

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 418

INTRODUCER: Senator Flores

SUBJECT: State Lotteries

DATE: February 7, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Young/Harrington	Imhof	RI	Favorable
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires that lottery retailers must provide assistance in filling out a lottery ticket to a blind or visually impaired person who has requested the assistance. The bill also provides that a retailer or a retailer’s employee will not be held liable for a scrivener’s error absent intentional fraud or malice.

The bill shall take effect July 1, 2011.

The bill amends the following section of the Florida Statutes: 24.112.

II. Present Situation:

The Department of the Lottery (department) is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides legislative purpose and intent in regard to the lottery.

It provides, in part:

The purpose of this act is to implement s. 15, Art. X of the State Constitution in a manner that enables the people of the state to benefit from significant additional moneys for education and also enables the people of the state to play the best lottery games available.

That section provides that the intent of the Legislature was “[t]hat the lottery games be operated by a department of state government that functions as much as possible in the manner of an

entrepreneurial business enterprise.” It also requires the department to be a self-supporting revenue-producing enterprise.

Section 24.104, F.S., requires the department to operate the state lottery “so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens.”

Assistance for Disabled

Section 24.112(13), F.S., currently provides that lottery retailers must make their retail location accessible for disabled persons. It provides that there must be ramps, wide aisles, turnaround areas, parking spaces, and other such items to ensure accessibility for disabled persons to participate in the Florida Lottery.

Inspections and enforcement of the provisions of s. 24.112(13), F.S., are under the enforcement authority of the Florida Building Code under s. 553.80, F.S.

The department indicated that currently department game rules specify that tickets in terminal-generated games—those that can be initiated by means of a play slip—can also be initiated by the player verbally giving his or her desired numbers to the retailer. The verbally requested numbers can then be manually selected on the ticket terminal by the retailer to produce a ticket with the player’s desired numbers. Retailers are expected by the department to comply with applicable accessibility requirements and these requirements are included in the department’s contracts with the retailers. State programs are subject to the federal American with Disabilities Act.

There are approximately 13,200 lottery retailers in Florida according to the department’s estimates.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) was enacted in 1990. In passing the act, Congress indicated that the act was enacted in part to address the finding that “historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem” and that disabled individuals were relegated to “lesser services, programs, activities, benefits, jobs, or other opportunities.”¹

The purpose of the ADA was to provide a “national mandate” to end discrimination based on disabilities, provide a national and enforceable standard that addresses discrimination, to ensure that the Federal Government plays a central role in enforcement against discrimination, and to invoke the power of the United State Congress to address the areas of discrimination against disabled persons.²

Section 12132 of the ADA provides: “[s]ubject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to

¹ 42 U.S.C. s. 12101(a)

² 42 U. S. C. s. 12101(b).

discrimination by any such entity.” Under this provision, disabled persons are not to be discriminated against and retailers who sell Florida Lottery tickets must be accessible to customers who have disabilities, including visual impairments.

III. Effect of Proposed Changes:

The bill amends s. 24.112(13), F.S., to expand the accessibility requirements beyond physical access to include help in filling out and purchasing tickets for the visually impaired who request such actions. The bill further provides that neither the retailer nor the employee of a retailer will be liable for any actual or alleged scrivener’s error unless there is a finding of intentional fraud or malice.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The department does not anticipate any impact on the private sector because lottery retailers must already comply with the applicable provisions of the ADA. Further, many of the lottery game rules specify that a purchaser may play the game by verbally telling the retailer their selections, amount, and other pertinent info.³

The bill also provides a limited amount of protection for the retailers from liability if there is a scrivener’s error with the ticket.

C. Government Sector Impact:

None.

³ The Florida Department of Lottery rule 532 ER 10-39 (1)(c)(1), F.A.C., states that a person may choose to play by making a verbal communication to the retailer instructing them on which selections to make.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
