

1 A bill to be entitled

2 An act relating to administrative procedures of the
3 Department of the Lottery; amending s. 24.105, F.S.;
4 revising the rulemaking authority of the Department of the
5 Lottery; authorizing the department to adopt rules
6 governing the operation of games offered by the
7 department; authorizing the department to adopt emergency
8 rules for the purpose of implementing instant ticket
9 games; removing the authority of the department to perform
10 any of the functions of the Department of Management
11 Services under chapter 255, chapter 273, chapter 281,
12 chapter 283, or chapter 287, F.S.; requiring the
13 department to adopt by rule a personnel program for its
14 employees; removing the exemption from chapter 120, F.S.,
15 related to personnel actions; repealing s. 24.109, F.S.,
16 relating to administrative procedure; deeming certain
17 emergency rules in existence on a specified date to be
18 rules adopted pursuant to s. 120.54(3), F.S.; providing
19 that such rules remain in effect until amended or repealed
20 by the department; requiring the Department of State to
21 renumber rules as necessary; providing for repeal of
22 certain rules in existence on a specified date that are no
23 longer authorized; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Subsections (9) and (13) through (20) of
28 section 24.105, Florida Statutes, are amended to read:

29 24.105 Powers and duties of department.—The department
30 shall:

31 (9) (a) Adopt rules governing the ~~establishment and~~
32 operation of games offered by the department ~~the state lottery~~,
33 including:

34 1.~~(a)~~ The type of lottery games to be conducted, except
35 that:

36 a.1.~~1.~~ No name of an elected official shall appear on the
37 ticket or play slip of any lottery game or on any prize or on
38 any instrument used for the payment of prizes, unless such prize
39 is in the form of a state warrant.

40 b.2.~~2.~~ No coins or currency shall be dispensed from any
41 electronic computer terminal or device used in any lottery game.

42 c.3.~~3.~~ Other than as provided in sub-subparagraph d.
43 ~~subparagraph 4.~~, no terminal or device may be used for any
44 lottery game which may be operated solely by the player without
45 the assistance of the retailer.

46 d.4.~~4.~~ The only player-activated machine which may be
47 utilized is a machine which dispenses instant lottery game
48 tickets following the insertion of a coin or currency by a
49 ticket purchaser. To be authorized a machine must: be under the
50 supervision and within the direct line of sight of the lottery
51 retailer to ensure that the machine is monitored and only
52 operated by persons at least 18 years of age; be capable of
53 being electronically deactivated by the retailer to prohibit use
54 by persons less than 18 years of age through the use of a
55 lockout device that maintains the machine's deactivation for a
56 period of no less than 5 minutes; and be designed to prevent its

57 use or conversion for use in any manner other than the
 58 dispensing of instant lottery tickets. Authorized machines may
 59 dispense change to players purchasing tickets but may not be
 60 utilized for paying the holders of winning tickets of any kind.
 61 At least one clerk must be on duty at the lottery retailer while
 62 the machine is in operation. However, at least two clerks must
 63 be on duty at any lottery location which has violated s.
 64 24.1055.

65 2.~~(b)~~ The sales price of tickets.

66 3.~~(e)~~ The number and sizes of prizes.

67 4.~~(d)~~ The method of selecting winning tickets. However, if
 68 a lottery game involves a drawing, the drawing shall be public
 69 and witnessed by an accountant employed by an independent
 70 certified public accounting firm. The equipment used in the
 71 drawing shall be inspected before and after the drawing.

72 5.~~(e)~~ The manner of payment of prizes to holders of
 73 winning tickets.

74 6.~~(f)~~ The frequency of drawings or selections of winning
 75 tickets.

76 7.~~(g)~~ The number and type of locations at which tickets
 77 may be purchased.

78 8.~~(h)~~ The method to be used in selling tickets.

79 9.~~(i)~~ The manner and amount of compensation of retailers.

80 10.~~(j)~~ Such other matters necessary ~~or desirable~~ for the
 81 efficient or economical operation of games offered by the
 82 department lottery ~~or for the convenience of the public.~~

83 (b) The department may at any time adopt emergency rules
 84 pursuant to s. 120.54 for the purpose of implementing and

85 promoting instant ticket games. The Legislature finds that, from
86 time to time, the department must respond as quickly as is
87 practicable to changes in the marketplace when creating and
88 promoting instant ticket games. Therefore, in adopting emergency
89 rules for the purpose of implementing and promoting such games,
90 the department need not make the findings required by s.
91 120.54(4)(a). Emergency rules adopted under this subsection are
92 exempt from s. 120.54(4)(c) and shall remain in effect until
93 expiration of the specific instant ticket game that is the
94 subject of the emergency rule.

95 ~~(13) Have the authority to perform any of the functions of~~
96 ~~the Department of Management Services under chapter 255, chapter~~
97 ~~273, chapter 281, chapter 283, or chapter 287, or any rules~~
98 ~~adopted under any such chapter, and may grant approvals provided~~
99 ~~for under any such chapter or rules. If the department finds, by~~
100 ~~rule, that compliance with any such chapter would impair or~~
101 ~~impede the effective or efficient operation of the lottery, the~~
102 ~~department may adopt rules providing alternative procurement~~
103 ~~procedures. Such alternative procedures shall be designed to~~
104 ~~allow the department to evaluate competing proposals and select~~
105 ~~the proposal that provides the greatest long-term benefit to the~~
106 ~~state with respect to the quality of the products or services,~~
107 ~~dependability and integrity of the vendor, dependability of the~~
108 ~~vendor's products or services, security, competence, timeliness,~~
109 ~~and maximization of gross revenues and net proceeds over the~~
110 ~~life of the contract.~~

111 (13) ~~(14)~~ Have the authority to acquire real property and
112 make improvements thereon. The title to such property shall be

113 vested in the Board of Trustees of the Internal Improvement
 114 Trust Fund. The board shall give the department preference in
 115 leasing state-owned lands under the board's control and may not
 116 exercise any jurisdiction over lands purchased or leased by the
 117 department while such lands are actively used by the department.
 118 Actions of the department under this subsection are exempt from
 119 the time limitations and deadlines of chapter 253.

120 (14)~~(15)~~ Have the authority to charge fees to persons
 121 applying for contracts as vendors or retailers, which fees are
 122 reasonably calculated to cover the costs of investigations and
 123 other activities related to the processing of the application.

124 (15)~~(16)~~ Enter into contracts for the purchase, lease, or
 125 lease-purchase of such goods and services as are necessary for
 126 the operation and promotion of the state lottery, including
 127 assistance provided by any governmental agency.

128 (16)~~(17)~~ In accordance with the provisions of this act,
 129 enter into contracts with retailers so as to provide adequate
 130 and convenient availability of tickets to the public for each
 131 game.

132 (17)~~(18)~~ Have the authority to enter into agreements with
 133 other states for the operation and promotion of a multistate
 134 lottery if such agreements are in the best interest of the state
 135 lottery. The authority conferred by this subsection is not
 136 effective until 1 year after the first day of lottery ticket
 137 sales.

138 (18)~~(19)~~ Employ division directors and other staff as may
 139 be necessary to carry out the provisions of this act; however:

140 (a) No person shall be employed by the department who has

141 | been convicted of, or entered a plea of guilty or nolo
142 | contendere to, a felony committed in the preceding 10 years,
143 | regardless of adjudication, unless the department determines
144 | that:

145 | 1. The person has been pardoned or his or her civil rights
146 | have been restored; or

147 | 2. Subsequent to such conviction or entry of plea the
148 | person has engaged in the kind of law-abiding commerce and good
149 | citizenship that would reflect well upon the integrity of the
150 | lottery.

151 | (b) No officer or employee of the department having
152 | decisionmaking authority shall participate in any decision
153 | involving any vendor or retailer with whom the officer or
154 | employee has a financial interest. No such officer or employee
155 | may participate in any decision involving any vendor or retailer
156 | with whom the officer or employee has discussed employment
157 | opportunities without the approval of the secretary or, if such
158 | officer is the secretary, without the approval of the Governor.
159 | Any officer or employee of the department shall notify the
160 | secretary of any such discussion or, if such officer is the
161 | secretary, he or she shall notify the Governor. A violation of
162 | this paragraph is punishable in accordance with s. 112.317.

163 | (c) No officer or employee of the department who leaves
164 | the employ of the department shall represent any vendor or
165 | retailer before the department regarding any specific matter in
166 | which the officer or employee was involved while employed by the
167 | department, for a period of 1 year following cessation of
168 | employment with the department. A violation of this paragraph is

169 punishable in accordance with s. 112.317.

170 (19)~~(d)~~ The department shall adopt by rule ~~establish and~~
 171 ~~maintain~~ a personnel program for its employees, including a
 172 personnel classification and pay plan which may provide any or
 173 all of the benefits provided in the Senior Management Service or
 174 Selected Exempt Service.

175 (a) Each officer or employee of the department shall be a
 176 member of the Florida Retirement System. The retirement class of
 177 each officer or employee shall be the same as other persons
 178 performing comparable functions for other agencies.

179 (b) Employees of the department shall serve at the
 180 pleasure of the secretary and shall be subject to suspension,
 181 dismissal, reduction in pay, demotion, transfer, or other
 182 personnel action at the discretion of the secretary. ~~Such~~
 183 ~~personnel actions are exempt from the provisions of chapter 120.~~

184 (c) All employees of the department are exempt from the
 185 Career Service System provided in chapter 110 and,
 186 notwithstanding the provisions of s. 110.205(5), are not
 187 included in either the Senior Management Service or the Selected
 188 Exempt Service. However, all employees of the department are
 189 subject to all standards of conduct adopted by rule for career
 190 service and senior management employees pursuant to chapter 110.
 191 In the event of a conflict between standards of conduct
 192 applicable to employees of the Department of the Lottery the
 193 more restrictive standard shall apply. Interpretations as to the
 194 more restrictive standard may be provided by the Commission on
 195 Ethics upon request of an advisory opinion pursuant to s.
 196 112.322(3)(a), for purposes of this subsection the opinion shall

197 be considered final action.

198 (20) Adopt by rule a code of ethics for officers and
199 employees of the department which supplements the standards of
200 conduct for public officers and employees imposed by law.

201 Section 2. Section 24.109, Florida Statutes, is repealed.

202 Section 3. (1) Any emergency rule adopted by the
203 Department of the Lottery on or before July 1, 2010, directly
204 relating to the department's online games; retailers; lost,
205 stolen, or damaged instant tickets; and payment of stolen
206 instant tickets shall be deemed rules adopted pursuant to s.
207 120.54(3), Florida Statutes, and shall remain in effect until
208 amended or repealed by the department. The Department of State
209 shall renumber such rules as necessary.

210 (2) Except for the rules described in subsection (1), all
211 rules, or portions thereof, in existence on July 1, 2010, that
212 were adopted in a manner no longer authorized by this act shall
213 stand repealed on January 1, 2011.

214 Section 4. This act shall take effect on July 1, 2010.