

## No. 91

## AN ACT

SB 618

Providing for a State Lottery and administration thereof; authorizing the creation of a State Lottery Commission; prescribing its powers and duties; disposition of funds; violations and penalties therefor; exemption of prizes from State and local taxation and making an appropriation.

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

Section 1. Short Title.—This act shall be known and may be cited as the “State Lottery Law.”

Section 2. Statement of Purpose.—This act is enacted to establish a lottery to be operated by the State, the net proceeds of which are to be used after June 30, 1972 exclusively for the purpose of providing property tax relief for the elderly for taxes paid in 1971 and thereafter. It is further intended to provide a means through which to curb illegal gambling operations in Pennsylvania.

Section 3. Definitions.—As used in this act:

(1) “Commission” shall mean the State Lottery Commission established by this act.

(2) “Division” shall mean the Division of the State Lottery created by this act.

(3) “Lottery” or “State lottery” shall mean the lottery established and operated pursuant to this act.

(4) “Director” shall mean the Director of the Division of the State Lottery.

(5) “Secretary” shall mean the Secretary of Revenue.

Section 4. State Lottery Commission; Chairman.—There is hereby created within the Department of Revenue a Division of the State Lottery which shall include a State Lottery Commission.

The commission shall consist of a chairman and four members, all of whom shall be citizens and residents of the State. No more than three of the five members shall belong to the same political party. The chairman shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, and shall hold office at the pleasure of the Governor. The members of the commission shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate. The members of the commission shall hold office for four years. No member, upon the expiration of his term, shall continue to hold office until his successor is appointed and qualified. Of the members first taking office, two shall be appointed for a term of one year and two for a term of two years. The members of the commission shall receive actual and necessary expenses

incurred by them in the performance of their duties, together with a per diem allowance to be paid by the Governor's Office for each day spent in the performance of their duties. Vacancies in the commission occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments. Any member of the commission, other than the chairman, may, after notice and opportunity to be heard, be removed by the Governor for neglect of duty, misfeasance, malfeasance or nonfeasance in office.

Three of the members of the commission shall constitute a quorum to do business.

The director shall act as secretary and executive officer of the commission.

Section 5. Powers and Duties of Commission.—The commission shall advise and make recommendations to the Secretary of Revenue regarding the functions and operations of the State lottery.

Section 6. Powers and Duties of the Secretary of Revenue.—(a) In addition to the powers and duties provided by law and "The Administrative Code of 1929," the Secretary of Revenue shall have the power and it shall be his duty to operate and administer the lottery, and to promulgate rules and regulations governing the establishment and operation thereof, including but not limited to:

- (1) The type of lottery to be conducted.
- (2) The price, or prices, of tickets or shares in the lottery.
- (3) The numbers and sizes of the prizes on the winning tickets or shares.
- (4) The manner of selecting the winning tickets or shares.
- (5) The manner of payment of prizes to the holders of winning tickets or shares.
- (6) The frequency of the drawings or selections of winning tickets or shares, without limitation.
- (7) Without limit as to number, the type or types of locations at which tickets or shares may be sold.
- (8) The method to be used in selling tickets or shares.
- (9) The licensing of agents to sell tickets or shares provided that no person under the age of twenty-one shall be licensed as an agent.
- (10) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.
- (11) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among (i) the payment of prizes to the holders of winning tickets or shares; (ii) the payment of costs incurred in the operation and administration of the lottery, including the expenses of the division and the costs resulting from any contract or contracts entered into for promotional, advertising or

operational services or for the purchase or lease of lottery equipment and materials; (iii) for the repayment of the moneys appropriated to the State Lottery Fund pursuant to section 16 of this act; and (iv) for property tax relief for the elderly as provided in section 12 of this act: Provided, however, That no less than thirty per cent of the total revenues accruing from the sale of lottery tickets or shares shall be dedicated to subclause (iv) above.

(12) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(b) To report monthly to the Governor and the Legislature the total lottery revenues, prize disbursements and other expenses for the preceding month, and to make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the Legislature, and including such recommendations for changes in this act as the secretary deems necessary or desirable.

Section 7. Lottery Sales Agents; Qualifications; Prohibitions.—(a) No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business exclusively as a lottery sales agent. Before issuing such license the secretary shall consider such factors as:

(1) The financial responsibility and security of the person and his business or activity;

(2) The accessibility of his place of business or activity to the public;

(3) The sufficiency of existing licenses to serve the public convenience; and

(4) The volume of expected sales.

For the purposes of this section, the term “person” shall be construed to mean and include an individual, association, corporation, club, trust, estate, society, company, joint-stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. “Person” shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

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

Without limiting the generality of the foregoing, the secretary may refuse to issue a license pursuant to this section, or may suspend or revoke a license so issued if it shall find that the applicant or licensee:

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

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

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

(4) Has violated any rule, regulation or order of the secretary.

(c) The secretary may refuse to grant a license or may suspend or revoke a license issued pursuant to this section to a corporation, if it shall determine that:

(1) Any officer, director, member or stockholder of such corporation applying for a license or of any corporation which owns stock in or shares in the profits, or participates in the management of the affairs of such applicant: (i) has been convicted of a crime involving moral turpitude, (ii) has engaged in bookmaking or other forms of illegal gambling, (iii) has been found guilty of any fraud or misrepresentation in any connection, or (iv) has violated any rule, regulation or order of the secretary.

(2) The experience, character, or general fitness of any officer, director, or stockholder of any of the aforesaid corporations is such that the participation of such person as a lottery sales agent would be inconsistent with the public interest, convenience or necessity, but if the secretary determines that the interest of any stockholder referred to in this clause or in clause (1) of this subsection is sufficient, in the opinion of the secretary, to affect adversely the conduct of a lottery sales agency by such corporation in accordance with the provisions of this act, the secretary may disregard such interest in determining whether or not to grant a license to such corporation.

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

(d) Pending final determination of any question under this section, the secretary may issue a temporary license upon such terms and conditions as it may deem necessary, desirable or proper to effectuate the provisions of this act.

Section 8. Assignability of Prizes Drawn.—No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and, except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The secretary shall be discharged of all further liability upon payment of a prize pursuant to this section.

Section 9. Sales of Tickets in Excess of Regulated Price; Sales by Non-licensed Persons; Penalties.—(a) No person shall sell a ticket or share at a price greater than that fixed by rule or regulation of the commission.

(b) No person other than a licensed lottery sales agent shall sell lottery tickets or shares, except that nothing in this section shall be construed to

prevent any person from giving lottery tickets or shares to another as a gift.

Any person convicted of violating this section shall be guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500).

Section 10. Sales to Certain Persons Prohibited; Penalty.—No ticket or share shall be sold to any person under the age of twenty-one years. The identification card issued by the Liquor Control Board shall constitute proof of age. For the purpose of making a gift, a person twenty-one years of age or older may purchase a ticket or share for the benefit of a person less than that age.

Any agent or employe of any agent who knowingly sells a lottery ticket or share to any person under the age of twenty-one years shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500).

No ticket or share shall be sold to and no prize shall be awarded to any officer or employe of the Department of Revenue or any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

Section 11. Other Laws Inapplicable.—No other law providing any penalty or disability for the sale of lottery tickets or shares or any acts done in connection with a lottery shall apply to the sale of tickets or shares or acts performed pursuant to this act.

Section 12. Disposition of Funds from Sale of Tickets or Shares.—(a) All moneys received from the operation of the State lottery shall be deposited in a State Lottery Fund which is hereby created. Such moneys shall be used to the extent necessary for the payment of lottery prizes but the amount so used shall not be less than forty per cent of the amount of which tickets or shares have been sold. All payments of lottery prizes and for expenses of operation of the lottery shall be made as provided by law. All moneys remaining after payment of prizes and operating expenses shall be transferred to the General Fund through June 30, 1972, after which date they shall remain in the State Lottery Fund and shall be allocated for the exclusive purpose of providing property tax relief for the elderly for taxes paid in 1971 and thereafter pursuant to the provisions of the act of March 11, 1971 (Act No. 3), known as the "Senior Citizens Property Tax Assistance Act." In the event sufficient funds are not available from the lottery receipts to meet the requirements of the act of March 11, 1971 (Act No. 3), known as the "Senior Citizens Property Tax Assistance Act," additional funds to fulfill this obligation shall be appropriated from the General Fund for this purpose.

(b) The moneys in said State Lottery Fund shall be appropriated only:

(1) For the payment of prizes to the holders of winning lottery tickets or shares;

(2) For the expenses of the division in its operation of the lottery;

(3) For property tax relief for the elderly as provided under section 12 of this act; and

(4) For transfer to the General Fund through June 30, 1972, and for the repayment to the General Fund of the amount appropriated to the fund pursuant to section 16 of this act.

Section 13. Exemption of Lottery Prizes from State and Local Taxation.—No State or local taxes of any kind whatsoever shall be imposed upon the proceeds from a prize awarded by the State lottery.

Section 14. Unclaimed Prize Money.—Unclaimed prize money on a winning lottery ticket or share shall be retained by the secretary for payment to the person entitled thereto for one year after the drawing in which the prize was won. If no claim is made within such period, the prize money shall be paid into the State Lottery Fund and used for purposes as otherwise herein provided.

Section 15. Bank Deposits and Control of Lottery Transactions.—The secretary may, in his discretion, require any or all lottery sales agents to deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less the amount, if any, retained as compensation for the sale of the tickets or shares, and to file with the secretary or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. The secretary may make such arrangements for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this act and the rules and regulations of the department, and such functions, activities or services shall constitute lawful functions, activities and services of such person.

Section 16. Appropriation.—There is hereby appropriated the sum of one million dollars (\$1,000,000), or so much thereof as is necessary for the establishment of the State lottery and the Division of the State Lottery in the Department of Revenue. The Department of Revenue shall reimburse the General Fund from receipts from sale of lottery tickets or shares the actual amount of money expended from said appropriation within one year of the date of the first lottery drawing.

Section 17. Effective Date.—This act shall take effect immediately.

APPROVED—The 26th day of August, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly  
No. 91.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

*Secretary of the Commonwealth.*