

1 SB319
2 210708-1
3 By Senators McClendon, Gudger and Marsh (Constitutional
4 Amendment)
5 RFD: Tourism
6 First Read: 09-MAR-21

SYNOPSIS: Under existing law, lotteries and gift enterprises are prohibited.

This bill would propose an amendment to Section 65 of the Constitution of Alabama of 1901, to establish an Alabama Lottery; establish the Lottery Trust Fund; provide for the allocation of lottery proceeds to the Lottery Trust Fund; establish the Alabama Lottery Corporation and the Alabama Lottery Commission to regulate and supervise the operation of the Alabama Lottery Corporation; and provide for the appointment of members to the commission. The amendment would also authorize the use of video lottery terminals by the entities currently licensed to conduct pari-mutuel wagering and an additional site in Lowndes County and to levy a state and local tax on revenue from video lottery terminals and a state tax on video lottery vendors; and authorize the Legislature to pass general laws to implement the amendment.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Proposing an amendment to Section 65 of the
6 Constitution of Alabama of 1901, to establish an Alabama
7 Lottery; to establish the Lottery Trust Fund; to provide for
8 the allocation of lottery proceeds; to establish the Alabama
9 Lottery Corporation to administer the lottery; to establish
10 the Alabama Lottery Commission to regulate and supervise the
11 Alabama Lottery Corporation; to provide for the appointment of
12 members to the commission; to authorize video lottery
13 terminals at five locations and levy a state tax and local tax
14 on gaming gross revenue from the video lottery terminals; to
15 levy a video lottery terminal vendor tax; and to authorize the
16 Legislature to implement the amendment through enabling
17 legislation.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. The following amendment to the
20 Constitution of Alabama of 1901, as amended, is proposed and
21 shall become valid as a part thereof when approved by a
22 majority of the qualified electors voting thereon and in
23 accordance with Sections 284, 285, and 287 of the Constitution
24 of Alabama of 1901, now appearing as Sections 284, 285, and
25 287 of the Official Recompilation of the Constitution of
26 Alabama of 1901, as amended:

27 PROPOSED AMENDMENT

1 "Section 65.

2 "PART I.

3 "~~The~~ Except as provided in Part II, the legislature
4 Legislature shall have no power to authorize lotteries or gift
5 enterprises for any purposes, and shall pass laws to prohibit
6 the sale in this state of lottery or gift enterprise tickets,
7 or tickets in any scheme in the nature of a lottery; and
8 except as provided in Part II, all acts, or parts of acts
9 heretofore passed by the ~~legislature~~ Legislature of this
10 state, authorizing a lottery or lotteries, and all acts
11 amendatory thereof, or supplemental thereto, are hereby
12 ~~avoided~~ voided.

13 "PART II.

14 "Section 1. For the purposes of this amendment, the
15 following terms shall have the following meanings:

16 "(1) COMMISSION. The Alabama Lottery Commission.

17 "(2) CORPORATION. The Alabama Lottery Corporation.

18 "(3) EXECUTIVE DIRECTOR. The Executive Director of
19 the Alabama Lottery Corporation.

20 "(4) GAMING GROSS REVENUE. The total amount of money
21 or value in any form received by a licensed facility with
22 respect to the playing of any form of a video lottery, less
23 the total money or value in any form paid as prizes or
24 winnings to the players of the video lottery and free play or
25 promotional credits, but before deduction of any expenses
26 incurred to operate the establishment, including, but not
27 limited to, depreciation or leasing costs of physical

1 facilities and equipment, wages, and other employment costs,
2 utilities, interest, and taxes. Gaming gross revenue may not
3 be included in a pari-mutuel pool for the purpose of
4 determining any tax levied on pari-mutuel wagering or for any
5 other purpose.

6 "(5) LICENSED FACILITIES. The existing entities
7 currently licensed to conduct pari-mutuel wagering at the four
8 existing racetracks located in Jefferson, Mobile, Macon, and
9 Greene Counties, and one location in Lowndes County to be
10 selected by the commission. There may be no more than one
11 licensed facility in a county, and the commission shall award
12 the license.

13 "(6) RACETRACK. A corporation, limited liability
14 company, or other business entity in Mobile County, Macon
15 County, the City of Birmingham in Jefferson County, and Greene
16 County authorized by a local racing commission pursuant to law
17 to operate and conduct pari-mutuel wagering on live or
18 simulcast races upon the ratification of the amendment adding
19 this part.

20 "(7) RETAILER. Any person with whom the corporation
21 has contracted to sell lottery tickets to the public.

22 "(8) VENDOR. Any person who has entered into a major
23 lottery specific procurement contract with the corporation or
24 licensed facility.

25 "(9) VIDEO LOTTERY TERMINAL. A video or electronic
26 device located in a licensed facility in which currency or
27 credits are deposited and a selection is made by a player in

1 order to play a lottery game. A terminal shall be considered a
2 video lottery terminal notwithstanding the use of an
3 electronic credit system making the deposit of bills or coins
4 unnecessary.

5 "(10) VIDEO LOTTERY TERMINAL VENDOR. Any person who
6 manufactures, distributes, supplies, vends, or leases a video
7 lottery terminal or equipment necessary to conduct a video
8 lottery by a licensed facility.

9 "Section 2. Establishment of the Alabama Lottery;
10 Alabama Lottery Corporation; and Alabama Lottery Commission.

11 "(a) There is hereby established the Alabama Lottery
12 which shall be administered by an independent, de jure
13 municipal corporation and political subdivision of the State
14 of Alabama which shall be a public body, corporate and
15 politic, created and designated as the Alabama Lottery
16 Corporation. No employee of the corporation, including the
17 members of the Alabama Lottery Commission, shall be deemed a
18 state employee or entitled to any benefits of a state
19 employee.

20 "(b) The affairs of the corporation shall be
21 administered by an executive director who shall be appointed
22 by the Alabama Lottery Commission which is hereby established.
23 Members of the commission shall be residents of the State of
24 Alabama, United States citizens, and prominent persons in
25 their business or profession.

26 "(c) Members of the commission may not have been any
27 of the following:

1 "(1) Convicted of a felony.

2 "(2) An officer of or occupy an official position in
3 any political party.

4 "(3) An elected official.

5 "(4) Actively engaged in the business of or have a
6 pecuniary interest in a licensed facility.

7 "(d) The members of the commission shall be
8 appointed as follows:

9 "(1) Two members by the Governor.

10 "(2) One member by the Lieutenant Governor.

11 "(3) One member by the President Pro Tempore of the
12 Senate.

13 "(4) One member by the Speaker of the House of
14 Representatives.

15 "(e) The existence of the corporation shall begin
16 when the original five members of the commission are
17 appointed, without confirmation by the Senate. Subsequent
18 appointments shall be subject to Senate confirmation. If a
19 vacancy occurs when the Legislature is not in session, an
20 interim appointment shall be made by the appropriate
21 appointing authority, and shall be subject to Senate
22 confirmation upon the next session of the Legislature.

23 "(f) Members shall serve a term of four years and
24 may serve two complete terms and any portion of an initial
25 term less than four years or any portion of an unexpired term
26 to which appointed. Any vacancy occurring on the commission
27 shall be filled for the unexpired term by the appointing

1 authority as described in this part or as otherwise provided
2 by an act of the Legislature. The initial terms of office upon
3 the effective date of this part shall be as follows:

4 "(1) Three years for the member appointed by the
5 Speaker of the House of Representatives.

6 "(2) Four years for the member appointed by the
7 President Pro Tempore of the Senate.

8 "(3) Three years for the member appointed by the
9 Lieutenant Governor.

10 "(4) Four years for the members appointed by the
11 Governor.

12 "(g) Each member shall serve for the duration of his
13 or her term and until his or her successor is duly appointed
14 and confirmed by the Senate.

15 "(h) The corporation shall conduct and administer
16 lottery games that provide continuing entertainment to the
17 public, maximize revenues, and ensure that the lottery is
18 operated with integrity and dignity and free of political
19 influence.

20 "(i) An officer or employee of the corporation may
21 not have a financial interest in any vendor doing business or
22 proposing to do business with the corporation.

23 "(j) The corporation and its officers and employees
24 are subject to the Ethics Law, Section 36-25-1, et. seq., Code
25 of Alabama 1975; the Open Records Act, Section 36-12-40, Code
26 of Alabama 1975; and the Open Meetings Act, Section 36-25A-1,
27 et. seq., Code of Alabama 1975.

1 "Section 3. Lottery Trust Fund.

2 "(a) The proceeds from the Alabama Lottery shall be
3 applied first to the payment of the expenses of administering
4 and operating the Alabama Lottery, including, without
5 limitation, the payment of all prizes, without any further
6 appropriation required by law, and the balance of the proceeds
7 remaining after the payments shall be deposited and held in a
8 special, separate account in the State Treasury hereby created
9 and designated as the Lottery Trust Fund until the time as the
10 proceeds are disbursed as provided by general law.

11 "(b) The corporation shall be self-sustaining and
12 self-funded and monies in the state General Fund or the
13 Education Trust Fund shall not be used or obligated to pay the
14 expenses of the corporation or prizes of the lottery, and no
15 claim for the payment of an expense of the lottery or prizes
16 of the lottery shall be made against any monies other than
17 monies credited to the Lottery Trust Fund.

18 "(c) Monthly, no later than the last business day of
19 the succeeding month, the corporation shall transfer to the
20 Lottery Trust Fund the amount of net revenues which the
21 corporation determines surplus to its needs.

22 "(d) Monies credited to the Lottery Trust Fund shall
23 be invested in accordance with state investment practices and
24 all earnings from the investment shall accrue to the fund.

25 "Section 4. Prizes Taxable.

26 "(a) Lottery prizes are subject to Alabama state
27 income tax. Any attachment, garnishment, or execution

1 authorized and issued pursuant to law shall also be withheld
2 if served upon the process agent of the corporation.

3 "(b) No ticket may knowingly be sold to any person
4 under the age of 18, but this subsection does not prohibit the
5 purchase of a ticket by a person 18 years of age or older for
6 the purpose of making a gift to any person of any age. In that
7 case, the corporation shall direct payments to an adult member
8 of the person's family or the legal guardian of the person on
9 behalf of the person.

10 "(c) No person may sell a ticket at a price other
11 than that established by the corporation unless authorized in
12 writing by the executive director.

13 "(d) No person other than a duly certified lottery
14 retailer may sell lottery tickets.

15 "(e) Lottery tickets may be given by merchants as a
16 means of promoting goods or services to customers or
17 prospective customers subject to approval by the corporation.

18 "(f) No lottery retailer may sell a ticket away from
19 the locations listed in the contract of the retailer.

20 "Section 5. State Tax on Gaming Gross Revenue; Local
21 Tax on Gaming Gross Revenue; Video Lottery Terminal Vendor
22 Tax.

23 "(a) A state tax of 22 percent is levied on the
24 gaming gross revenue generated from video lotteries at each
25 licensed facility.

26 "(b) An additional state tax of one percent is
27 levied on the gaming gross revenue generated from video

1 lottery terminals at each licensed facility to the extent that
2 the licensed facility owns and does not lease video lottery
3 terminals and equipment.

4 "(c) A local tax of two percent is levied on the
5 gaming gross revenue generated from video lotteries at each
6 licensed facility.

7 "(d) A state video lottery terminal vendor tax of
8 four percent of the gaming gross revenue from video lottery
9 terminals owned by the video lottery terminal vendor and
10 operated in this state is levied on video lottery terminal
11 vendors conducting business in the state.

12 "Section 6. Games Allowed; Games Not Allowed.

13 "(a) The corporation may allow lottery games of all
14 types. Games may include, but are not limited to, new games,
15 draw lotteries of various types, interstate lotteries such as
16 Powerball and Mega Millions, instant winners such as
17 scratch-offs, Keno, and iLottery, or any other lottery offered
18 in another state. Video lottery terminals may be used only at
19 licensed facilities. The corporation shall make participation
20 convenient by ensuring that purchases are available at retail
21 outlets either by ticket purchase from an employee or from a
22 kiosk or vending machine that does not require an employee to
23 handle the transaction. The corporation may allow iLottery,
24 mobile platforms, and computer purchases.

25 "(b) The corporation may not approve or operate any
26 casino or similar gambling establishment and may not approve
27 or operate any game played with playing cards, dice, dominos,

1 slot machines, or roulette wheels. Any game using live dealers
2 is strictly prohibited.

3 "Section 7. Pari-mutuel Wagering to Continue.

4 "(a) Licensed facilities, as determined by the
5 lottery commission, may legally continue to operate video
6 bingo terminals until the lottery commission mandates a
7 termination date which must be within 12 months of the
8 ratification of the amendment adding this part.

9 "(b) Nothing in this part affects, prohibits, or
10 limits any activity that was legal at the time this part
11 becomes effective including, without limitation, pari-mutuel
12 betting and charity bingo, as provided for by specific laws.

13 "(c) The operation of a lottery, lottery game, or
14 video lottery terminal authorized by this part is not subject
15 to or prohibited, limited, or impaired by otherwise applicable
16 provisions of Article 8, commencing with Section 8-1-150, of
17 Chapter 1 of Title 8, or Article 2, commencing with Section
18 13A-12-20, of Chapter 12 of Title 13A of the Code of Alabama
19 1975.

20 "Section 8. Video Lottery Terminals.

21 "A licensed facility may offer video lottery
22 terminals at the licensed facility upon payment of a licensing
23 fee of one hundred thousand dollars (\$100,000) for a 10-year
24 license. The license may not be sold or transferred except
25 with the express consent of the commission and payment of a
26 fee of one hundred thousand dollars (\$100,000).

1 "Section 9. The Legislature shall provide for the
2 control, management, and operation of the Alabama Lottery in
3 one or more general laws supplemental to this amendment.

4 "Section 10. This part and any enabling legislation
5 enacted by the Legislature with respect to this part
6 supersedes and takes precedence over any other provision of
7 law that may conflict or be inconsistent with this part or the
8 legislation, and this part and the legislation shall operate
9 and be construed without regard to the conflict or
10 inconsistency.

11 Section 2. An election upon the proposed amendment
12 shall be held, in accordance with Sections 284 and 285 of the
13 Constitution of Alabama of 1901, now appearing as Sections 284
14 and 285 of the Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, and the general election laws of
16 this state.

17 Section 3. The appropriate election official shall
18 assign a ballot number for the proposed constitutional
19 amendment on the election ballot and shall set forth the
20 following description on the proposed constitutional
21 amendment:

22 "Proposing an amendment to the Constitution of
23 Alabama of 1901, to establish an Alabama Lottery and an
24 Alabama Lottery Trust Fund; create an Alabama Lottery
25 Corporation to administer the lottery; establish the Alabama
26 Lottery Commission to regulate and supervise the Alabama
27 Lottery Corporation; authorize video lottery terminals in five

1 locations and impose state and local taxes on gaming revenue
2 from video lottery terminals; and allow the Legislature to
3 implement the Alabama Lottery through appropriate general
4 law."

5 This description shall be followed by the following
6 language:

7 "Yes () No ()."