

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

717C0777

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB1237** - 2/18/99

Introduced by: Representative Volesky

1 FOR AN ACT ENTITLED, An Act to repeal the video lottery and to refer the Act to a vote of
2 the electors of this state at the next general election.

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

4 Section 1. That the following Act be enacted by the South Dakota Legislative Assembly and
5 referred to the vote of the electors of the state at the next general election to be held in the year
6 2000 for their approval:

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

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

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

10 42-7A-1. Terms used in this chapter mean:

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

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

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

- 1 (4) "Executive director," the executive director of the South Dakota Lottery;
- 2 (5) "Instant lottery," a game that offers preprinted tickets that indicate immediately or in
3 a grand prize drawing whether the player has won a prize;
- 4 (6) ~~"Licensed establishment," a bar or lounge owned or managed by an individual,
5 partnership, corporation or association licensed to sell alcoholic beverages for
6 consumption upon the premises where sold;~~
- 7 (7) "Lottery" or "state lottery," any lottery operated pursuant to this chapter;
- 8 (8) "Lottery retailer," any person with whom the South Dakota Lottery has contracted
9 to sell lottery tickets to the public;
- 10 (9) "Lottery vendor" or "vendor," any person who has entered into a major procurement
11 contract with the South Dakota Lottery;
- 12 (10) "Major procurement," any contract with any vendor directly involved in providing
13 facilities, equipment, tickets, and services unique to the lottery, but not including
14 materials, supplies, equipment, and services common to the ordinary operations of
15 state agencies;
- 16 (11) ~~"Net machine income," money put into a video lottery machine minus credits paid out
17 in cash;~~
- 18 (12) "On-line lottery," a game linked to a central computer via a telecommunications
19 network in which the player selects a specified group of numbers or symbols out of
20 a predetermined range of numbers or symbols as approved by the commission;
- 21 (13) "South Dakota Lottery," the state agency created by this chapter to operate a lottery
22 pursuant to this chapter;
- 23 (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to
24 prove participation in an instant; or on-line ~~or video lottery~~ game;
- 25 ~~—(14A) "Video lottery," any video game of chance played on video lottery machines;~~

1 ~~(15) "Video lottery machine distributor," any individual, partnership, corporation or~~
2 ~~association that distributes or sells video lottery machines or associated equipment in~~
3 ~~this state;~~

4 ~~(16) "Video lottery machine manufacturer," any individual, partnership, corporation or~~
5 ~~association that assembles or produces video lottery machines or associated~~
6 ~~equipment for sale or use in this state;~~

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

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

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

17 42-7A-4. The executive director may, subject to policy established by the commission:

18 (1) Supervise and administer the operation of the state lottery in accordance with the
19 provisions of this chapter;

20 (2) Employ all other employees of the South Dakota lottery;

21 (3) Enter into contracts for promotional services; annuities or other methods deemed
22 appropriate for the payment of prizes; data processing and other technical products,
23 equipment and services; and facilities as needed to operate the South Dakota lottery
24 including, without limitation, tickets and other services involved in major
25 procurements;

- 1 (4) Contract with and license persons for the sale of lottery tickets ~~and the offering of~~
2 ~~video lottery games~~ to the public, as provided by this chapter and rules adopted
3 pursuant thereto;
- 4 (5) Make demographic studies of lottery players and studies of reactions of citizens to
5 existing and potential features of the lottery;
- 6 (6) Require lottery retailers and persons licensed pursuant to this chapter to furnish proof
7 of financial stability or furnish surety in an amount based upon the expected volume
8 of sales of lottery tickets ~~or net machine income~~;
- 9 (7) Provide for secure facilities to house the South Dakota lottery;
- 10 (8) Provide for separate, distinct, and secure data processing facilities to be used for the
11 reliable operation of the state lottery;
- 12 (9) Examine, or cause to be examined by any agent or representative designated by the
13 executive director, any books, papers, records, or memoranda of any lottery retailer
14 or person licensed pursuant to this chapter for the purpose of ascertaining compliance
15 with any provision of this chapter or any rule adopted pursuant to this chapter;
- 16 (10) Issue subpoenas to compel access to or for the production of such books, papers,
17 records, or memoranda in the custody or control of any lottery retailer or person
18 licensed pursuant to this chapter, or to compel the appearance of any of their
19 employees, for the purpose of ascertaining compliance with any provision of this
20 chapter or any rule adopted pursuant to this chapter;
- 21 (11) Administer oaths and take depositions to the same extent and subject to the same
22 limitations as would apply if the deposition was in aid of a civil action in the circuit
23 court;
- 24 (11A) ~~The lottery commission shall operate a video lottery undertaken pursuant to this~~
25 ~~chapter and may not contract or assign this responsibility to any other person;~~

1 (12) Impose civil fines not to exceed ten thousand dollars per violation and fifteen
2 thousand dollars for any subsequent violation of any provision of this chapter or any
3 rule adopted pursuant to this chapter; and

4 (13) Enter into written agreements or compacts with one or more other states for the
5 operation, marketing, and promotion of a joint lottery or joint lottery games.

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

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

9 (1) Be at least eighteen years of age;

10 (2) Be of good character and reputation;

11 (3) Have sufficient financial resources to support the activities required to sell lottery
12 tickets ~~or place and service video lottery machines~~; and

13 (4) Be current in payment of all taxes, interest, and penalties owed to the State of South
14 Dakota, excluding items under formal dispute or appeal pursuant to applicable
15 statutes.

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

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

19 42-7A-15. For a partnership to be selected as a lottery retailer ~~or video lottery machine~~
20 ~~operator~~, the partnership shall meet the requirements of subdivisions 42-7A-13(3) and (4), and
21 each partner thereof shall meet the requirements of subdivisions 42-7A-13(1) and (2) and
22 subdivisions 42-7A-14(1) to (5), inclusive.

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

24 42-7A-16. For an association or corporation to be selected as a lottery retailer ~~or video~~
25 ~~lottery machine operator~~, the association or corporation shall meet the requirements of

1 subdivisions 42-7A-13(3) and (4), and each officer and director and each stockholder who owns
2 five percent or more of the stock of such association or corporation shall meet the requirements
3 of subdivisions 42-7A-13(1) and (2) and subdivisions 42-7A-14(1) to (5), inclusive.

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

5 42-7A-21. The commission shall promulgate rules pursuant to chapter 1-26 governing the
6 establishment and operation of a state lottery as necessary to carry out the purposes of this
7 chapter. The commission shall promulgate rules concerning the following:

- 8 (1) The types of ticket lottery games to be conducted as authorized pursuant to this
9 chapter;
- 10 (2) The manner of selecting the winning tickets. However, if a lottery game utilizes a
11 drawing of winning numbers, a drawing among entries, or a drawing among finalists,
12 such drawings shall always be open to the public and shall be recorded on both video
13 and audio tape;
- 14 (3) The manner of payment of prizes to the holders of winning tickets;
- 15 (4) The frequency of the drawings or selections of winning tickets;
- 16 (5) The types of locations at which tickets may be sold;
- 17 (6) The methods to be used in selling tickets;
- 18 (7) Additional qualifications for the selection of lottery retailers, ~~video lottery machine~~
19 ~~manufacturers, distributors or operators~~ and the amount of application fees to be paid
20 by each;
- 21 (8) The amount and method of compensation to be paid to lottery retailers, including
22 special bonuses and incentives;
- 23 (9) Deadlines for claims for prizes by winners of each lottery game. However, in no
24 instance may such deadline be for more than one year;
- 25 ~~(10) The mechanical and electronic specifications for each video lottery machine. At a~~

1 ~~minimum, each video lottery machine shall meet the requirements of § 42-7A-37;~~

2 ~~—(11) Machine security testing and inspection procedures;~~

3 ~~—(12) Liability for machine malfunction;~~

4 ~~—(13) Machine maintenance and repair;~~

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

6 ~~—(15) Accounting procedures for net machine income;~~

7 ~~—(16) Licensing procedures under this chapter; and~~

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

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

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

23 Beginning in fiscal year 1997 and each year thereafter, the commission shall transfer the first
24 one million four hundred thousand dollars from the net proceeds from the sale of on-line ~~video~~
25 lottery tickets collected pursuant to § 42-7A-24 to the general fund. The commission shall then

1 transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets
2 collected pursuant to § 42-7A-24 to the state capital construction fund created in § 5-27-1.

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

4 42-7A-36. No person may have in ~~his~~ possession, custody, or under ~~his~~ the person's control
5 or permit to be kept in any place under ~~his~~ the person's possession or control, any device that
6 awards credits and contains a circuit, meter, or switch capable of removing and recording the
7 removal of credits when the award of credits is dependent upon chance. A violation of this
8 section is a Class 6 felony. All devices described in this section are hereby declared to be public
9 nuisances. ~~The provisions of this section do not apply to devices or electronic video game~~
10 ~~machines licensed pursuant to this chapter.~~

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

12 42-7A-56. The Legislature hereby finds, and declares to be the public policy of this state that:

- 13 (1) The success of the South Dakota Lottery is dependent upon public confidence and
14 trust that it is conducted honestly and free from criminal and corruptive elements;
- 15 (2) Public confidence and trust can only be maintained by strict regulation of all persons,
16 locations, practices, associations and activities related to the sale of lottery products
17 ~~and the operation, manufacturing and distribution of video lottery games and~~
18 ~~equipment;~~ and
- 19 (3) No applicant for a license or other affirmative commission action has any right to a
20 license or to the granting of the approval sought. Any license issued or other
21 commission approval granted pursuant to the provisions of this chapter is a revocable
22 privilege, and no holder acquires any vested interest or property right therein or
23 thereunder.

24 Section 10. That §§ 35-4-103, 42-7A-37 to 42-7A-48, inclusive, 42-7A-57, 42-7A-58, 42-
25 7A-59, and 42-7A-61 to 42-7A-65, inclusive, be repealed.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to State Affairs. H.J. 242

3 2/8/99 Scheduled for Committee hearing on this date.

4 2/17/99 Scheduled for Committee hearing on this date.

5 2/17/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 4. H.J. 560