

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

464B0605

HOUSE BILL NO. 1189

Introduced by: Representatives Volesky and Lucas

1 FOR AN ACT ENTITLED, An Act to repeal the video lottery.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 42-7A-1 be amended to read as follows:

4 42-7A-1. Terms used in this chapter mean:

5 (1) ~~"Associated equipment," any proprietary device, machine or part used in the~~
6 ~~manufacture or maintenance of a video lottery machine, including but not limited to~~
7 ~~integrated circuit chips, printed wired assembly, printed wired boards, printing~~
8 ~~mechanisms, video display monitors and metering devices;~~

9 (2) "Commission," the South Dakota Lottery Commission;

10 (3) "Credit," five, ten or twenty-five cents;

11 (4) "Executive director," the executive director of the South Dakota Lottery;

12 (5) "Instant lottery," a game that offers preprinted tickets that indicate immediately or in
13 a grand prize drawing whether the player has won a prize;

14 (6) ~~"Licensed establishment," a bar or lounge owned or managed by an individual,~~
15 ~~partnership, corporation or association licensed to sell alcoholic beverages for~~
16 ~~consumption upon the premises where sold;~~

- 1 (7) "Lottery" or "state lottery," any lottery operated pursuant to this chapter;
- 2 (8) "Lottery retailer," any person with whom the South Dakota Lottery has contracted
3 to sell lottery tickets to the public;
- 4 (9) "Lottery vendor" or "vendor," any person who has entered into a major procurement
5 contract with the South Dakota Lottery;
- 6 (10) "Major procurement," any contract with any vendor directly involved in providing
7 facilities, equipment, tickets and services unique to the lottery, but not including
8 materials, supplies, equipment, and services common to the ordinary operations of
9 state agencies;
- 10 (11) ~~"Net machine income," money put into a video lottery machine minus credits paid out~~
11 ~~in cash;~~
- 12 (12) "On-line lottery," a game linked to a central computer via a telecommunications
13 network in which the player selects a specified group of numbers or symbols out of
14 a predetermined range of numbers or symbols as approved by the commission;
- 15 (13) "South Dakota Lottery," the state agency created by this chapter to operate a lottery
16 pursuant to this chapter;
- 17 (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to
18 prove participation in an instant; ~~or on-line or video lottery game;~~
- 19 ~~— (14A) "Video lottery," any video game of chance played on video lottery machines;~~
- 20 ~~— (15) "Video lottery machine distributor," any individual, partnership, corporation or~~
21 ~~association that distributes or sells video lottery machines or associated equipment in~~
22 ~~this state;~~
- 23 ~~— (16) "Video lottery machine manufacturer," any individual, partnership, corporation or~~
24 ~~association that assembles or produces video lottery machines or associated~~
25 ~~equipment for sale or use in this state;~~

1 ~~(17) "Video lottery machine operator," any individual, partnership, corporation or~~
2 ~~association that places video lottery machines or associated equipment for public use~~
3 ~~in this state; and~~

4 ~~(18) "Video lottery machines," or "machine," any electronic video game machine that,~~
5 ~~upon insertion of cash, is available to play or simulate the play of a video game,~~
6 ~~including but not limited to video poker, keno and blackjack, authorized by the~~
7 ~~commission utilizing a video display and microprocessors in which, by chance, the~~
8 ~~player may receive free games or credits that can be redeemed for cash. The term~~
9 ~~does not include a machine that directly dispenses coins, cash or tokens.~~

10 Section 2. That § 42-7A-4 be amended to read as follows:

11 42-7A-4. The executive director may, subject to policy established by the commission:

- 12 (1) Supervise and administer the operation of the state lottery in accordance with the
13 provisions of this chapter;
- 14 (2) Employ all other employees of the South Dakota Lottery;
- 15 (3) Enter into contracts for promotional services; annuities or other methods deemed
16 appropriate for the payment of prizes; data processing and other technical products,
17 equipment and services; and facilities as needed to operate the South Dakota Lottery
18 including, without limitation, tickets and other services involved in major
19 procurements;
- 20 (4) Contract with and license persons for the sale of lottery tickets ~~and the offering of~~
21 ~~video lottery games~~ to the public, as provided by this chapter and rules adopted
22 pursuant thereto;
- 23 (5) Make demographic studies of lottery players and studies of reactions of citizens to
24 existing and potential features of the lottery;
- 25 (6) Require lottery retailers and persons licensed pursuant to this chapter to furnish proof

- 1 of financial stability or furnish surety in an amount based upon the expected volume
2 of sales of lottery tickets ~~or net machine income~~;
- 3 (7) Provide for secure facilities to house the South Dakota Lottery;
- 4 (8) Provide for separate, distinct and secure data processing facilities to be used for the
5 reliable operation of the state lottery;
- 6 (9) Examine, or cause to be examined by any agent or representative designated by the
7 executive director, any books, papers, records, or memoranda of any lottery retailer
8 or person licensed pursuant to this chapter for the purpose of ascertaining compliance
9 with any provision of this chapter or any rule adopted pursuant to this chapter;
- 10 (10) Issue subpoenas to compel access to or for the production of such books, papers,
11 records or memoranda in the custody or control of any lottery retailer or person
12 licensed pursuant to this chapter, or to compel the appearance of any of their
13 employees, for the purpose of ascertaining compliance with any provision of this
14 chapter or any rule adopted pursuant to this chapter;
- 15 (11) Administer oaths and take depositions to the same extent and subject to the same
16 limitations as would apply if the deposition was in aid of a civil action in the circuit
17 court;
- 18 ~~(11A) The lottery commission shall operate a video lottery undertaken pursuant to this
19 chapter and may not contract or assign this responsibility to any other person;~~
- 20 (12) Impose civil fines not to exceed ten thousand dollars per violation and fifteen
21 thousand dollars for any subsequent violation of any provision of this chapter or any
22 rule adopted pursuant to this chapter; and
- 23 (13) Enter into written agreements or compacts with one or more other states for the
24 operation, marketing, and promotion of a joint lottery or joint lottery games.

25 Section 3. That § 42-7A-13 be amended to read as follows:

1 42-7A-13. To be selected as a lottery retailer ~~or video lottery machine operator~~, a natural
2 person acting as a sole proprietor shall:

- 3 (1) Be at least eighteen years of age;
- 4 (2) Be of good character and reputation;
- 5 (3) Have sufficient financial resources to support the activities required to sell lottery
6 tickets ~~or place and service video lottery machines~~; and
- 7 (4) Be current in payment of all taxes, interest, and penalties owed to the State of South
8 Dakota, excluding items under formal dispute or appeal pursuant to applicable
9 statutes.

10 A lottery retailer ~~or video lottery machine operator~~ may not be a lottery vendor or an
11 employee or agent of any lottery vendor doing business with the South Dakota Lottery.

12 Section 4. That § 42-7A-15 be amended to read as follows:

13 42-7A-15. For a partnership to be selected as a lottery retailer ~~or video lottery machine~~
14 ~~operator~~, the partnership shall meet the requirements of subdivisions 42-7A-13(3) and (4), and
15 each partner thereof shall meet the requirements of subdivisions 42-7A-13(1) and (2) and
16 subdivisions 42-7A-14(1) to (5), inclusive.

17 Section 5. That § 42-7A-16 be amended to read as follows:

18 42-7A-16. For an association or corporation to be selected as a lottery retailer ~~or video~~
19 ~~lottery machine operator~~, the association or corporation shall meet the requirements of
20 subdivisions 42-7A-13(3) and (4), and each officer and director and each stockholder who owns
21 five percent or more of the stock of such association or corporation shall meet the requirements
22 of subdivisions 42-7A-13(1) and (2) and subdivisions 42-7A-14(1) to (5), inclusive.

23 Section 6. That § 42-7A-21 be amended to read as follows:

24 42-7A-21. The commission shall promulgate rules pursuant to chapter 1-26 governing the
25 establishment and operation of a state lottery as necessary to carry out the purposes of this

1 chapter. The commission shall promulgate rules concerning the following:

2 (1) The types of ticket lottery games to be conducted as authorized pursuant to this
3 chapter;

4 (2) The manner of selecting the winning tickets. However, if a lottery game utilizes a
5 drawing of winning numbers, a drawing among entries, or a drawing among finalists,
6 such drawings shall always be open to the public and shall be recorded on both video
7 and audio tape;

8 (3) The manner of payment of prizes to the holders of winning tickets;

9 (4) The frequency of the drawings or selections of winning tickets;

10 (5) The types of locations at which tickets may be sold;

11 (6) The methods to be used in selling tickets;

12 (7) Additional qualifications for the selection of lottery retailers, ~~video lottery machine~~
13 ~~manufacturers, distributors or operators~~ and the amount of application fees to be paid
14 by each;

15 (8) The amount and method of compensation to be paid to lottery retailers, including
16 special bonuses and incentives;

17 (9) Deadlines for claims for prizes by winners of each lottery game. However, in no
18 instance may such deadline be for more than one year;

19 ~~(10) The mechanical and electronic specifications for each video lottery machine. At a~~
20 ~~minimum, each video lottery machine shall meet the requirements of § 42-7A-37;~~

21 ~~(11) Machine security testing and inspection procedures;~~

22 ~~(12) Liability for machine malfunction;~~

23 ~~(13) Machine maintenance and repair;~~

24 ~~(14) Financial responsibility of persons licensed under this chapter;~~

25 ~~(15) Accounting procedures for net machine income;~~

1 ~~(16) Licensing procedures under this chapter; and~~

2 (17) Such other matters necessary or desirable for the efficient or economical operation of
3 the lottery or for the convenience of the public.

4 Section 7. That § 42-7A-24 be amended to read as follows:

5 42-7A-24. Net proceeds from the sale of instant lottery tickets shall be transferred to the
6 state general fund on an annual basis after July first each year. The commission shall maximize
7 the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may
8 yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained
9 earnings, exceed the amount of combined net proceeds transferred to the state general fund, the
10 state corrections facility construction fund, and the state capital construction fund. ~~Net machine~~
11 ~~income from video lottery games shall be directly deposited in the state property tax reduction~~
12 ~~fund upon receipt.~~ Net proceeds are funds in the lottery operating fund which are not needed for
13 the payment of prizes, lottery expenses, and total retained earnings up to one and one-half million
14 dollars cash deemed necessary by the executive director and commission for replacement,
15 maintenance and upgrade of business systems, product development, legal and operating
16 contingencies of the lottery.

17 Beginning in fiscal year 1997 and each year thereafter, the commission shall transfer the first
18 one million four hundred thousand dollars from the net proceeds from the sale of on-line ~~video~~
19 lottery tickets collected pursuant to § 42-7A-24 to the general fund. The commission shall then
20 transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets
21 collected pursuant to § 42-7A-24 to the state capital construction fund created in § 5-27-1.

22 Section 8. That § 42-7A-36 be amended to read as follows:

23 42-7A-36. No person may have in ~~his~~ possession, custody, or under ~~his~~ the person's control
24 or permit to be kept in any place under ~~his~~ the person's possession or control, any device that
25 awards credits and contains a circuit, meter or switch capable of removing and recording the

1 removal of credits when the award of credits is dependent upon chance. A violation of this
2 section is a Class 6 felony. All devices described in this section are hereby declared to be public
3 nuisances. ~~The provisions of this section do not apply to devices or electronic video game~~
4 ~~machines licensed pursuant to this chapter.~~

5 Section 9. That § 42-7A-56 be amended to read as follows:

6 42-7A-56. The Legislature hereby finds, and declares to be the public policy of this state that:

7 (1) The success of the South Dakota Lottery is dependent upon public confidence and
8 trust that it is conducted honestly and free from criminal and corruptive elements;

9 (2) Public confidence and trust can only be maintained by strict regulation of all persons,
10 locations, practices, associations and activities related to the sale of lottery products
11 ~~and the operation, manufacturing and distribution of video lottery games and~~
12 ~~equipment;~~ and

13 (3) No applicant for a license or other affirmative commission action has any right to a
14 license or to the granting of the approval sought. Any license issued or other
15 commission approval granted pursuant to the provisions of this chapter is a revocable
16 privilege, and no holder acquires any vested interest or property right therein or
17 thereunder.

18 Section 10. That § 35-4-103, §§ 42-7A-37 to 42-7A-48, inclusive, § 42-7A-57, § 42-7A-58,
19 § 42-7A-59, and §§ 42-7A-61 to 42-7A-65, inclusive, be repealed.

20 Section 11. The effective date of this Act is July 1, 1999.