

FILED MAR 6 1973

S. State Govt 3/7/73

Senate File 330	ate File 330
Winkelman, Chairman	ate Government
Jenkins	inkelman, Chairman
Schwengels	nkins
	Schwengels

SENATE FILE 330

By BLOUIN
(Knoke)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act concerning the establishment and operation of a
 2 state lottery, creating the division of the state
 3 lottery in the department of revenue, prescribing its
 4 functions, powers and duties; and providing a penalty.
 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. NEW SECTION. This Act shall be known and may
2 be cited as the state lottery law.

3 Sec. 2. NEW SECTION. For the purposes of this Act, un-
4 less the context clearly requires a different meaning:

5 1. "Commission" means the state lottery commission es-
6 tablished by this Act.

7 2. "Division" means the division of the state lottery
8 created by this Act.

9 3. "Lottery" or "state lottery" means the lottery estab-
10 lished and operated pursuant to this Act.

11 4. "Director" means the director of the division of the
12 state lottery.

13 Sec. 3. NEW SECTION. There is hereby established in the
14 department of revenue a division of the state lottery, which
15 shall include a state lottery commission and a director.

16 Sec. 4. NEW SECTION. The commission shall consist of
17 five members, all of whom shall be citizens and residents
18 of this state and all of whom shall be appointed by the gov-
19 ernor. No more than three of the five members shall be mem-
20 bers of the same political party. The members shall be ap-
21 pointed for terms of five years, except that of the members
22 first appointed, one shall be appointed for a term of one
23 year, one for a term of two years, one for a term of three
24 years, one for a term of four years, and one for a term of
25 five years, commencing as of the date of their appointment
26 by the governor. The term of each of the members first ap-
27 pointed shall be designated by the governor. The members
28 shall, annually, elect one of them as chairman of the com-
29 mission.

30 Any vacancy in the commission occurring for any reason
31 other than the expiration of term, shall be filled for the
32 unexpired term in the same manner as the original appoint-
33 ment.

34 Any member of the commission may be removed from office
35 by the governor, for cause, upon notice and opportunity to

1 be heard at a public hearing.

2 The members of the commission shall receive no salaries
3 but shall be allowed reasonable expenses incurred in the per-
4 formance of their official duties in an amount not exceeding
5 five thousand dollars per annum in the case of the chairman,
6 and three thousand five hundred dollars in the case of each
7 of the other commissioners.

8 Sec. 5. NEW SECTION. The division shall be under the
9 immediate supervision and direction of a director, who shall
10 be a person qualified by training and experience to direct
11 the work of such division. The director shall be appointed
12 by the governor, and shall serve at his pleasure.

13 Any vacancy occurring in the office of the director shall
14 be filled in the same manner as the original appointment.

15 The director of said division shall devote his entire time
16 and attention to the duties of his office and shall not be
17 engaged in any other profession or occupation. He shall re-
18 ceive such salary as shall be provided by law.

19 Sec. 6. NEW SECTION. The commission shall have the power,
20 and it shall be its duty:

21 1. After full and thorough study of all pertinent infor-
22 mation as may be reasonably available, to promulgate such
23 rules and regulations in accordance with chapter seventeen
24 A (17A) of the Code governing the establishment and opera-
25 tion of a state lottery as it deems necessary and desirable
26 in order that the mandate of the people expressed in their
27 approval of the repeal of section twenty-eight (28) of Arti-
28 cle three (III) of the Constitution of the state of Iowa in
29 the general election of November, 1972, may be fully imple-
30 mented, in order that such a lottery shall be initiated at
31 the earliest feasible and practicable time, and in order that
32 such lottery shall produce the maximum amount of net reve-
33 nues for the state consonant with the dignity of the state
34 and the general welfare of the people. Such rules and regu-
35 lations may include, but shall not be limited to, the fol-

- 1 lowing:
- 2 a. The type of lottery to be conducted.
- 3 b. The price, or prices, of tickets or shares in the
- 4 lottery.
- 5 c. The numbers and sizes of the prizes on the winning
- 6 tickets or shares.
- 7 d. The manner of selecting the winning tickets or shares.
- 8 e. The manner of payment of prizes to the holders of win-
- 9 ning tickets or shares.
- 10 f. The frequency of the drawings or selections of winning
- 11 tickets or shares, without limitation.
- 12 g. Without limit as to number, the type or types of lo-
- 13 cations at which tickets or shares may be sold.
- 14 h. The method to be used in selling tickets or shares.
- 15 i. The licensing of agents to sell tickets or shares,
- 16 provided that no person under the age of eighteen shall be
- 17 licensed as an agent.
- 18 j. The manner and amount of compensation, if any, to be
- 19 paid licensed sales agents necessary to provide for the ade-
- 20 quate availability of tickets or shares to prospective buy-
- 21 ers and for the convenience of the public.
- 22 k. The apportionment of the total revenues accruing from
- 23 the sale of lottery tickets or shares and from all other
- 24 sources among the following:
- 25 (1) The payment of prizes to the holders of winning tic-
- 26 kets or shares.
- 27 (2) The payment of costs incurred in the operation and
- 28 administration of the lottery, including the expenses of the
- 29 division and the costs resulting from any contract or con-
- 30 tracts entered into for promotional, advertising or opera-
- 31 tional services or for the purchase or lease of lottery
- 32 equipment and materials.
- 33 (3) For the repayment to the general fund of the state
- 34 the moneys appropriated to the state lottery fund.
- 35 1. Such other matters necessary or desirable for the

1 efficient and economical operation and administration of the
2 lottery and for the convenience of the purchasers of tickets
3 or shares and the holders of winning tickets or shares.

4 2. To amend, repeal, or supplement any such rules and
5 regulations from time to time as it deems necessary or de-
6 sirable.

7 3. To advise and make recommendations to the director
8 regarding the operation and administration of the lottery.

9 4. To report monthly to the governor and the general as-
10 sembly the total lottery revenues, prize disbursements and
11 other expenses for the preceding month, and to make an an-
12 nual report, which shall include a full and complete state-
13 ment of lottery revenues, prize disbursements and other ex-
14 penses, to the governor and the general assembly, and in-
15 cluding such recommendations for changes in this Act as it
16 deems necessary or desirable.

17 5. To report immediately to the governor and the general
18 assembly any matters which shall require immediate changes
19 in the laws of this state in order to prevent abuses and
20 evasions of this Act or rules and regulations promulgated
21 thereunder or to rectify undesirable conditions in connec-
22 tion with the administration or operation of the lottery.

23 6. To carry on a continuous study and investigation of
24 the lottery throughout the state:

25 a. For the purpose of ascertaining any defects in this
26 Act or in the rules and regulations issued pursuant to it
27 by which any abuses in the administration and operation of
28 the lottery or any evasion of this Act or the rules and requ-
29 lations may arise or be practiced.

30 b. For the purpose of formulating recommendations for
31 changes in this Act and the rules and regulations promul-
32 gated thereunder to prevent such abuses and evasions.

33 c. To guard against the use of this Act and the rules
34 and regulations issued pursuant to it as a cloak for carry-
35 ing on organized gambling and crime.

1 d. To insure that said law and rules and regulations shall
2 be in such form and be so administered as to serve the true
3 purposes of this Act.

4 7. To make a continuous study and investigation of the
5 following:

6 a. The operation and the administration of similar laws
7 which may be in effect in other states or countries.

8 b. Any literature on the subject which may be published
9 or available.

10 c. Any federal laws which may affect the operation of
11 the lottery.

12 d. The reaction of Iowa citizens to existing and poten-
13 tial features of the lottery with a view to recommending or
14 effecting changes that will tend to serve the purposes of
15 this Act.

16 Sec. 7. NEW SECTION. The director shall have the power,
17 and it shall be his duty to:

18 1. Supervise and administer the operation of the lottery
19 in accordance with the provisions of this Act and with the
20 rules and regulations of the commission.

21 2. Subject to the approval of the commission, appoint
22 such deputy directors as may be required to carry out the
23 functions and duties of the division.

24 3. Appoint such professional, technical, and clerical
25 assistants and employees as may be necessary to perform the
26 duties imposed upon the division by this Act.

27 4. Act as secretary and executive officer of the commis-
28 sion.

29 5. In accordance with the provisions of this Act and the
30 rules and regulations of the commission, to license as agents
31 to sell lottery tickets, persons as in his opinion will best
32 serve the public convenience and promote the sale of tickets
33 or shares. The director may require a bond from every li-
34 censed agent, in an amount to be determined by the commis-
35 sion. Every licensed agent shall prominently display his

1 license, or a copy thereof, as provided in the rules and regu-
2 lations of the commission.

3 6. Confer regularly as necessary or desirable and not
4 less than once every month with the commission on the opera-
5 tion and administration of the lottery; make available for
6 inspection by the commission, upon request, all books, records,
7 files, and other information and documents of the division;
8 advise the commission and recommend such matters as he deems
9 necessary and advisable to improve the operation and
10 administration of the lottery.

11 7. Suspend or revoke any license issued pursuant to this
12 Act or the rules and regulations promulgated pursuant to it.

13 8. Subject to the approval of the commission and the ap-
14 plicable laws relating to public contracts, to enter into
15 contracts for the operation of the lottery, or any part there-
16 of, and into contracts for the promotion of the lottery.
17 No contract awarded or entered into by the director may be
18 assigned by the holder thereof except by specific approval
19 of the commission.

20 9. To certify monthly to the treasurer of state and the
21 commission a full and complete statement of lottery revenues,
22 prize disbursements and other expenses for the preceding
23 month.

24 Sec. 8. NEW SECTION. No action of the commission shall
25 be binding unless taken at a meeting at which at least three
26 of the five members are present and shall vote in favor there-
27 of. The minutes of every meeting of the commission, including
28 any rules and regulations promulgated by the commission or
29 any amendments, revisions, supplements or repeal thereof,
30 shall be forthwith transmitted, by and under the certifica-
31 tion of the secretary thereof, to the governor. The governor
32 shall, within ten days after the minutes shall have been so
33 delivered, return them to the commission either with or with-
34 out his veto on any action noted as having been taken by the
35 commission. If the governor shall not return the minutes

1 within the ten days, any action recited therein shall have
2 force and effect according to the wording thereof.

3 Sec. 9. NEW SECTION. The commission shall have the power
4 to issue subpoenas to compel the attendance of witnesses and
5 the production of documents, papers, books, records and other
6 evidence before it in any matter over which it has jurisdic-
7 tion, control or supervision. The commission shall have the
8 power to administer oaths and affirmations to persons whose
9 testimony is required. If a person subpoenaed to attend any
10 such proceeding or hearing fails to obey the command of the
11 subpoena without reasonable cause, or if a person in atten-
12 dance at any such proceeding or hearing refuses, without law-
13 ful cause, to be examined or to answer a legal or pertinent
14 question or to exhibit any book, account, record or other
15 document when ordered so to do by the commission, the com-
16 mission may apply to a district court judge, upon proof by
17 affidavit of the facts, for an order returnable in not less
18 than two nor more than ten days, or as the court shall pre-
19 scribe, directing such person to show cause before the court
20 why he should not comply with such subpoena or such order.

21 Upon return of the order, the court before whom the mat-
22 ter shall come on for hearing shall examine such person under
23 oath, and if the court shall determine, after giving such
24 person an opportunity to be heard, that he refused without
25 legal excuse to comply with such subpoena or such order of
26 the director, the court may order such person to comply, and
27 any failure to obey the order of the court may be punished
28 as contempt.

29 Sec. 10. NEW SECTION. No license as an agent to sell
30 lottery tickets or shares shall be issued to any person to
31 engage in business exclusively as a lottery sales agent.
32 Before issuing such license the director shall consider such
33 factors as the following:

34 1. The financial responsibility and security of the per-
35 son and his business or activity.

1 2. The accessibility of his place of business or activity
2 to the public.

3 3. The sufficiency of existing licenses to serve the pub-
4 lic convenience.

5 4. The volume of expected sales.

6 For the purposes of this section, the term "person" shall
7 be construed to mean and include an individual, association,
8 corporation, club, trust, estate, society, company, joint
9 stock company, receiver, trustee, assignee, referee, or any
10 other person acting in a fiduciary or representative capacity,
11 whether appointed by a court or otherwise, and any combination
12 of individuals. "Person" shall also be construed to mean
13 and include all departments, commissions, agencies and instru-
14 mentalities of the state, including counties and municipali-
15 ties and agencies and instrumentalities thereof.

16 Sec. 11. NEW SECTION. Notwithstanding any other pro-
17 vision of law, any person licensed as provided in this Act
18 is hereby authorized and empowered to act as a lottery sales
19 agent.

20 Sec. 12. NEW SECTION. No right of any person to a prize
21 drawn shall be assignable, except that payment of any prize
22 drawn may be paid to the estate of a deceased prize winner,
23 and except that any person pursuant to an appropriate judi-
24 cial order may be paid the prize to which the winner is en-
25 titled. The director shall be discharged of all further lia-
26 bility upon payment of a prize pursuant to this section.

27 Sec. 13. NEW SECTION. No person shall sell a ticket or
28 share at a price greater than that fixed by rule or regula-
29 tion of the commission. No person other than a licensed lot-
30 tery sales agent shall sell lottery tickets or shares, except
31 that nothing in this section shall be construed to prevent
32 any person from giving lottery tickets or shares to another
33 as a gift.

34 Any person convicted of violating this section shall be
35 guilty of a misdemeanor.

1 Sec. 14. NEW SECTION. No ticket or share shall be sold
2 to any person under the age of eighteen, but this shall not
3 be deemed to prohibit the purchase of a ticket or share for
4 the purpose of making a gift by a person eighteen years of
5 age or older to a person less than that age. Any licensee
6 who knowingly sells or offers to sell a lottery ticket or
7 share to any person under the age of eighteen is a disorderly
8 person.

9 Sec. 15. NEW SECTION. No ticket or share shall be pur-
10 chased by, and no prize shall be paid to any of the following
11 persons: Any officer or employee of the division or to any
12 spouse, child, brother, sister or parent residing as a member
13 of the same household in the principal place of abode of any
14 of the foregoing persons.

15 Sec. 16. NEW SECTION. Unclaimed prize money for the prize
16 on a winning ticket or share shall be retained by the director
17 for the person entitled thereto for one year after the draw-
18 ing in which the prize was won. If no claim is made for said
19 money within such year, the prize money shall be deposited
20 in the general fund of the state in the same manner as lottery
21 revenues are deposited under this Act.

22 Sec. 17. NEW SECTION. The director may, in his discre-
23 tion, require any or all lottery sales agents to deposit to
24 the credit of the state lottery fund in banks designated by
25 the treasurer of state all moneys received by such agents
26 from the sale of lottery tickets or shares, less the amount,
27 if any, retained as compensation for the sale of the tickets
28 or shares, and to file with the director or his designated
29 agents reports of their receipts and transactions in the sale
30 of lottery tickets in such form and containing such informa-
31 tion as he may require. The director may make such arrange-
32 ments for any person, including a bank, to perform such func-
33 tions, activities or services in connection with the operation
34 of the lottery as he may deem advisable pursuant to this Act
35 and the rules and regulations of the commission, and such

1 functions, activities or services shall constitute lawful
2 functions, activities and services of such person.

3 Sec. 18. NEW SECTION. No other law providing any penalty
4 or disability for the sale of lottery tickets or any acts
5 done in connection with a lottery shall apply to the sale
6 of tickets or shares performed pursuant to this Act.

7 Sec. 19. NEW SECTION. If the person entitled to a prize
8 or any winning ticket is under the age of eighteen years,
9 and such prize is less than five thousand dollars, the di-
10 rector may direct payment of the prize by delivery to an adult
11 member of the minor's family or a guardian of the minor of
12 a check or draft payable to the order of such minor. If the
13 person entitled to a prize or any winning ticket is under
14 the age of eighteen years, and such prize is five thousand
15 dollars or more, the director may direct payment to such mi-
16 nor by depositing the amount of the prize in any bank to the
17 credit of an adult member of the minor's family or a guardian
18 of the minor as custodian for such minor. The person so named
19 as custodian shall have the same duties and powers as a per-
20 son designated as a custodian in the manner prescribed in
21 chapter five hundred sixty-five A (565A) of the Code, and
22 for the purposes of this section the terms "adult member of
23 a minor's family", "guardian of a minor" and "bank" shall
24 have the same meaning as in that chapter. The director shall
25 be discharged of all further liability upon payment of a prize
26 to a minor pursuant to this section.

27 Sec. 20. NEW SECTION. There is hereby created and es-
28 tablished in the office of the treasurer of state a separate
29 fund, to be known as the state lottery fund, to be deposited
30 in such depositories as the treasurer of state may select.
31 Such funds shall consist of all revenues received from the
32 sale of lottery tickets or shares, and all other money credited
33 or transferred thereto from any other fund or source pursuant
34 to law.

35 Sec. 21. NEW SECTION. The moneys in the state lottery

1 fund shall be appropriated only for the payment of prizes
2 to the holders of winning lottery tickets or shares, for the
3 expenses of the division in its operation of the lottery,
4 and for the repayment to the general fund of the state of
5 any amount not necessary for the payment of prizes or expenses
6 of the division.

7 Sec. 22. Section ninety-nine point one (99.1), Code 1973,
8 is amended to read as follows:

9 99.1 HOUSES OF PROSTITUTION, ETC. Whoever shall erect,
10 establish, continue, maintain, use, own, or lease any build-
11 ing, erection, or place used for the purpose of lewdness,
12 assignation, prostitution, or gambling except as allowed by
13 this Act, or pool selling as defined by section 726.6 is
14 guilty of a nuisance, and the building, erection, or place,
15 or the ground itself, in or upon which such lewdness, assign-
16 nation, prostitution, or gambling, or pool selling as defined
17 by section 726.6 is conducted, permitted, or carried on, con-
18 tinued, or exists, and the furniture, fixtures, musical in-
19 struments, and movable property used in conducting or main-
20 taining such nuisance, are also declared a nuisance and shall
21 be enjoined and abated as hereinafter provided.

22 Sec. 23. Section ninety-nine A point two (99A.2), unnum-
23 bered paragraph one (1), Code 1973, is amended to read as
24 follows:

25 The intentional possession or willful keeping of a gambling
26 device upon any licensed premises, except as provided in this
27 Act, is cause for the revocation of any license upon the prem-
28 ises where the gambling device is found. Possession by an
29 employee of the licensee on the premises of the licensee shall
30 give rise to the presumption of intentional possession by
31 the licensee.

32 Sec. 24. Section five hundred thirty-seven point four
33 (537.4), Code 1973, is amended to read as follows:

34 537.4 GAMING CONTRACTS VOID. All promises, agreements,
35 notes, bills, bonds, or other contracts, mortgages or other

1 securities, when the whole or any part of the consideration
2 thereof is for money or other valuable thing won or lost,
3 laid, staked, or bet, at or upon any game of any kind or on
4 any wager, except as authorized by this Act, are absolutely
5 void and of no effect.

6 Sec. 25. Section seven hundred twenty-six point one
7 (726.1), Code 1973, is amended to read as follows:

8 726.1 KEEPING GAMBLING HOUSES. ~~¶~~ Except as provided
9 in this Act, if any person keep a house, shop, or place re-
10 sorted to for the purpose of gambling, or permit or suffer
11 any person in any house, shop, or other place under his con-
12 trol or care to play at cards, dice, faro, roulette, equality,
13 punchboard, slot machine or other game for money or other
14 thing, such offender shall be fined in a sum not less than
15 fifty nor more than three hundred dollars, or be imprisoned
16 in the county jail not exceeding one year, or both.

17 Sec. 26. Section seven hundred twenty-six point three
18 (726.3), Code 1973, is amended to read as follows:

19 726.3 GAMING AND BETTING--PENALTY. ~~¶~~ Except as autho-
20 rized by the provisions of this Act, if any person play at
21 any game for any sum of money or other property of any value,
22 or make any bet or wager for money or other property of value,
23 he shall be guilty of a misdemeanor.

24 Sec. 27. Section seven hundred twenty-six point five
25 (726.5), Code 1973, is amended to read as follows:

26 726.5 POSSESSION OF GAMBLING DEVICES PROHIBITED. ~~¶~~
27 Except as allowed under the provisions of this Act, no one
28 shall, in any manner or for any purpose whatever, except un-
29 der proceeding to destroy the same, have, keep, or hold in
30 possession or control any roulette wheel, klondyke table,
31 poker table, punchboard, faro, or keno layouts or any other
32 machines used for gambling, or any slot machine or device
33 with an element of chance attending such operation.

34 Sec. 28. Section seven hundred twenty-six point six
35 (726.6), Code 1973, is amended to read as follows:

1 responsibility with appropriate standards for determining the
2 type of lottery to be held and the other details of its ad-
3 ministration.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

LSB 45
jd/jw/3