

1 SB320
2 210732-1
3 By Senators McClendon, Gudger and Marsh
4 RFD: Tourism
5 First Read: 09-MAR-21

SYNOPSIS: This bill would implement the constitutional amendment contained in SB___ upon ratification of the amendment by providing for: The powers and duties of the Alabama Lottery Commission; the use of lottery proceeds; the use of video lottery terminals at five locations; the allocation of the state tax on gaming revenue, the local tax on gaming revenue, and the tax on vendors of video lottery equipment; and would provide limitations on retailers of lottery tickets.

A BILL
TO BE ENTITLED
AN ACT

Relating to lotteries; to provide for legislative intent; the powers and duties of the Alabama Lottery Commission; the use of lottery proceeds; allocation of the state tax on gaming revenue; allocation of the local tax on gaming revenue; allocation of the tax on vendors of video

1 lottery equipment; and limitations on retailers of lottery
2 tickets.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the Alabama Lottery Act.

6 Section 2. (a) The purpose of this act is to further
7 implement the constitutional amendment proposed by SB____ upon
8 adoption of the amendment by the voters.

9 (b) The Legislature hereby recognizes that the
10 operations of a lottery are unique activities for state
11 government and that a corporate structure will best enable a
12 lottery to be managed in an entrepreneurial and business like
13 manner. It is the intent of the Legislature that the Alabama
14 Lottery Corporation shall be accountable to the Governor, the
15 Legislature, and the people of the State of Alabama through a
16 system of audits, reports, and thorough financial disclosures
17 as required by this act.

18 Section 3. For the purposes of this act, the terms
19 commission, corporation, executive director, gaming gross
20 revenue, licensed facilities, racetrack, retailer, vendor,
21 video lottery terminal, and video lottery terminal vendor have
22 the same meaning as those terms are defined in the
23 constitutional amendment proposed in SB____.

24 Section 4. Alabama Lottery Commission; Alabama
25 Lottery Corporation; duties; powers.

26 (a) The commission shall elect a chair from among
27 its appointed members.

1 (b) Members of the commission shall be reimbursed
2 for necessary travel and other reasonable expenses incurred in
3 the performance of their official duties.

4 (c) The commission shall appoint and shall provide
5 for the compensation of an executive director who shall direct
6 the day-to-day operations and management of the corporation.
7 The executive director shall serve at the pleasure of the
8 commission.

9 (d) The executive director may not be a member of
10 the commission.

11 (e) The commission shall provide the executive
12 director with private-sector perspectives on the operation of
13 a large marketing enterprise. The commission shall do all of
14 the following:

15 (1) Approve, disapprove, amend, or modify the budget
16 recommended by the executive director for the operation of the
17 corporation.

18 (2) Approve, disapprove, amend, or modify the terms
19 of major lottery procurements recommended by the executive
20 director.

21 (3) Serve as a board of appeals for any denial,
22 revocation, or cancellation by the executive director of a
23 contract with a lottery retailer.

24 (f) The commission may adopt, without recourse to
25 the administrative rule process unless it so desires, rules
26 for the conduct of specific lottery games, including, but not
27 limited to, rules specifying any of the following:

1 (1) The types of games to be conducted, including,
2 but not limited to, a state lottery or a multistate lottery,
3 instant tickets, scratch-off ticket games, Keno, iLottery, or
4 any other lottery offered in another state.

5 (2) The price of tickets.

6 (3) The number and amount of prizes.

7 (4) The method and location of selecting or
8 validating winning tickets.

9 (5) The frequency and the means of conducting
10 drawings which shall be open to the public.

11 (6) The manner of payment of prizes.

12 (7) The frequency of games and drawings.

13 (8) The manner and amount of compensation to lottery
14 retailers, which shall be uniform.

15 (9) Any other matters necessary or desirable for the
16 efficient and effective operation of the lottery and for the
17 convenience of the public.

18 (g) The corporation may enter into written
19 agreements with one or more states for the operation,
20 marketing, and promotion of a joint lottery or joint lottery
21 games.

22 (h) The corporation shall adopt rules providing for
23 a system of continuous internal audits and shall maintain
24 weekly or more frequent records of lottery transactions,
25 including distribution of tickets to lottery retailers,
26 revenues received, claims for prizes, prizes paid, and all
27 other financial transactions of the corporation.

1 (i) No officer or employee of the corporation may
2 have a financial interest in any vendor doing business or
3 proposing to do business with the corporation or with a
4 licensed facility.

5 (j) No officer, director, or employee of the
6 corporation may organize, participate in, or contribute to a
7 political action committee.

8 (k) The executive director shall direct and
9 supervise all administrative and technical activities in
10 accordance with this act and with rules adopted by the
11 commission.

12 Section 5. Disposition of Lottery Proceeds.

13 On or before the last business day of the succeeding
14 month, the corporation shall transfer the lottery proceeds
15 held in the Lottery Trust Fund as follows:

16 (1) 50 percent to the state General Fund; and

17 (2) 50 percent to the Education Trust Fund.

18 Section 6. State Tax on gaming gross revenue; Local
19 Tax on gaming gross revenue; Video Lottery Terminal Vendor
20 Tax.

21 (a) The state tax on gaming gross revenue for each
22 calendar month shall be paid by each licensed facility to the
23 Department of Revenue on or before the 20th day of the next
24 succeeding calendar month.

25 (b) Except as otherwise provided in subsection (c),
26 the local tax on gaming gross revenue for each calendar month
27 shall be paid to the county in which the facility is licensed

1 on or before the 20th day of the next succeeding calendar
2 month. The county shall retain one-half of the amount and
3 shall apportion the remaining half among the municipalities in
4 the county on the basis of the ratio of the population of the
5 municipality to the population of all the municipalities in
6 the county and immediately pay the amounts apportioned to the
7 municipalities.

8 (c) The local tax on gaming gross revenue of a
9 licensed facility operating in a Class 1 or Class 2
10 municipality for each calendar month shall be paid to the
11 Class 1 or Class 2 municipality on or before the 20th day of
12 the next succeeding calendar month. The municipality shall
13 retain one-half of the revenue, shall pay one-quarter of the
14 revenue to the county in which the municipality is principally
15 located, and shall apportion the remaining one-quarter of the
16 revenue to the municipalities in the county other than the
17 Class 1 or Class 2 municipality on the basis of the ratio of
18 the population of the municipality to the population of all
19 municipalities in the county other than the Class 1 or Class 2
20 municipality.

21 (d) A video lottery terminal vendor shall pay the
22 state video lottery terminal vendor tax for each calendar
23 month to the Department of Revenue on or before the 20th day
24 of the next succeeding calendar month.

25 (e) Except as otherwise provided in this subsection,
26 the state tax on gaming gross revenue, the local tax on gaming
27 gross revenue, and the state video lottery terminal vendor tax

1 shall be in lieu of all other state taxes or license fees
2 levied with respect to the operation of video lotteries by a
3 licensed facility. Notwithstanding the foregoing, a licensed
4 facility is liable for all income taxes, franchise taxes,
5 property taxes, lodging taxes, and sales and use taxes on
6 merchandise, food, and beverage generally applicable at
7 uniform rates to all businesses operating in the county in
8 which the facility is licensed.

9 (f) The proceeds derived from the state tax on
10 gaming gross revenue and the video lottery terminal vendor tax
11 shall be deposited as follows:

12 (1) 50 percent to the state General Fund; and

13 (2) 50 percent to the Education Trust Fund.

14 Section 7. Statewide Network of Retailers.

15 (a) The Legislature hereby recognizes that to
16 conduct a successful lottery, the corporation must develop and
17 maintain a statewide network of lottery retailers that will
18 serve the public convenience and promote the sale of tickets,
19 while insuring the integrity of the lottery.

20 (b) An applicant may not be engaged exclusively in
21 the sale of lottery tickets. However, this subsection does not
22 preclude the corporation from contracting for the sale of
23 lottery tickets with nonprofit, charitable organizations or
24 units of local government in accordance with this act.

25 (c) Each lottery retailer shall be issued a lottery
26 retailer certificate that shall be conspicuously displayed at

1 the place where the lottery retailer is authorized to sell
2 lottery tickets.

3 (d) Except as otherwise provided in subsection (e)
4 and except for lottery vending machines located in factories
5 or package liquor stores, bars, or taverns to which persons
6 under the age of 18 years are not permitted access or operated
7 by blind persons as a part of a program established by a
8 federal or state law, a lottery retailer shall locate all
9 vending machines from which lottery tickets are dispensed in
10 the sight of an employee of the lottery retailer.

11 (e) Lottery kiosks or vending machines that are
12 equipped with ID readers that determine the player is of legal
13 age may be located out of sight of an employee of the lottery
14 retailer.

15 Section 8. Proceeds from Ticket Sales; Rule
16 Governing Retailers' Deposit of Lottery Proceeds.

17 (a) All proceeds from the sale of lottery tickets,
18 net of allowable sales commissions and credit for lottery
19 prizes paid to winners by lottery retailers, shall constitute
20 a trust fund until paid to the corporation either directly, or
21 through the corporation's authorized collection
22 representative. Proceeds shall include unsold instant tickets
23 received by a lottery retailer and cash proceeds of sale of
24 any lottery products. Sales proceeds and unused instant
25 tickets shall be delivered to the corporation or its
26 authorized collection representative upon demand. The
27 corporation shall require retailers to place all lottery

1 proceeds due the corporation in accounts in institutions
2 insured by the Federal Deposit Insurance Corporation or
3 Federal Savings and Loan Insurance Corporation not later than
4 the close of the next banking day after the date of their
5 collection by the retailer until the date they are paid over
6 to the corporation. The corporation may require a retailer to
7 establish a single separate electronic funds transfer account,
8 where available, for the purpose of receiving monies from
9 ticket sales, making payments to the corporation, and
10 receiving payments from the corporation. Lottery retailers
11 shall be personally liable for all proceeds. This section
12 shall apply to all lottery tickets generated by computer
13 terminal, other electronic device, and any other tickets
14 delivered to lottery retailers.

15 (b) Whenever any retailer who receives proceeds from
16 the sale of lottery tickets in the capacity of a lottery
17 retailer becomes insolvent, or dies insolvent, the proceeds
18 due the corporation from the person or his or her estate shall
19 have preference over all debts or demands.

20 (c) Except as otherwise provided in subsections (d)
21 and (e), a lien is hereby given to the corporation on all
22 funds and other personal property, on all real property, and
23 on all rights to real or personal property owned or
24 subsequently acquired by each retailer in the amount of, and
25 to secure, the retailer's obligations to remit lottery
26 proceeds to the corporation. The lien shall be in the amount
27 of all sums due to the corporation at any time, together with

1 all interest, penalties, fees, commissions, charges, and other
2 expenses incurred by reason of nonpayment of the lottery
3 proceeds to the corporation or in the process of collecting
4 those proceeds, and shall have priority over any other
5 obligation or liability for which the funds or real or
6 personal property are liable. The lien shall be of equal rank
7 with the tax liens of the state, or any city, county, or other
8 taxing authority within the state. The lien shall arise upon
9 the receipt of lottery proceeds by the retailer, whether or
10 not the retailer is at that time obligated to remit all or any
11 portion of those proceeds to the corporation, and shall be
12 enforceable until the liability is paid or extinguished.

13 (d) The lien imposed by subsection (c) shall not be
14 valid as against any purchaser, judgment lien creditor, or
15 holder of a security interest or mechanic's lien until notice
16 of the corporation's lien has been filed by the corporation
17 with the county clerk of any county or counties in which the
18 retailer's business or residence is located, or in any county
19 in which the retailer has an interest in property. The
20 recording of the lien shall constitute notice of both the
21 original obligation to the corporation and all subsequent
22 obligations to the corporation of the same retailer. Upon
23 request, the corporation shall disclose the specific amount of
24 liability at any given date to any interested party legally
25 entitled to the information.

26 (e) The lien imposed by subsection (c) shall not be
27 valid with respect to a security interest which comes into

1 existence after the notice of lien has been filed by reason of
2 disbursements made within 45 days after the date the lien was
3 filed or the date the person making the disbursements had
4 actual notice of the lien filing, whichever is earlier, if the
5 security interest is both of the following:

6 (1) In property that at the time of filing is
7 subject to the lien imposed by subsection (c), and is covered
8 by the terms of a written agreement entered into before the
9 lien is filed.

10 (2) Protected under local law against a judgment
11 lien arising as of the time of the lien filing, out of an
12 unsecured obligation.

13 (f) The corporation shall be afforded the same
14 rights and remedies with respect to enforcement of any lien
15 and collection of lottery proceeds as is afforded state,
16 county, city, and other taxing authorities.

17 Section 9. Computation of Retailer's Rental
18 Payments.

19 If a lottery retailer's rental payments for the
20 business premises are contractually computed, in whole or in
21 part, on the basis of a percentage of retail sales, and such
22 computation of retail sales is not explicitly defined to
23 include sales of tickets in a state operated lottery, the
24 compensation received by the lottery retailer from the lottery
25 shall be considered the amount of the retail sale for purposes
26 of computing the rental payment.

27 Section 10. Verification Rules and Prize Payments.

1 (a) This section does not apply to a retailer.

2 (b) The commission shall adopt rules to establish a
3 system of verifying the validity of tickets claimed to win
4 prizes and to effect payment of such prizes, except that:

5 (1) No prize, any portion of a prize, or any right
6 of any person to a prize awarded is assignable. Any prize, or
7 portion thereof, remaining unpaid at the death of a prize
8 winner shall be paid to the estate of the deceased prize
9 winner or to the trustee under a revocable living trust
10 established by the deceased prize winner as settlor, provided
11 that a copy of the trust has been filed with the corporation
12 along with a notarized letter of direction from the settlor
13 and no written notice of revocation has been received by the
14 corporation prior to the settlor's death. Following the death
15 of the settlor and prior to any payment to the trustee, the
16 corporation shall obtain from the trustee and each trust
17 beneficiary a written agreement to indemnify and hold the
18 corporation harmless with respect to any claims that may be
19 asserted against the corporation arising from payment to or
20 through the trust. Notwithstanding any other provision of this
21 section, any person, pursuant to an appropriate judicial
22 order, shall be paid the prize to which a winner is entitled.

23 (2) No prize shall be paid arising from claimed
24 tickets that are stolen, counterfeit, altered, fraudulent,
25 unissued, produced or issued in error, unreadable, not
26 received or not recorded by the corporation within applicable
27 deadlines, lacking in captions that conform and agree with the

1 play symbols as appropriate to the lottery game involved, or
2 not in compliance with additional specific rules and public or
3 confidential validation and security tests of the corporation
4 appropriate to the particular lottery game involved.

5 (3) No particular prize in any lottery game shall be
6 paid more than once, and in the event of a binding
7 determination that more than one claimant is entitled to a
8 particular prize, the sole remedy of such claimants is the
9 award to each of them of an equal share in the prize.

10 (4) A holder of a winning cash ticket from an
11 Alabama Lottery game shall claim the prize within 365 days
12 after the drawing in which the prize was won. A holder of a
13 winning ticket from a multistate lottery game shall claim the
14 prize within 180 days after the drawing in which the prize was
15 won. In any Alabama Lottery game in which the player may
16 determine instantly if he or she has won or lost, he or she
17 shall claim a prize within 365 days after the purchase of the
18 ticket, or within 180 days after the purchase of the ticket
19 for a multistate lottery. If a valid claim is not made for a
20 prize within the applicable period, the prize shall constitute
21 an unclaimed prize for purposes of subsection (c).

22 (5) No prize shall be paid upon a ticket purchased
23 or sold in violation of this act. Any such prize shall
24 constitute an unclaimed prize for purposes of subsection (c).

25 (c) Any unclaimed prize money may be retained by the
26 corporation and added to the pool from which future prizes are
27 to be awarded or used for special prize promotions. A portion

1 of the unclaimed prize money, not to exceed two hundred
2 thousand dollars (\$200,000) annually, shall be directed to the
3 Alabama Department of Public Health for the treatment of
4 compulsive gaming disorder and educational programs related to
5 such programs.

6 (d) Upon payment of a prize, the corporation is
7 discharged of all liability.

8 (e) No ticket may be purchased by and no prize may
9 be paid to any of the following persons:

10 (1) Any member of the board of directors, officers,
11 or employees of the corporation.

12 (2) Any vendor or related entity, or any member of
13 the commission, officers, employees of, partners in, or owners
14 of any vendor or related entity to a vendor.

15 (3) Any spouse, child, brother, sister, or parent
16 residing as a member of the same household in the principal
17 place of abode of any person listed in this subsection.

18 (f) The winner of any prize of two hundred fifty
19 thousand dollars (\$250,000) or higher may elect to remain
20 anonymous.

21 Section 11. Procurement Procedures.

22 The corporation shall adopt rules establishing its
23 procurement procedures. The rules shall be designed to provide
24 for the purchase of supplies, equipment, services, and
25 construction items that provide the greatest long term benefit
26 to the state, the greatest integrity for the corporation, and
27 the best service and products for the public.

1 Section 12. Content of Contracts; Powers of
2 Executive Director in Regard to Contracts.

3 (a) Any contract executed by the corporation
4 pursuant to this act shall specify the reasons for which any
5 contract may be suspended, revoked, or terminated by the
6 corporation, including, but not limited to, any of the
7 following:

8 (1) Commission of a violation of this act or rules
9 adopted pursuant thereto.

10 (2) Failure to accurately account for lottery
11 tickets, revenues, or prizes as required by the corporation.

12 (3) Commission of fraud, deceit, or
13 misrepresentation.

14 (4) Insufficient sale of tickets.

15 (5) Conduct prejudicial to public confidence in the
16 lottery.

17 (6) Any material change in any matter considered by
18 the corporation in executing the contract with the retailer.

19 (b) If the executive director determines the denial,
20 revocation, suspension, or rejection of renewal of a contract
21 under this section is in the best interests of the lottery,
22 the public welfare, or the State of Alabama, the executive
23 director, after notice and a hearing, may deny the contract or
24 suspend, revoke, or terminate a contract entered into pursuant
25 to this act. A contract may be temporarily suspended by the
26 executive director without prior notice pending any
27 prosecution, hearing, or investigation, whether by a third

1 party or by the executive director. A contract may be
2 suspended, revoked, or terminated by the executive director
3 for one or more of the reasons enumerated in subsection (a).

4 Section 13. This act shall take effect immediately
5 upon its passage and approval by the Governor or upon its
6 otherwise becoming law, and shall become operative only upon
7 ratification by the voters of Alabama of the constitutional
8 amendment contained in Senate Bill ____ of the 2021 Regular
9 Session of the Alabama Legislature. In the event the
10 constitutional amendment contained in Senate Bill ____ of the
11 2021 Regular Session of the Legislature is not ratified by the
12 voters of Alabama, this act is void.