

AN ACT

RELATING TO GAMING; AMENDING CERTAIN PROVISIONS OF THE NEW MEXICO LOTTERY ACT TO IMPROVE THE ADMINISTRATION OF THE NEW MEXICO LOTTERY AND CLARIFY EXISTING LAW; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-24-12 NMSA 1978 (being Laws 1995, Chapter 155, Section 12) is amended to read:

"6-24-12. EXECUTIVE VICE PRESIDENT FOR SECURITY--
QUALIFICATIONS--DUTIES.--

A. The chief executive officer shall hire an executive vice president for security, who shall be qualified by training and experience, including at least five years of law enforcement experience, and be knowledgeable and experienced in computer security. The executive vice president for security shall take direction as needed from the chief executive officer and shall be accountable to the board.

B. The executive vice president for security shall:

(1) be the chief administrative officer of the security division of the authority, which is designated as a law enforcement agency for the purposes of administering the security provisions of the New Mexico Lottery Act;

(2) be responsible for assuring the security, honesty, fairness and integrity of the operation and administration of the lottery and to that end shall institute all necessary security measures, including an

examination of the background of all prospective employees, lottery retailers, lottery vendors and lottery contractors;

(3) in conjunction with the chief executive officer, confer with the attorney general or his designee to promote and ensure the security, honesty, fairness and integrity of the operation and administration of the lottery; and

(4) in conjunction with the chief executive officer, report any alleged violation of law to the attorney general or any other appropriate law enforcement authority for further investigation and action.

C. The executive vice president for security and the employees of the division assigned by him as security agents shall be commissioned by the board as peace officers with full powers of arrest in the performance of their duties. These peace officers shall seek and must obtain certification pursuant to the provisions of the Law Enforcement Training Act.

D. The department of public safety in conjunction with the authority shall develop policy and procedures to require background checks. The policy and procedures shall require the fingerprinting of all board members and prospective employees. Fingerprint cards will be submitted to the department of public safety records bureau for processing through the federal bureau of investigation. The department of public safety will not disseminate the criminal history information to the authority.

E. An applicant for consideration shall be fingerprinted and shall provide two fingerprint cards to the department of public safety. Convictions of felonies or

misdemeanors contained in the federal bureau of investigation record shall be used in accordance with Section 6-24-18 NMSA 1978. Other information contained in the federal bureau of investigation record supported by independent evidence can form the basis for the denial, suspension or revocation for good and just cause. Such records and any related information shall be privileged and shall not be disclosed to individuals not directly involved in the decisions affecting the specific applicants or employees. The authority shall pay for the cost of obtaining the federal bureau of investigation record. The department of public safety shall implement the provisions of this section on or before July 1, 1999."

Section 2. Section 6-24-21 NMSA 1978 (being Laws 1995, Chapter 155, Section 21) is amended to read:

"6-24-21. DRAWINGS FOR AND PAYMENT OF PRIZES--UNCLAIMED PRIZES--APPLICABILITY OF TAXATION.--

A. All lottery prize drawings shall be open to the public. If the prior written approval of the chief executive officer and the executive vice president for security are obtained, the selection of winning entries may be performed by an employee of the lottery. A member of the board shall not perform the selection of a winning entry. Drawings for a prize of more than five thousand dollars (\$5,000) shall be conducted and videotaped by the security division and witnessed by the internal auditor of the authority or his designee. Promotional drawings for a prize of less than five thousand dollars (\$5,000) are exempt from the requirements of this subsection if prior written approval is given by the chief executive officer and the

executive vice president for security. All lottery drawing equipment used in public drawings to select winning numbers or entries or participants for prizes shall be examined and tested by the chief executive officer's staff and the internal auditor of the authority or his designee prior to and after each public drawing.

B. Any lottery prize is subject to applicable state taxes. The authority shall report to the state and federal taxing authorities any lottery prize exceeding six hundred dollars (\$600).

C. The authority shall adopt rules, policies and procedures to conduct fair and equitable drawings and establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, provided:

(1) no prize shall be paid upon a ticket purchased or sold in violation of the New Mexico Lottery Act. Any such prize shall constitute an unclaimed prize for purposes of this section;

(2) the authority is discharged from all liability upon payment of a prize;

(3) the board may by rule provide for the payment of prizes by lottery retailers, whether or not the lottery retailer sold the winning ticket, whenever the amount of the prize is less than an amount set by board rule. Payment shall not be made directly to a player by a machine or a mechanical or electronic device;

(4) prizes not claimed within the time period established by the authority are forfeited and shall be paid into the prize fund. No interest is due on a prize

when a claim is delayed;

(5) the right to a prize is not assignable, but prizes may be paid to a deceased winner's estate or to a person designated by judicial order;

(6) until a signature or mark is placed on a ticket in the area designated for signature, a ticket is owned by the bearer of the ticket, but after a signature or mark is placed on a ticket in the area designated for signature, a ticket is owned by the person whose signature or mark appears, and that person is entitled to any prize attributable to the owner; and

(7) the authority is not responsible for lost or stolen tickets."

Section 3. Section 6-24-29 NMSA 1978 (being Laws 1995, Chapter 155, Section 29) is amended to read:

"6-24-29. UNLAWFULLY INFLUENCING AND FRAUD--
PENALTIES.--

A. It is unlawful to knowingly:

(1) influence the winning of a prize through the use of coercion, fraud, deception or tampering with lottery equipment or materials;

(2) make a material false statement in any application for selection as a lottery retailer or any lottery vendor proposal or other proposal to conduct lottery activities or to make a material false entry in any book or record that is compiled or maintained or submitted pursuant to the provisions of the New Mexico Lottery Act;

(3) obtain or attempt to obtain access to a computer database or information maintained by the authority without the specific written authorization of the authority;

or

(4) obtain or attempt to obtain access to a computer database or information maintained by a person pursuant to a contract with the authority without the specific written authorization of the authority.

B. Any person who violates any provision of Subsection A of this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

Section 4. Section 6-24-30 NMSA 1978 (being Laws 1995, Chapter 155, Section 30) is amended to read:

"6-24-30. CONFLICTS OF INTEREST--PENALTIES.--

A. It is unlawful for the chief executive officer, a board member or any employee of the authority or any person residing in the household of the officer, board member or employee to:

(1) have, directly or indirectly, an interest in a business, knowing that such business contracts with the lottery for a major procurement, whether such interest is as a natural person, partner, member of an association, stockholder or director or officer of a corporation; or

(2) accept or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, service or hospitality having an aggregate value of more than twenty dollars (\$20.00) in any calendar year, except for food and beverages consumed by the recipient at the time of receipt, from a person, knowing that the person:

(a) contracts or seeks to contract with the state to supply gaming equipment, materials,

lottery tickets or consulting services for use in the lottery; or

(b) is a lottery retailer.

B. It is unlawful for a lottery retailer or a lottery vendor to offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, service or hospitality having an aggregate value of more than twenty dollars (\$20.00) in any calendar year, except food and beverages consumed by the recipient at the time of receipt, to a person, knowing the person is the chief executive officer, a board member or an employee of the authority, or a person residing in the household of the officer, board member or employee.

C. Any person who violates any provision of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

D. If a board member, the chief executive officer or an employee of the authority, or any person residing in the household thereof, is convicted of a violation of this section, that board member, chief executive officer or employee shall be removed from office or employment with the authority."

Section 5. Section 6-24-31 NMSA 1978 (being Laws 1995, Chapter 155, Section 31) is amended to read:

"6-24-31. FORGERY OF LOTTERY TICKET--PENALTY.--

A. It is unlawful to falsely make, alter, forge, pass, present or counterfeit, with intent to defraud, a lottery ticket, or receipt for the purchase thereof, issued or purported to have been issued by the lottery under the New Mexico Lottery Act.

B. It is unlawful to steal, knowingly possess or attempt to redeem stolen lottery tickets.

C. A person who violates the provisions of Subsection A of this section when:

(1) the value of all things received in return for the forged lottery ticket or forged receipt for the purchase of a lottery ticket is one hundred dollars (\$100) or less is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(2) the value of all things received in return for the forged lottery ticket or forged receipt for the purchase of a lottery ticket is more than one hundred dollars (\$100) but not more than one thousand dollars (\$1,000) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(3) the value of all things received in return for the forged lottery ticket or forged receipt for the purchase of a lottery ticket is more than one thousand dollars (\$1,000) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) the value of all things received in return for the forged lottery ticket or forged receipt for the purchase of a lottery ticket is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) the value of all things received in return for the forged lottery ticket or forged receipt for the purchase of a lottery ticket is more than twenty thousand dollars (\$20,000) is guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section

31-18-15 NMSA 1978.

D. A person who violates the provisions of Subsection B of this section when:

(1) the face value of the lottery tickets is one hundred dollars (\$100) or less is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(2) the face value of the lottery tickets is more than one hundred dollars (\$100) but not more than one thousand dollars (\$1,000) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(3) the face value of the lottery tickets is more than one thousand dollars (\$1,000) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) the face value of the lottery tickets is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) the face value of the lottery tickets is more than twenty thousand dollars (\$20,000) is guilty of

a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

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