

LD4882484

HOUSE BILL NO. 1978

Offered January 20, 1995

A BILL to amend and reenact §§ 58.1-626, 58.1-4007 and 58.1-4025 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-607.1, relating to sales and use tax imposed on lottery ticket sales.

Patrons—Watkins and Purkey

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-626, 58.1-4007 and 58.1-4025 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-607.1 as follows:

§ 58.1-607.1. Sales and use tax imposed on lottery ticket sales.

A. The sales and use tax authorized by this chapter shall be imposed on the sale of state lottery tickets; however, the tax shall not increase the price of the ticket but shall be included in the amount per ticket collected.

B. The State Lottery Department shall be deemed a dealer under § 58.1-615 for purposes of reporting and paying the tax levied under this section.

§ 58.1-626. Absorption of tax prohibited.

No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment of all or any part of such tax, except as may be authorized under §§ 58.1-607.1, 58.1-627 or § 58.1-628. Any person who violates this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Except as provided in § 58.1-4028, such regulations shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest 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. The regulations, which may be amended, repealed or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery to be conducted.

2. The price or prices of tickets or shares in the lottery; however, all such sales shall be for cash.

3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.

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 limitation 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 advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.

10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of eighteen shall be licensed as an agent. A licensed agent may employ a person who is sixteen years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.

11. 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. *In establishing the manner and amount of compensation to be paid licensed sales agents, the Board shall provide that such agents shall receive their compensation from lottery sales based upon the full amount of such lottery sales sold by such agents, even if such sales include the sales and use tax imposed under § 58.1-607.1.*

12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 of this

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chapter.

13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

The Board shall also promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 4 (§ 11-72 et seq.) of Chapter 7 of Title 11 and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director.

B. The Board shall carry on a continuous study and investigation of the lottery throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery and any evasions of such provisions.

2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated hereunder to prevent such abuses and evasions.

3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.

4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws which may be in effect in other states or countries, (ii) any literature on the subject which may be published or available, (iii) any federal laws which may affect the operation of the lottery, and (iv) the reaction of Virginia citizens to the potential features of the lottery with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision 10 of subsection A of this section and subdivision 5 of subsection B of § 58.1-4006 of this chapter.

E. The Board shall have the authority to initiate procedures for planning, acquisition, and construction of capital projects as set forth in Article 6 (§ 2.1-224 et seq.) of Chapter 14 and Article 5 (§ 2.1-480 et seq.) of Chapter 32 of Title 2.1.

§ 58.1-4025. Exemption of lottery prizes and sales of tickets from state and local taxation.

Except as provided in Chapter 3 of Title 58.1 and §§ 58.1-607.1 and 58.1-4011, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the State Lottery Law.