

**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.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 1370

INTRODUCER: Senator Perry

SUBJECT: Lottery Games

DATE: April 18, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<b>Favorable</b>
2.	<u>Parks</u>	<u>Cibula</u>	<u>JU</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1370 requires that every contract entered into by the Department of the Lottery (department) with a vendor or retailer include a provision that the vendor or retailer must place or print a warning on all lottery tickets which prominently reads: “WARNING: GAMBLING CAN BE ADDICTIVE.”

The bill has no fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill provides for an effective date of July 1, 2017.

**II. Present Situation:**

Section 15 of Article X of the State Constitution (1968) allows lotteries to be operated by the state. The relevant provisions of statute which specify how the Florida Lottery must be operated are set forth in s. 24.102(2), F.S., which provides:

- The net proceeds of lottery games shall be used to support improvements in public education;
- Lottery operations shall be undertaken as an entrepreneurial business enterprise; and
- The department shall be accountable through audits, financial disclosure, open meetings, and public records laws.

The department operates the Florida Lottery to maximize revenues “consonant with the dignity of the state and the welfare of its citizens”<sup>1</sup> for the benefit of public education.<sup>2</sup> The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.<sup>3</sup> Retailers receive commissions of

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<sup>1</sup> See s. 24.104, F.S.

<sup>2</sup> See s. 24.121(2), F.S.

<sup>3</sup> See s. 24.105(17), F.S.

5 percent of the ticket price, 1 percent of the prize value for redeeming winning tickets, and bonus and performance incentive payments.<sup>4</sup> Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.<sup>5</sup>

The department selects retailers based on financial responsibility, integrity, reputation, accessibility, convenience, security of the location, and estimated sales volume, with special consideration for small businesses.<sup>6</sup> Retailers must be at least 18 years old, and the sale of lottery tickets must occur as part of an ongoing retail business. Contracting with a retailer with a felony criminal history is prohibited,<sup>7</sup> and the authority to act as a retailer may not be transferred.<sup>8</sup>

Retailers may not extend credit or lend money to a person to purchase a lottery ticket. The use of a credit or charge card or other instrument issued by a bank, savings association, credit union, charge card company, or by a retailer (for installment sales of goods) is allowed, if the lottery ticket purchase is part of a purchase transaction for other goods and services that cost \$20 or more.<sup>9</sup>

The department may establish by rule a system to verify and pay winning lottery tickets:<sup>10</sup>

- Any lottery retailer, as well as any department office, may redeem a winning ticket valued at less than \$600.<sup>11</sup> Payments less than \$50 are generally paid by a retailer in cash, depending on store policy or local ordinance. Higher amounts may be paid by cash, check, or money order at no cost to the winner.
- Only a department office may redeem a winning ticket valued at \$600 or more.<sup>12</sup> Winning tickets are paid at the claimant's option in a combination of cash, check, or lottery tickets (with a limitation of \$200 payable in cash).

Prizes must be claimed within certain time limits, depending on the type of game played. Instant lottery tickets (e.g., scratch-off tickets), must be redeemed within 60 days after the end of that lottery game.<sup>13</sup> Other lottery tickets (e.g., tickets for drawings) must be redeemed within 180 days after the drawing or the end of the lottery game in which the prize was won.

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<sup>4</sup> Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, Report No. 14-06, *See Lottery Transfers Have Recovered; Options Remain to Enhance Transfers 2* (January 2014), (hereinafter *OPPAGA Report 14-06*), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1406rpt.pdf>, (last visited Apr. 13, 2017).

<sup>5</sup> *See* Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, Report No. 15-03, *Lottery Transfers Continue to Increase; Options Remain to Enhance Transfers and Increase Efficiency 1 n.3* (Jan. 2015), (hereinafter *OPPAGA Report 15-03*), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1503rpt.pdf> (last visited Apr. 13, 2017).

<sup>6</sup> *See* s. 24.112(2), F.S., which also includes a statement of legislative intent that retailer selections be based on business considerations and public convenience, without regard to political affiliation.

<sup>7</sup> *See* s. 24.112(3)(c), F.S.

<sup>8</sup> *See* s. 24.112(4), F.S.

<sup>9</sup> *See* s. 24.118(1), F.S.

<sup>10</sup> *See* s. 24.115, F.S., and Fla. Admin. Code R. 53ER15-31 (2015).

<sup>11</sup> The winner has the option of presenting a winning ticket in person to any lottery retailer, any of the nine lottery district offices, or to lottery headquarters in Tallahassee.

<sup>12</sup> Mega Millions<sup>®</sup> and Powerball<sup>®</sup> prizes up to \$1 million may be claimed at any lottery district office. All other prizes greater than \$250,000 must be claimed at lottery headquarters.

<sup>13</sup> *See* s. 24.115(1)(f), F.S.

The department may adopt rules governing the types of lottery games to be conducted,<sup>14</sup> including lottery terminals or devices that “may be operated solely by the player without the assistance of the retailer.”<sup>15</sup>

The department introduced full service vending machines in retail stores across the state in November 2013.<sup>16</sup> In its most recent Financial Audit, the department stated that 500 vending machines used in Fiscal Year 2015-2016 reflected an increase in sales of more than \$36 million, more than 14 percent over the prior fiscal year.<sup>17</sup>

### Scratch-off Games

The department’s legislatively-approved performance standards are reported in its long-range program plan for Fiscal Year 2017-2018.<sup>18</sup> In that plan, the department noted that it set a new all-time sales record in Fiscal Year 2015-2016 with sales reaching \$6.06 billion, exceeding those in the prior year by more than \$479 million and resulting in a transfer of more than \$1.69 billion to the Educational Enhancement Trust Fund.<sup>19</sup> Further, the department indicated that the success of the Florida Lottery was a result of the agency’s continued efforts to expand and revise its roster of games. During Fiscal Year 2015-2016, Scratch-Off sales exceeded \$3 billion for the fourth consecutive year, and broke all-time Scratch-Off sales records for the fifth consecutive year.<sup>20</sup>

Scratch-off games have a finite lifecycle based on the number that are printed and how they sell; at the end of the lifecycle of a game, the department replaces it with more profitable games. Typically, 12 to 15 scratch-off games are closed each calendar quarter. The following criteria are used to determine when to end games:

- There are no remaining top prizes;
- There is no available inventory to order; and
- Current sales levels, inventory levels, contract requirements, seasonality, unforeseen circumstances, changing market conditions or print defects.<sup>21</sup>

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<sup>14</sup> See s. 24.105(9)(a), F.S.

<sup>15</sup> Prior to 1996, there was no provision for player-activated lottery terminals or devices. Section 4 of ch. 96-341, Laws of Fla., authorized such machines, subject to restrictions that they be: (1) designed solely for dispensing of instant lottery tickets; (2) activated by coin or currency; (3) in the direct line of sight of on-duty retail employees; (4) capable of being electronically deactivated for 5 minutes or more; and (5) incapable of redeeming winning tickets, though they may dispense change. Chapter 2012-130, Laws of Fla., moved the restrictions on player-activated machines from s. 24.105(9)(a)4., F.S., to s. 24.112(15), F.S. As amended, the law (1) authorizes lottery vending machines to dispense “online lottery tickets, instant lottery tickets, or both,” and (2) prohibits use of mechanical reels or video depictions of slot machine or casino game themes or titles (but does not prohibit use of casino game themes or titles on lottery tickets, signage, or advertising displays on the vending machines).

<sup>16</sup> *OPPAGA Report 14-06*, *supra* note 5, at 2.

<sup>17</sup> See State of Florida Auditor General, Report No. 2017-103, *Financial Audit of the Department of the Lottery, for the Fiscal Year Ended June 30, 2016, and 2015 30* (January 2015) [http://www.myflorida.com/audgen/pages/pdf\\_files/2015-092.pdf](http://www.myflorida.com/audgen/pages/pdf_files/2015-092.pdf) (2017 Financial Audit section) (last visited Apr. 13, 2017).

<sup>18</sup> See Florida Lottery, Long Range Program Plan (Sept. 13, 2016), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=14600&DocType=PDF> (last visited Apr. 13, 2017).

<sup>19</sup> *Id.* at pages 3-4.

<sup>20</sup> *Id.* at page 4.

<sup>21</sup> *OPPAGA Report 15-03*, *supra* note 5, at 10.

The department noted that it currently promotes responsible lottery ticket play and directs persons struggling with a gambling problem to contact the 1-888-ADMIT-IT telephone line for assistance.<sup>22</sup>

### III. Effect of Proposed Changes:

SB 1370 amends ss. 24.111 and s. 24.112, F.S., concerning vendors and retailers of lottery tickets, to require that every contract entered into by the department with a vendor or retailer include a provision that the vendor or retailer must place or print a warning on all lottery tickets which prominently reads: “WARNING: GAMBLING CAN BE ADDICTIVE.”

The bill provides for an effective date of July 1, 2017.

### 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:

SB 1370 requires placement or printing of a required warning on all lottery tickets by vendors and retailers that contract with the department. It is unclear whether vendors, retailers, the department, or a combination of those parties will bear the costs associated with the notice requirement.

#### C. Government Sector Impact:

The department indicates that the bill has no fiscal impact on state government.<sup>23</sup>

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<sup>22</sup> See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Florida Lottery) for SB 1370, dated Mar. 7, 2017 on file with Senate Committee on Regulated Industries) at page 2.

<sup>23</sup> *Id.* at page 3.

The department must ensure that all of its contracts with vendors and retailers include the lottery ticket notice requirement and address the handling of any associated cost for the placement or printing of such notice on every lottery ticket.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

SB 1370 requires that all lottery vendors and lottery retailers provide the required warning on lottery tickets. Whether lottery retailers that contract with the department are involved in the production of lottery tickets is unclear. The method of coordinating vendors and retailers to ensure the required warning is placed or printed on lottery tickets is unclear. The effective date in the bill of July 1, 2017 may impact the ability of the department to implement the notice requirement while maintaining a supply of lottery tickets for its retailers to sell to the public.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 24.111 and 24.112.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.