

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 601

A bill to amend 1972 PA 239, entitled
"McCauley-Traxler-Law-Bowman-McNeely lottery act,"
by amending the title and sections 11 and 18 (MCL 432.11 and
432.18), the title as amended by 1996 PA 95 and sections 11 and 18
as amended by 2004 PA 383, and by adding section 45.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

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~~

1 **FUNDS**; to provide for the distribution of lottery revenues and
2 earnings for certain purposes; to provide for an appropriation; and
3 to provide for remedies and penalties.

4 Sec. 11. (1) The commissioner shall promulgate rules pursuant
5 to the administrative procedures act of 1969, 1969 PA 306, MCL
6 24.201 to 24.328, as necessary to implement this act.

7 (2) The rules authorized under this section may include any of
8 the following, subject to requirements and limitations in this act:

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

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

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

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

14 (e) The manner of payment of prizes to the holders of winning
15 tickets or shares.

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

18 (g) Without limit as to number, the type or types of locations
19 at which tickets or shares may be sold.

20 (h) The method to be used in selling tickets or shares, except
21 that a person's name, other than a name used in advertising or a
22 promotion under section 18(2) **OR (3)**, shall not be printed on the
23 tickets or shares.

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

26 (j) The manner and amount of compensation to be paid licensed
27 sales agents necessary to provide for the adequate availability of

1 tickets or shares to prospective buyers and for the convenience of
2 the public.

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

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

19 Sec. 18. (1) The commissioner, subject to the applicable laws
20 relating to public contracts, may enter into contracts for the
21 operation of the lottery, or any part of the lottery, and into
22 contracts for the promotion of the lottery. A contract awarded or
23 entered into by the commissioner shall not be assigned by the other
24 contracting party except by specific approval of the commissioner.

25 (2) The commissioner may contract with 1 or more persons to
26 allow the placement of advertising or promotional material,
27 including, but not limited to, the placement of discount coupons

1 for retail goods and NASCAR logos, images, and drivers' pictures
2 and names, on lottery tickets, shares, and other available media
3 under the control of the bureau. However, except for advertising
4 that promotes responsible consumption of alcoholic beverages, the
5 commissioner shall not allow the placement of advertising for the
6 promotion of the consumption of alcoholic beverages or tobacco
7 products on lottery tickets under the control of the bureau **UNDER**
8 **THIS SUBSECTION.**

9 (3) THE COMMISSIONER MAY CONTRACT WITH 1 OR MORE PERSONS TO
10 ALLOW THE PLACEMENT OF ADVERTISING OR PROMOTIONAL MATERIAL ON
11 AVAILABLE MEDIA RELATED TO THE BUREAU'S CLUB KENO GAME OR TO
12 SPONSOR INDIVIDUAL DRAWS IN THE CLUB KENO GAME. IF THE COMMISSIONER
13 ENTERS INTO A CONTRACT UNDER THIS SUBSECTION, THE COMMISSIONER
14 SHALL ALLOW AT LEAST 1 MINUTE BETWEEN GAMES OF CLUB KENO DURING
15 WHICH 1 OR MORE ADVERTISEMENTS MAY BE EXHIBITED.

16 (4) A CONTRACT ENTERED INTO UNDER SUBSECTION (3) SHALL PROVIDE
17 THAT ANY ADVERTISEMENTS EXHIBITED BETWEEN CLUB KENO GAMES SHALL
18 COMPLY WITH CONTENT REGULATIONS FOR TELEVISED BROADCASTS ADOPTED BY
19 THE FEDERAL COMMUNICATIONS COMMISSION, WITH THE EXCEPTION THAT THE
20 ADVERTISING UNDER SUBSECTION (3) MAY INCLUDE ADVERTISEMENTS FOR
21 ALCOHOLIC BEVERAGES WITH ONLY ANY RESTRICTIONS IMPOSED BY THE
22 COMMISSIONER, OR THE ADMINISTRATIVE COMMISSIONERS OF THE LIQUOR
23 CONTROL COMMISSION ACTING UNDER THE MICHIGAN LIQUOR CONTROL CODE OF
24 1998, 1998 PA 58, MCL 436.1101 TO 436.2303, AND RULES PROMULGATED
25 UNDER THE CODE.

26 (5) IF A CONTRACT UNDER SUBSECTION (3) WILL INVOLVE
27 ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES, 10 DAYS OR MORE BEFORE

1 ENTERING INTO THE CONTRACT THE BUREAU SHALL PROVIDE THE
2 ADMINISTRATIVE COMMISSIONERS OF THE LIQUOR CONTROL COMMISSION, AS
3 DESCRIBED IN SECTION 209 OF THE MICHIGAN LIQUOR CONTROL CODE OF
4 1998, 1998 PA 58, MCL 436.1209, WITH ALL AVAILABLE INFORMATION
5 ABOUT THE PROPOSED CONTRACT, THE CONTRACTING PARTY, AND THE
6 PROPOSED ADVERTISEMENTS. WITHIN 10 DAYS AFTER THE INFORMATION IS
7 PROVIDED BY THE BUREAU, THE ADMINISTRATIVE COMMISSIONERS SHALL
8 ADVISE THE BUREAU OF ANY OBJECTIONS OR ANY PROPOSED CONDITIONS TO
9 BE PLACED ON THE CONTRACT OR ADVERTISING. OBJECTIONS AND PROPOSED
10 CONDITIONS UNDER THIS SUBSECTION SHALL RELATE ONLY TO MATTERS UNDER
11 THE JURISDICTION OF THE LIQUOR CONTROL COMMISSION. THE COMMISSIONER
12 SHALL COMPLY WITH ALL OBJECTIONS AND REQUIRE THE CONTRACTOR TO
13 COMPLY WITH ANY PROPOSED CONDITIONS UNDER THIS SUBSECTION. THE
14 FAILURE OF THE ADMINISTRATIVE COMMISSIONERS TO RESPOND TO
15 INFORMATION UNDER THIS SUBSECTION CONSTITUTES A WAIVER OF ANY
16 OBJECTIONS OR PROPOSED CONDITIONS.

17 (6) IN CONSIDERING A PROPOSED CONTRACT AND ADVERTISING UNDER
18 SUBSECTION (5), IF THE PROPOSED CONTRACTOR IS A LICENSEE UNDER THE
19 MICHIGAN LIQUOR CONTROL CODE OF 1998, 1998 PA 58, MCL 436.1101 TO
20 436.2303, THE ADMINISTRATIVE COMMISSIONERS SHALL, AMONG OTHER
21 RELEVANT FACTORS, CONSIDER WHETHER THE LICENSEE HAS A HISTORY OF
22 VIOLATIONS OF THE CODE OR RULES PROMULGATED UNDER THE CODE.

23 (7) THE COMMISSIONER SHALL SOLICIT BIDS FROM RESPONSIBLE
24 PERSONS FOR ADVERTISING OR PROMOTIONAL CONTRACTS UNDER SUBSECTION
25 (3). THE COMMISSIONER SHALL SELECT FROM AMONG THE BIDS RECEIVED SO
26 AS TO PRODUCE THE MAXIMUM AMOUNT OF NET REVENUES FOR THIS STATE
27 CONSONANT WITH THE GENERAL WELFARE OF THE CITIZENS OF THIS STATE.

1 IN DECIDING WHETHER TO ENTER INTO A CONTRACT UNDER SUBSECTION (3),
2 THE COMMISSIONER SHALL CONSIDER WHETHER THE TERMS OF THE CONTRACT
3 ARE COMPARABLE TO THE TERMS OF SIMILAR ADVERTISING OR PROMOTIONAL
4 CONTRACTS RELATING TO LOTTERY OR OTHER GAMING IN OTHER STATES.

5 (8) MONEY FROM AN ADVERTISING CONTRACT UNDER SUBSECTION (3)
6 SHALL BE DEPOSITED IN THE CLUB KENO ADVERTISING FUND CREATED IN
7 SECTION 45.

8 (9) ~~(3)~~As used in this section, "NASCAR" means the national
9 association for stock car auto racing, inc.

10 SEC. 45. (1) THE CLUB KENO ADVERTISING FUND IS CREATED WITHIN
11 THE STATE TREASURY.

12 (2) THE COMMISSIONER MAY RECEIVE MONEY OR OTHER ASSETS FROM
13 ANY SOURCE FOR DEPOSIT INTO THE CLUB KENO ADVERTISING FUND. THE
14 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE CLUB KENO
15 ADVERTISING FUND. THE STATE TREASURER SHALL CREDIT TO THE CLUB KENO
16 ADVERTISING FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

17 (3) MONEY IN THE CLUB KENO ADVERTISING FUND AT THE CLOSE OF
18 THE FISCAL YEAR SHALL REMAIN IN THE CLUB KENO ADVERTISING FUND AND
19 SHALL NOT LAPSE TO THE GENERAL FUND.

20 (4) THE BUREAU SHALL BE THE ADMINISTRATOR OF THE CLUB KENO
21 ADVERTISING FUND FOR AUDITING PURPOSES.

22 (5) MONEY IN THE CLUB KENO ADVERTISING FUND SHALL BE
23 DISTRIBUTED AS FOLLOWS:

24 (A) IF THE ADVERTISING CONDUCTED UNDER SECTION 18(3) INVOLVES
25 ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES, 20% OF THE FIRST
26 \$400,000.00 DEPOSITED INTO THE FUND IN EACH STATE FISCAL YEAR OR
27 0.4% OF THE MONEY DEPOSITED INTO THE FUND IN EACH STATE FISCAL

1 YEAR, WHICHEVER IS LESS, SHALL BE PAID TO THE LIQUOR CONTROL
2 COMMISSION FOR REIMBURSEMENT OF THE COMMISSION'S COSTS RELATED TO
3 THE ADVERTISING.

4 (B) IF SUBDIVISION (A) APPLIES, THE BALANCE OR, IF SUBDIVISION
5 (A) DOES NOT APPLY, ALL OF THE FIRST \$400,000.00 DEPOSITED INTO THE
6 FUND IN EACH STATE FISCAL YEAR OR 2% OF THE MONEY DEPOSITED INTO
7 THE FUND IN EACH STATE FISCAL YEAR, WHICHEVER IS LESS, SHALL BE
8 USED BY THE BUREAU FOR REIMBURSEMENT OF THE BUREAU'S COSTS RELATED
9 TO ADVERTISING CONDUCTED UNDER SECTION 18(3).

10 (C) THE BALANCE OF THE MONEY DEPOSITED INTO THE FUND SHALL BE
11 DISBURSED TO THE STATE SCHOOL AID FUND.