

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

914B0759

HOUSE BILL NO. 1289

Introduced by: Representatives Sperry, Crisp, Lee, Matthews, Schrempp, Sokolow, Van Gerpen, Waltman, and Weber and Senators Lange, Dennert, Kloucek, Lawler, and Symens

1 FOR AN ACT ENTITLED, An Act to increase the state's percentage of video lottery machine
2 income and to provide for the repeal of the video lottery.

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

4 Section 1. That § 42-7A-63 be amended to read as follows:

5 42-7A-63. The commission shall maximize revenues to the state from video lottery. The
6 state's percentage of net machine income shall be fifty sixty percent until June 30, 1999, seventy
7 percent from July 1, 1999 to June 30, 2000, inclusive, and eighty percent from July 1, 2000 to
8 June 30, 2001, inclusive. The state's percentage of net machine income shall be directly deposited
9 to the property tax reduction fund, except for one-half of one percent of net machine income
10 authorized for deposit into the video lottery operating fund. ~~The effective date of this section is~~
11 ~~July 1, 1996.~~

12 Section 2. That § 42-7A-1 be amended to read as follows:

13 42-7A-1. Terms used in this chapter mean:

14 (1) ~~"Associated equipment," any proprietary device, machine or part used in the~~
15 ~~manufacture or maintenance of a video lottery machine, including but not limited to~~

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

1 pursuant to this chapter;

2 (14) "Ticket," any tangible evidence issued or authorized by the South Dakota Lottery to
3 prove participation in an instant; ~~or on-line or video lottery~~ game;

4 ~~(14A) "Video lottery," any video game of chance played on video lottery machines;~~

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

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

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

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

20 Section 3. That § 42-7A-4 be amended to read as follows:

21 42-7A-4. The executive director may, subject to policy established by the commission:

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

24 (2) Employ all other employees of the South Dakota Lottery;

25 (3) Enter into contracts for promotional services; annuities, or other methods deemed

1 appropriate for the payment of prizes; data processing and other technical products,
2 equipment and services; and facilities as needed to operate the South Dakota Lottery
3 including, without limitation, tickets and other services involved in major
4 procurements;

5 (4) Contract with and license persons for the sale of lottery tickets ~~and the offering of~~
6 ~~video lottery games~~ to the public, as provided by this chapter and rules adopted
7 pursuant thereto;

8 (5) Make demographic studies of lottery players and studies of reactions of citizens to
9 existing and potential features of the lottery;

10 (6) Require lottery retailers and persons licensed pursuant to this chapter to furnish proof
11 of financial stability or furnish surety in an amount based upon the expected volume
12 of sales of lottery tickets ~~or net machine income~~;

13 (7) Provide for secure facilities to house the South Dakota Lottery;

14 (8) Provide for separate, distinct and secure data processing facilities to be used for the
15 reliable operation of the state lottery;

16 (9) Examine, or cause to be examined by any agent or representative designated by the
17 executive director, any books, papers, records, or memoranda of any lottery retailer
18 or person licensed pursuant to this chapter for the purpose of ascertaining compliance
19 with any provision of this chapter or any rule adopted pursuant to this chapter;

20 (10) Issue subpoenas to compel access to or for the production of such books, papers,
21 records, or memoranda in the custody or control of any lottery retailer or person
22 licensed pursuant to this chapter, or to compel the appearance of any of their
23 employees, for the purpose of ascertaining compliance with any provision of this
24 chapter or any rule adopted pursuant to this chapter;

25 (11) Administer oaths and take depositions to the same extent and subject to the same

1 limitations as would apply if the deposition was in aid of a civil action in the circuit
2 court;

3 (11A) ~~The lottery commission shall operate a video lottery undertaken pursuant to this~~
4 ~~chapter and may not contract or assign this responsibility to any other person;~~

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

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

10 Section 4. That § 42-7A-13 be amended to read as follows:

11 42-7A-13. To be selected as a lottery retailer ~~or video lottery machine operator~~, a natural
12 person acting as a sole proprietor shall:

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

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

22 Section 5. That § 42-7A-15 be amended to read as follows:

23 42-7A-15. For a partnership to be selected as a lottery retailer ~~or video lottery machine~~
24 ~~operator~~, the partnership shall meet the requirements of subdivisions 42-7A-13(3) and (4), and
25 each partner thereof shall meet the requirements of subdivisions 42-7A-13(1) and (2) and

1 subdivisions 42-7A-14(1) to (5), inclusive.

2 Section 6. That § 42-7A-16 be amended to read as follows:

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

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

9 42-7A-21. The commission shall promulgate rules pursuant to chapter 1-26 governing the
10 establishment and operation of a state lottery as necessary to carry out the purposes of this
11 chapter. The commission shall promulgate rules concerning the following:

- 12 (1) The types of ticket lottery games to be conducted as authorized pursuant to this
13 chapter;
- 14 (2) The manner of selecting the winning tickets. However, if a lottery game utilizes a
15 drawing of winning numbers, a drawing among entries, or a drawing among finalists,
16 such drawings shall always be open to the public and shall be recorded on both video
17 and audio tape;
- 18 (3) The manner of payment of prizes to the holders of winning tickets;
- 19 (4) The frequency of the drawings or selections of winning tickets;
- 20 (5) The types of locations at which tickets may be sold;
- 21 (6) The methods to be used in selling tickets;
- 22 (7) Additional qualifications for the selection of lottery retailers, ~~video lottery machine~~
23 ~~manufacturers, distributors or operators~~ and the amount of application fees to be paid
24 by each;
- 25 (8) The amount and method of compensation to be paid to lottery retailers, including

1 special bonuses and incentives;

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

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

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

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

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

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

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

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

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

14 Section 8. That § 42-7A-24 be amended to read as follows:

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

1 contingencies of the lottery.

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

7 Section 9. That § 42-7A-36 be amended to read as follows:

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

15 Section 10. That § 42-7A-56 be amended to read as follows:

16 42-7A-56. The Legislature hereby finds, and declares to be the public policy of this state that:

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

1 privilege, and no holder acquires any vested interest or property right therein or
2 thereunder.

3 Section 11. That §§ 35-4-103, 42-7A-37 to 42-7A-48, inclusive, 42-7A-57, 42-7A-58, 42-
4 7A-59, and 42-7A-61 to 42-7A-65, inclusive, be repealed.

5 Section 12. The effective date of sections 2 to 11, inclusive, of this Act is July 1, 2001.