

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 105 Session of 2015

INTRODUCED BY PAYNE, D. COSTA, DUNBAR, HELM, KAUFER, PICKETT,
RADER AND MOUL, MAY 17, 2016

REFERRED TO COMMITTEE ON FINANCE, MAY 17, 2016

AN ACT

1 Amending the act of August 26, 1971 (P.L.351, No.91), entitled
2 "An act providing for a State Lottery and administration
3 thereof; authorizing the creation of a State Lottery
4 Commission; prescribing its powers and duties; disposition of
5 funds; violations and penalties therefor; exemption of prizes
6 from State and local taxation and making an appropriation,"
7 in State Lottery, further providing for definitions, for
8 powers and duties of secretary, for commercial advertising,
9 for lottery sales agents, for assignability of prizes drawn,
10 for ticket sales, for compact to sell tickets, for certain
11 sales prohibited, for disposition of funds, for unclaimed
12 prize money, for deposits and transactions and for report; in
13 pharmaceutical assistance for the elderly, further providing
14 for request for proposal; and providing for transfers to the
15 Pennsylvania Gaming Control Board.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. The definition of "secretary" in section 302 of
19 the act of August 26, 1971 (P.L.351, No.91), known as the State
20 Lottery Law, amended October 31, 2014 (P.L.3041, No.201), is
21 amended and the section is amended by adding a definition to
22 read:

23 Section 302. Definitions.

24 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Board." The Pennsylvania Gaming Control Board.

4 * * *

5 ["Secretary." The Secretary of Revenue of the Commonwealth.]

6 Section 2. Section 303 heading, (a) introductory paragraph,
7 (1) and (13), (a.1) and (b) of the act, amended November 21,
8 1996 (P.L.741, No.134) and October 31, 2014 (P.L.3041, No.201),
9 are amended to read:

10 Section 303. Powers and duties of [secretary] board.

11 (a) Powers and duties enumerated.--In addition to the powers
12 and duties provided by law and [the act of April 9, 1929
13 (P.L.177, No.175), known as The Administrative Code of 1929] 4
14 Pa.C.S. Pt. II (relating to gaming), the [secretary] board shall
15 have the power and [it shall be his] duty to operate and
16 administer the lottery, and to promulgate rules and regulations
17 governing the establishment and operation thereof, including,
18 but not limited to:

19 (1) The type of lottery to be conducted, except that the
20 [secretary] board may not authorize the game of keno or an
21 Internet instant game unless specifically authorized by law.

22 * * *

23 (13) The performance of the powers and duties relating
24 to the operation and administration of the lottery heretofore
25 vested in the State Lottery Commission and the Secretary of
26 Revenue.

27 (a.1) Prohibitions.--The [secretary] board may not offer any
28 Internet-based or monitor-based interactive lottery game or
29 simulated casino-style lottery game, including video poker,
30 video roulette, slot machines or video blackjack, through the

1 State Lottery.

2 (b) Reports.--The [secretary] board shall report monthly to
3 the Governor and the Legislature the total lottery revenues,
4 prize disbursements and other expenses for the preceding month,
5 and shall make an annual report, which shall include a full and
6 complete statement of lottery revenues, prize disbursements and
7 other expenses, to the Governor and the Legislature, and
8 including such recommendations for changes in this chapter as
9 the [secretary] board deems necessary or desirable.

10 Section 3. Sections 304, 305, 306, 307(a), 308, 309(b),
11 311(a), 313 and 314 of the act, amended or added November 21,
12 1996 (P.L.741, No.134), are amended to read:

13 Section 304. Commercial advertising.

14 (a) General rule.--The [secretary] board may enter into
15 contracts with persons, associations or corporations that
16 provide for the placement of commercial advertisements on
17 tickets or shares.

18 (b) Contracts.--The [secretary] board may enter into the
19 contracts only after completion of the bidding procedure
20 contained in subsection (c).

21 (c) Bidding procedures.--

22 (1) The [secretary] board shall, not less than six weeks
23 prior to the date set for opening bids or proposals to place
24 advertisements on the tickets or shares, advertise the
25 opening of proposals for at least three days, the first and
26 last publication to be at least ten days apart, in not fewer
27 than six nor more than 12 newspapers of extensive general
28 circulation in different parts of this Commonwealth. The
29 advertisements shall invite proposals for the placement of
30 commercial advertisements on the tickets or shares, shall

1 direct potential bidders to include with their proposals a
2 specimen advertisement and shall give notice of the time and
3 place where the proposals will be received and when they will
4 be opened.

5 (2) All proposals shall be delivered to the [secretary]
6 board on or before the hour designated in the invitation to
7 bid, on the day set by the [secretary] board, following the
8 date of the last advertisement, and each bid shall be in
9 duplicates, one of which shall be marked "Duplicate Bid."
10 Each bid shall be enclosed in an envelope, securely sealed,
11 and shall be mailed or delivered to the [secretary] board who
12 shall retain all envelopes unopened until the time fixed for
13 the opening thereof.

14 (3) The [secretary] board shall, on the date fixed for
15 opening of bids, at the hour designated in the invitation to
16 bid, open and publish the proposals and, as soon thereafter
17 as practicable, award the contract to the highest responsible
18 bidder. The [secretary] board shall have the right to reject
19 any or all bids. The bids, when opened, shall be tabulated
20 and shall be subject to examination by bidders. A record of
21 all bids shall be made by the [secretary] board in a book
22 kept for that purpose.

23 (4) When no proposal has been received or if for any
24 reason the [secretary] board rejects all proposals, the
25 [secretary] board may advertise again for proposals, giving
26 at least 15 days' notice of the time of receiving the same,
27 which proposals shall be opened, awarded and approved in like
28 manner as the initial bids.

29 (5) The [secretary] board shall have the discretion to
30 refuse to accept any advertisement that is inappropriate or

1 offensive or displays poor taste. Advertisements for tobacco
2 products or for alcoholic beverages shall not be accepted.

3 (d) Disposition of revenues.--All revenues derived from
4 contracts entered into under this section shall be deposited in
5 the State Lottery Fund.

6 (e) Regulations.--The [secretary] board may promulgate rules
7 and regulations to implement the provisions of this section.

8 (f) Definition.--As used in this section, the term "tickets
9 or shares" shall not include instant game tickets.

10 Section 305. Lottery sales agents.

11 (a) Licensing.--No license as an agent to sell lottery
12 tickets or shares shall be issued to any person to engage in
13 business exclusively as a lottery sales agent. Before issuing
14 such license the [secretary] board shall consider such factors
15 as:

16 (1) The financial responsibility and security of the
17 person and his business or activity.

18 (2) The accessibility of his place of business or
19 activity to the public.

20 (3) The sufficiency of existing licenses to serve the
21 public convenience.

22 (4) The volume of expected sales.

23 (b) Approval of applicant.--If the [secretary] board shall
24 find that the experience, character and general fitness of the
25 applicant are such that the participation of such person as a
26 lottery sales agent will be consistent with the public interest,
27 convenience and necessity, it may thereupon grant a license.

28 Without limiting the generality of the foregoing, the
29 [secretary] board may refuse to issue a license pursuant to this
30 section, or may suspend or revoke a license so issued if it

1 shall find that the applicant or licensee:

2 (1) Has been convicted of a crime involving moral
3 turpitude.

4 (2) Has engaged in bookmaking or other form of illegal
5 gambling.

6 (3) Has been found guilty of any fraud or
7 misrepresentation in any connection.

8 (4) Has violated any rule, regulation or order of the
9 [secretary] board.

10 (c) Denial of license.--The [secretary] board may refuse to
11 grant a license or may suspend or revoke a license issued
12 pursuant to this section to a corporation, if it shall determine
13 that:

14 (1) Any officer, director, member or stockholder of such
15 corporation applying for a license or of any corporation
16 which owns stock in or shares in the profits, or participates
17 in the management of the affairs of such applicant:

18 (i) has been convicted of a crime involving moral
19 turpitude;

20 (ii) has engaged in bookmaking or other forms of
21 illegal gambling;

22 (iii) has been found guilty of any fraud or
23 misrepresentation in any connection; or

24 (iv) has violated any rule, regulation or order of
25 the [secretary] board.

26 (2) The experience, character, or general fitness of any
27 officer, director, or stockholder of any of the aforesaid
28 corporations is such that the participation of such person as
29 a lottery sales agent would be inconsistent with the public
30 interest, convenience or necessity, but if the [secretary]

1 board determines that the interest of any stockholder
2 referred to in this paragraph or in paragraph (1) is
3 sufficient, in the opinion of the [secretary] board, to
4 affect adversely the conduct of a lottery sales agency by
5 such corporation in accordance with the provisions of this
6 chapter, the [secretary] board may disregard such interest in
7 determining whether or not to grant a license to such
8 corporation.

9 (3) The applicant is not the owner or the lessee of the
10 business at which it will conduct a lottery sales agency
11 pursuant to the license applied for, or that any person,
12 firm, association, or corporation other than the applicant
13 shares, or will share, in the profits of the applicant, other
14 than by dividends as a stockholder, or participates, or will
15 participate, in the management of the affairs of the
16 applicant.

17 (d) Temporary license.--Pending final determination of any
18 question under this section, the [secretary] board may issue a
19 temporary license upon such terms and conditions as it may deem
20 necessary, desirable or proper to effectuate the provisions of
21 this chapter.

22 (e) Resurvey.--Any person who has a pending application for
23 a lottery machine and is currently engaged in the sale of out-
24 of-State lottery tickets may submit a written request to the
25 [Department of Revenue] board for a resurvey. This resurvey
26 shall be completed by the [department] board within 90 days of
27 receipt of the request.

28 (f) Definition.--As used in this section, the term "person"
29 means and includes an individual, association, corporation,
30 club, trust, estate, society, company, joint-stock company,

1 receiver, trustee, assignee, referee or any other person acting
2 in a fiduciary or representative capacity, whether appointed by
3 a court or otherwise, and any combination of individuals. The
4 term shall also mean and include all departments, commissions,
5 agencies and instrumentalities of the State, including counties
6 and municipalities and agencies and instrumentalities thereof.
7 Section 306. Assignability of prizes drawn.

8 (a) Assignability.--The right of any person to a prize drawn
9 shall be assignable under the following limited circumstances:

10 (1) Payment of any prize drawn may be paid to the estate
11 of a deceased prize winner.

12 (2) Payment of any prize drawn may be made to any person
13 pursuant to an appropriate judicial order.

14 (3) Payment of any prize drawn may be made to any person
15 pursuant to a voluntary assignment of the right to receive
16 future prize payments, in whole or in part, if the assignment
17 is made to a person or entity designated pursuant to an
18 appropriate judicial order of the court of common pleas
19 located in either the judicial district where the assignor
20 resides or where the division's headquarters are located.

21 Under this paragraph, the court shall issue an order
22 approving the assignment and directing the [secretary] board
23 to pay the assignee all future prize payments, in whole or in
24 part, if:

25 (i) the assignment is in writing, executed by the
26 assignor and subject to the laws of this Commonwealth;

27 (ii) the assignor provides a sworn affidavit to the
28 court attesting that the assignor is of sound mind, is
29 not acting under duress, has been advised regarding the
30 assignment by his or her own independent legal counsel

1 and understands and agrees that, with regard to the
2 assigned payments, the Commonwealth and the [secretary]
3 board shall have no further liability or responsibility
4 to make said payments to the assignor; and

5 (iii) the proposed assignment does not include or
6 cover payments or portions of payments alleged to be
7 subject to offset under judicial order, unless
8 appropriate provision is made in the order to satisfy the
9 obligations giving rise to the claim for offset, or to
10 offset under any other statute.

11 (b) Discharge of [secretary] board.--The [secretary] board
12 shall be discharged of all further liability upon payment of a
13 prize pursuant to this section.

14 (c) Enforcement.--Soliciting or offering rights to lottery
15 prizewinnings, either by assignment or through pledge as
16 collateral for a loan, shall not be deemed selling or offering
17 for sale lottery tickets or shares under this act. Selling or
18 offering for sale assigned or pledged lottery prizewinnings
19 shall not be deemed selling or offering for sale an interest
20 under section 307.

21 (d) Fees.--The [secretary] board is authorized to establish
22 a reasonable fee to defray any administrative expenses
23 associated with assignments made pursuant to this section,
24 including the cost to the Commonwealth of any processing fee
25 that may be imposed by a private annuity provider. The fee
26 amount shall reflect the direct and indirect costs associated
27 with processing the assignments.

28 (e) Discharge of Commonwealth.--Upon a voluntary assignment
29 pursuant to appropriate judicial order under subsection (a) (3)
30 of payments due to a prizewinner under a private annuity policy

1 that has been purchased by the lottery for the benefit of a
2 prizewinner, the Commonwealth and the [secretary] board shall be
3 discharged from any and all liability for the payments or
4 portions thereof assigned, and, as to the payments or portions
5 thereof assigned, the assignee shall have recourse only against
6 the private annuity provider and its guarantors and shall have
7 no further recourse against the Commonwealth.

8 (f) Assignment limitation.--Notwithstanding any other
9 provision of this section, no prizewinner shall have the right
10 to assign prize payments upon:

11 (1) The issuance by the United States Internal Revenue
12 Service (IRS) of a technical rule letter, revenue ruling or
13 other public ruling of the IRS in which the IRS determines
14 that, based upon the right of assignment provided in this
15 act, a Pennsylvania lottery prizewinner who does not assign
16 any prize payments pursuant to subsection (a)(3) would be
17 subject to an immediate income tax liability for the value of
18 the entire prize rather than annual income tax liability for
19 each installment when paid.

20 (2) The issuance by a court of competent jurisdiction of
21 a published decision holding that, based upon the right of
22 assignment provided in this act, a Pennsylvania lottery
23 prizewinner who does not assign any prize payments pursuant
24 to subsection (a)(3) would be subject to an immediate income
25 tax liability for the value of the entire prize rather than
26 annual income tax liability for each installment when paid.

27 (g) Filing of letter decision.--Upon receipt of a letter or
28 ruling from the IRS or a published decision of a court of
29 competent jurisdiction, as specified in subsection (f), the
30 [executive] director shall immediately file a copy of that

1 letter, ruling or published decision with the Secretary of
2 State. Immediately upon the filing by the director of a letter,
3 ruling or published decision with the Secretary of State, a
4 prizewinner shall be ineligible to assign a prize pursuant to
5 subsection (a) (3).

6 Section 307. Ticket sales.

7 (a) Prices.--No person shall sell, resell or engage in the
8 business of reselling lottery tickets or shares at a price
9 greater than that fixed by rule or regulation of the
10 [department] board. Price shall include any fee associated with
11 the acquisition or transportation of lottery tickets or shares.

12 * * *

13 Section 308. Compact to sell tickets.

14 The [secretary] board shall enter into a compact with any
15 other states that permit sale of Pennsylvania lottery tickets
16 within their borders to sell those states' lottery tickets
17 within this Commonwealth.

18 Section 309. Certain sales prohibited.

19 * * *

20 (b) Certain employees.--No ticket or share shall be sold to
21 and no prize shall be awarded to any officer or employee of the
22 division [in the Department of Revenue] or any spouse, child,
23 brother, sister or parent residing as a member of the same
24 household in the principal place of abode of any of the
25 foregoing persons.

26 Section 311. Disposition of funds.

27 (a) State Lottery Fund.--All moneys received from the
28 operation of the State lottery shall be deposited in a State
29 Lottery Fund which is hereby created. Such moneys shall be used
30 to the extent necessary for the payment of lottery prizes but

1 the amount so used shall not be less than 40% of the amount of
2 which tickets or shares have been sold. All payments of lottery
3 prizes and for expenses of operation of the lottery shall be
4 made as provided by law. All moneys remaining after payment of
5 prizes and operating expenses shall remain in the State Lottery
6 Fund and shall be allocated for the purpose of providing
7 property tax relief for the elderly for taxes paid in 1971 and
8 thereafter pursuant to the provisions of [the act of March 11,
9 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and
10 Assistance Act] Chapter 13 of the act of June 27, 2006 (1st
11 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act, and
12 for the purpose of providing free or reduced fare transit
13 service for the elderly pursuant to Chapter 9 and the act of
14 February 11, 1976 (P.L.14, No.10), known as the Pennsylvania
15 Rural and Intercity Common Carrier Surface Transportation
16 Assistance Act. In the event sufficient funds are not available
17 from the lottery receipts to meet the requirements of [the
18 Senior Citizens Rebate and Assistance Act] Chapter 13 of the
19 Taxpayer Relief Act or for providing free or reduced fare
20 transit service for the elderly under Chapter 9 and the
21 Pennsylvania Rural and Intercity Common Carrier Surface
22 Transportation Assistance Act, additional funds to fulfill these
23 obligations shall be appropriated from the General Fund for this
24 purpose.

25 * * *

26 Section 313. Unclaimed prize money.

27 Unclaimed prize money on a winning lottery ticket or share
28 shall be retained by the [secretary] board for payment to the
29 person entitled thereto for one year after the drawing in which
30 the prize was won. If no claim is made within such period, the

1 prize money shall be paid into the State Lottery Fund and used
2 for purposes as otherwise herein provided.

3 Section 314. Deposits and transactions.

4 The [secretary] board may, in [his] its discretion, require
5 any or all lottery sales agents to deposit to the credit of the
6 State Lottery Fund in banks, designated by the State Treasurer,
7 all moneys received by such agents from the sale of lottery
8 tickets or shares, less the amount, if any, retained as
9 compensation for the sale of the tickets or shares, and to file
10 with the [secretary] board or [his] designated agents of the
11 board reports of their receipts and transactions in the sale of
12 lottery tickets in such form and containing such information as
13 [he] the board may require. The [secretary] board may make such
14 arrangements for any person, including a bank, to perform such
15 functions, activities or services in connection with the
16 operation of the lottery as [he] the board may deem advisable
17 pursuant to this chapter and the rules and regulations of the
18 [department] board, and such functions, activities or services
19 shall constitute lawful functions, activities and services of
20 such person.

21 Section 4. Section 315 of the act, amended October 31, 2014
22 (P.L.3041, No.201), is amended to read:

23 Section 315. Report.

24 The [Department of Revenue] board shall submit a report to
25 the Governor, the chairman and minority chairman of the
26 Appropriations Committee of the Senate, the chairman and
27 minority chairman of the Appropriations Committee of the House
28 of Representatives, the chairman and minority chairman of the
29 Aging and Youth Committee of the Senate, the chairman and
30 minority chairman of the Aging and Older Adult Services

1 Committee of the House of Representatives, the chairman and
2 minority chairman of the Finance Committee of the Senate and the
3 chairman and minority chairman of the Finance Committee of the
4 House of Representatives by September 1 of each year. The report
5 shall set forth current lottery profits and the State Lottery's
6 plan for increasing future profits. This report shall be posted
7 on the [department's] board's publicly accessible Internet
8 website.

9 Section 5. Section 508 of the act, added November 21, 1996
10 (P.L.741, No.134), is amended to read:

11 Section 508. Request for proposal.

12 (a) General rule.--The department shall prepare a request
13 for proposal for the purpose of providing pharmaceutical
14 assistance for the elderly within this Commonwealth. Upon the
15 adoption of the General Fund budget, the [Department of Revenue]
16 Pennsylvania Gaming Control Board shall be authorized to
17 transmit the appropriated funds in the State Lottery Fund to the
18 State Treasurer to be deposited in the Pharmaceutical Assistance
19 Contract for the Elderly Fund. This fund shall consist of
20 appropriations and interest and shall be created by the State
21 Treasurer to fund the operations of the program by the
22 department and the private contractor. Funds not expended in the
23 fiscal year in which they were appropriated shall not lapse and
24 be available for use in the next fiscal year.

25 (b) Additional requests for proposals.--To provide for the
26 continued operation of the program, the department shall
27 prepare, as needed, requests for proposals, in addition to that
28 set forth in subsection (a), for the purpose of providing
29 pharmaceutical assistance for the elderly within this
30 Commonwealth. A request for proposal shall require potential

1 private contractors to submit a proposal for a period of time
2 and with monetary limitations as determined by the department.
3 Upon the enactment of an appropriation from the State Lottery
4 Fund, the [Department of Revenue] Pennsylvania Gaming Control
5 Board shall be authorized to transmit the appropriated amount to
6 the State Treasurer to be deposited in the Pharmaceutical
7 Assistance Contract for the Elderly Fund. Funds not expended in
8 the fiscal year in which they were appropriated shall not lapse
9 and shall be available for use in the next fiscal year.

10 Section 6. The following transitional provisions apply:

11 (1) All personnel, allocations, appropriations,
12 equipment, files, records, contracts, agreements, obligations
13 and other materials which are used, employed or expended by
14 the Department of Revenue in conjunction with the functions
15 transferred by this act to the Pennsylvania Gaming Control
16 Board are hereby transferred to the Pennsylvania Gaming
17 Control Board as if these contracts, agreements and
18 obligations had been incurred or entered into by the
19 Pennsylvania Gaming Control Board in the first instance.

20 (2) The personnel, appropriations, equipment and other
21 items and material transferred by this section shall include
22 an appropriate portion of the general administrative,
23 overhead and supporting personnel, appropriations, equipment
24 and other material of the Department of Revenue.

25 (3) All personnel transferred under this section shall
26 retain any civil service employment status assigned to the
27 personnel.

28 (4) All orders, permits, regulations, decisions and
29 other actions of the Department of Revenue transferred by
30 this act shall remain in full force and effect until

1 modified, repealed, suspended, superseded or otherwise
2 changed by appropriate action of the Pennsylvania Gaming
3 Control Board.

4 Section 7. This act shall take effect July 1, 2017.