

Enrolled House Bill 2237

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Government Operations Oversight)

CHAPTER

AN ACT

Relating to resolution of contract disputes with lottery game retailers; amending ORS 461.300.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 461.300 is amended to read:

461.300. (1) The Oregon State Lottery Commission shall adopt rules specifying the terms and conditions for contracting with lottery game retailers so as to provide adequate and convenient availability of tickets or shares to prospective buyers of each lottery game as appropriate for each such game. Nothing in this subsection is intended to preclude the lottery from selling tickets or shares directly to the public.

(2)(a) The Director of the Oregon State Lottery shall, pursuant to this chapter, and the rules of the commission, select as lottery game retailers such persons as deemed to best serve the public convenience and promote the sale of tickets or shares. A person under the age of 18 may not be a lottery game retailer. In the selection of a lottery game retailer, the director shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing lottery game retailers for any particular lottery game to serve the public convenience and the projected volume of sales for the lottery game involved.

(b) Prior to the execution of any contract with a lottery game retailer, the lottery game retailer shall disclose to the lottery the names and addresses of the following:

(A) If the lottery game retailer is a corporation but not a private club as described in ORS 471.175, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five percent or more of such securities need be disclosed.

(B) If the lottery game retailer is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(C) If the lottery game retailer is an association but not a private club as described in ORS 471.175, the members, officers and directors.

(D) If the lottery game retailer is a subsidiary but not a private club as described in ORS 471.175, the officers, directors and each stockholder of the parent corporation thereof; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own five percent or more of such securities need be disclosed.

(E) If the lottery game retailer is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(F) If the parent company, general partner, limited partner or joint venturer of any lottery game retailer is itself a corporation, trust association, subsidiary, partnership or joint venturer, then all of the information required in this section shall be disclosed for such other entity as if it were itself a lottery game retailer to the end that full disclosure of ultimate ownership be achieved.

(G) If any member, 18 years of age or older, of the immediate family of any video lottery game retailer, or any member, 18 years of age or older, of the immediate family of any individual whose name is required to be disclosed under this paragraph, is involved in the video lottery game retailer's business in any capacity, then all of the information required in this section shall be disclosed for such immediate family member as if the family member were a video lottery game retailer.

(H) If any member, 18 years of age or older, of the immediate family of any lottery game retailer, other than a video lottery game retailer, is involved in the lottery game retailer's business in any capacity, then the lottery game retailer shall identify the immediate family member to the Oregon State Lottery, and shall report the capacity in which the immediate family member is involved in the lottery game retailer's business. Full disclosure of immediate family members working in the business may only be required as provided in paragraph (c) of this subsection.

(I) If the lottery game retailer is a private club as described in ORS 471.175, the treasurer, officers, directors and trustees who oversee or direct the operation of the food, beverage, lottery or other gambling-related activities of the private club and each manager in charge of the food, beverage, lottery or other gambling-related activities of the private club.

(c) The director may require full disclosure of any immediate family member of any lottery game retailer who is involved in the lottery game retailer's business as if the family member were a lottery game retailer if the director has just cause for believing the family member may be a threat to the integrity, honesty, fairness or security of the lottery and its games.

(d) The commission may refuse to grant a lottery game retail contract to any lottery game retailer or any natural person whose name is required to be disclosed under paragraph (b) of this subsection, who has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime. The lottery may require payment by each lottery game retailer to the lottery of an initial nonrefundable application fee or an annual fee, or both, to maintain the contract to be a lottery game retailer.

(e) A person who is a lottery game retailer may not be engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state or political subdivision property or an owner or lessee of premises which lawfully sells alcoholic beverages may be selected as a lottery game retailer. State agencies, except for the state lottery, political subdivisions or their agencies or departments may not be selected as a lottery game retailer. The director may contract with lottery game retailers on a permanent, seasonal or temporary basis.

(3) The authority to act as a lottery game retailer is not assignable or transferable.

(4) The director may terminate a contract with a lottery game retailer based on the grounds for termination included in the contract or commission rules governing the contract. The grounds for termination must include, but are not limited to, the knowing sale of lottery tickets or shares to any person under the age of 18 years or knowingly permitting a person under the age of 21 years to operate a video lottery game terminal.

(5) Notwithstanding subsection (4) of this section, when a lottery game retail contract requires the lottery game retailer to maintain a minimum weekly sales average, the lottery game retailer may avoid termination of the contract for failure to meet the minimum weekly sales average by agreeing, prior to termination, to pay the state lottery the difference between the actual weekly cost incurred by the lottery to maintain the contract and the weekly proceeds that are collected by the lottery from the sales of that lottery game retailer, less expenses that are dedicated by statute, rule or contract to other purposes. The director may not terminate the contract of a lottery game

retailer for failure to meet a minimum weekly sales average unless the director first allows the lottery game retailer an opportunity to make the payment described in this subsection.

(6) The commission shall adopt by rule an alternative dispute resolution process for disputes arising from a contract with a lottery game retailer that must be included in every contract between the commission and lottery game retailers. The commission shall develop the dispute resolution process required by this section in conformity with ORS 183.502.

Passed by House May 16, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 3, 2005

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President of Senate

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State