AN ACT to amend sections 3, 9, 11, 12, 23, 25, 30, 33, 41, and 43 of Act No. 239 of the Public Acts of 1972, entitled as amended "An act to establish and operate a state lottery and to allow state participation in certain lottery-related joint enterprises with other sovereignties; to create a bureau of state lottery and to prescribe its powers and duties; to prescribe certain powers and duties of other state departments and agencies; to license and regulate certain sales agents; to create the state lottery fund; to provide for the distribution of lottery revenues and earnings for certain purposes; to provide for an appropriation; and to provide for remedies and penalties," sections 3, 9, 11, 12, 25, 30, 33, 41, and 43 as amended by Act No. 95 of the Public Acts of 1996, being sections 432.3, 432.9, 432.11, 432.12, 432.23, 432.25, 432.30, 432.33, 432.41, and 432.43 of the Michigan Compiled Laws; to add section 16; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Section 1. Sections 3, 9, 11, 12, 23, 25, 30, 33, 41, and 43 of Act No. 239 of the Public Acts of 1972, sections 3, 9, 11, 12, 25, 30, 33, 41, and 43 as amended by Act No. 95 of the Public Acts of 1996, being sections 432.3, 432.9, 432.11, 432.12, 432.23, 432.25, 432.30, 432.33, 432.41, and 432.43 of the Michigan Compiled Laws, are amended and section 16 is added to read as follows:

Sec. 3. As used in this act:

- (a) "Bureau" means the bureau of state lottery created by this act.
- (b) "Commissioner" means the commissioner of state lottery.
- (c) "Joint enterprise" means any lottery activity in which the bureau participates pursuant to a written agreement between the state of Michigan and any state, territory, country, or other sovereignty as executed by the commissioner. Joint enterprise does not include the state lottery created pursuant to this act.
- (d) "Lottery" or "state lottery" means the lottery created pursuant to this act and operated exclusively by or under the exclusive control of the bureau of state lottery.

Sec. 9. (1) The commissioner shall initiate, establish, and operate a state lottery at the earliest feasible and practicable time. The lottery shall produce the maximum amount of net revenues for the state consonant with the general welfare of the people. The commissioner shall solicit bids from financially responsible vendors of data processing equipment and services for the operation of the lottery and may contract with the approval of the state administrative board.

(2) The commissioner shall not conduct a lottery based upon an activity that utilizes the mechanical, physical, or mental skills of the participant and that is traditionally regarded as a sporting event.

(3) The commissioner may participate in joint enterprises with other sovereignties so long as the commissioner determines that the joint enterprise is designed to produce the maximum amount of net revenues for the state

consonant with the general welfare of the people. The commissioner shall only participate in a joint enterprise agreement that provides that the commissioner may discontinue participation in the agreement if he or she determines it to be necessary. The commissioner shall report to the legislature every 6 months on the progress of the joint enterprise agreement.

(4) The commissioner shall submit a proposal to develop a program for the education and treatment of compulsive gamblers to the legislature within 6 months after the effective date of this amendatory act.

Sec. 11. (1) The commissioner shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, as necessary to implement this act.

(2) The rules authorized under this section may include any of the following:

(a) The type of lottery to be conducted subject to section 9(2).

(b) The price of tickets or shares in the lottery.

(c) The number and size of the prizes on the winning tickets or shares.

(d) The manner of selecting the winning tickets or shares.

(e) The manner of payment of prizes to the holders of winning tickets or shares, subject to section 32.

(f) The frequency of the drawings or selections of winning tickets or shares.

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold subject to section 23(10).

(h) The method to be used in selling tickets or shares, except that a person's name shall not be printed on the tickets or shares.

(i) The licensing of agents to sell tickets or shares but a person under the age of 18 shall not be licensed as an agent.

(j) The manner and amount of compensation to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.

(k) The apportionment of the total annual revenues accruing from the sale of lottery tickets or shares and from all other sources for the payment of prizes to the holders of winning tickets or shares, for the payment of costs incurred in the operation and administration of the lottery, including the expenses of the bureau and the costs resulting from any contract or contracts entered into for promotional, advertising, consulting or operational services or for the purchase or lease of lottery equipment and materials, for the repayment of the money appropriated to the state lottery fund and for transfer to the general fund.

(3) The commissioner may promulgate rules incorporating by reference existing rules or regulations of any joint enterprise as required as a condition for participation in that joint enterprise. Any subsequent changes or additions to the rules or regulations of the joint enterprise may be adopted by the commissioner through the promulgation of a rule.

(4) This section is repealed if the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling. Nothing in this subsection invalidates rules that have been promulgated prior to the effective date of the amendatory act that added this subsection.

Sec. 12. (1) Except as otherwise provided in subsection (3), as nearly as is practicable until January 1, 1999, not less than 45% of the total annual revenue accruing from the sale of lottery tickets or shares shall be apportioned for payment of prizes to the holders of winning tickets or shares.

(2) On or after January 1, 1999, 45% of the total revenue shall be apportioned for payment of prizes.

(3) Notwithstanding subsections (1) and (2), the prize money from the sale of tickets or shares of any joint enterprise shall be that percentage of the total annual revenue accrued from that game as prescribed by the joint enterprise participation agreement executed by the commissioner.

Sec. 16. (1) The commissioner shall conduct a study of compulsive gambling and the extent to which persons with compulsive gambling disorders participate in gambling activities. The commissioner shall submit a written summary of the findings of the study to the clerk of the house of representatives and the secretary of the senate not later than 1 year after the effective date of this section.

(2) The commissioner shall provide for the establishment of a program that provides treatment for persons with compulsive gambling disorders. A telephone number for access to the treatment program shall be printed on all lottery tickets.

(3) The total cost of the study, the treatment program, and advertising for the treatment program shall be paid out of funds that otherwise would have been expended for advertising for the state lottery, and shall be in an amount equal to not less than 10% of each year's state lottery advertising budget but not to exceed \$1,000,000.00.

Sec. 23. (1) A license as an agent to sell lottery tickets or shares shall not be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing a license the commissioner shall consider factors such as the financial responsibility and security of the person and his or her business or activity, the accessibility of his or her place of business or activity to the public, the sufficiency of existing licenses to serve the public convenience, and the volume of expected sales.

(2) As used in this section, "person" means an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, referee, any other person acting in a fiduciary or representative capacity who is appointed by a court, or any combination of individuals. Person includes any department, commission, agency, or instrumentality of the state, including any county, city, village, or township and any agency or instrumentality thereof.

(3) Notwithstanding any other provision of law, a person licensed pursuant to this act may act as a lottery sales agent. A person lawfully engaged in nongovernmental business on state property may be licensed as a lottery sales agent.

(4) A license is not assignable or transferable.

(5) A licensed agent or his or her employee may sell lottery tickets or shares only on the premises stated in the license of the agent. Effective July 1, 1996, a licensed agent who violates this subsection is, at the commissioner's discretion, subject to 1 or more of the following:

(a) Probation for not more than 2 years.

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

(c) Removal of his or her lottery terminal.

(6) The commissioner may issue temporary licenses upon conditions as he or she considers necessary for a term which shall not extend beyond 1 year after the effective date of this act.

(7) The commissioner may require a bond from any licensed agent in an amount as provided in the rules.

(8) A licensed agent shall display his or her license or a copy thereof conspicuously in accordance with the rules.

(9) The commissioner may suspend or revoke the license of any agent who violates this act or a rule promulgated pursuant to this act.

(10) For purposes of terminal placement, the commissioner shall take into account with equal emphasis both of the following:

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

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

Sec. 25. (1) The right of any person to a prize drawn from the state lottery is not assignable, except that payment of any prize drawn may be paid to the family members or to the estate of a deceased prizewinner as provided in subsection (2), to a person pursuant to an appropriate judicial order, or to the state pursuant to section 32. The commissioner shall be discharged of all further liability upon payment of a prize pursuant to this section.

(2) If a prizewinner dies before collecting the full amount of his or her prize drawn from the state lottery, the bureau shall continue to make the remaining prize payments to the prizewinner's surviving spouse and the prizewinner's living children, in equal proportions, unless otherwise directed by the prizewinner. If there is not a surviving spouse or living children or other designated beneficiaries, the remaining prize payments shall be made to the prizewinner's estate.

(3) Except as otherwise provided by state or federal law, the commissioner or an officer or employee of the bureau shall not disclose the name, address, or any other personal information concerning a winner of a prize greater than \$10,000.00 drawn from the state lottery, unless the winner of a prize agrees in writing to allow the disclosure. Subject to subsection (4), the information protected against disclosure under this section is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(4) Notwithstanding subsection (3), the commissioner or an officer or employee of the bureau may disclose the name, address, or any other personal information concerning a winner of a prize awarded under a game played pursuant to a joint enterprise to the extent required under the joint enterprise participation agreement executed by the commissioner.

Sec. 30. (1) A person, with the intent to defraud, shall not falsely make, alter, forge, utter, pass, or counterfeit a state lottery ticket or share.

(2) A person, with the intent to defraud, shall not falsely make, alter, forge, utter, pass, or counterfeit a ticket or share of any joint enterprise entered into by the commissioner.

(3) A person convicted of violating this section is guilty of a felony punishable by imprisonment for not more than 5 years or by a fine of not more than \$1,000.00, or both.

Sec. 33. (1) Unclaimed prize money for the prize on a winning ticket or share of the state lottery shall be retained by the commissioner for the person entitled to the prize money for 1 year after the drawing in which the prize was won. If a claim is not made for the prize money within the year, the prize money shall be deposited in the state school aid fund and distributed pursuant to law.

(2) Unclaimed prize money for the prize on a winning ticket or share of any joint enterprise shall be treated in the manner provided for in the joint enterprise participation agreement executed by the commissioner. To the extent that the state of Michigan is entitled to any unclaimed prize money, that money received shall be deposited into the state school aid fund and distributed pursuant to law.

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

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

(3) After the payment of prizes to the holders of winning state lottery tickets or shares or the payment pursuant to section 32 of the liabilities to this state of holders of winning state lottery tickets or shares, and the payment of the reasonable expenses of the bureau in its operation of the lottery, the net revenue in the state lottery fund and any money or interest generated by the state lottery fund and share of common cash shall be deposited in the state school aid fund and shall be distributed as provided by law.

Sec. 43. Subject to section 41(1), the money in the state lottery fund is appropriated only for the payment of prizes to the holders of winning state lottery tickets or shares, for the payment pursuant to section 32 of the liabilities to this state of holders of winning state lottery tickets or shares, for reasonable expenses of the bureau in its operation of the state lottery, and for deposit in the state school aid fund as provided in section 41(3).

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved \_\_\_\_\_

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Governor.