

THIRTEENTH GUAM LEGISLATURE
1975 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 427, "An Act to add Chapter IV to Title LXVI of the Government Code to establish and operate territorial lottery: to prescribe powers and duties: to license and regulate sales agents: to provide for an appropriation: and to provide penalties", which was heretofore passed and thereafter on November 18, 1975, returned to the Legislature without the approval of the Governor was, in accordance with the Organic Act of Guam, reconsidered by the Legislature and after such reconsideration the Legislature did on the 7th day of January, 1976, agree to pass said bill notwithstanding the objections of the Governor by a vote of two-thirds of all the members thereof, to wit: by a vote of 14 members.




JOSEPH F. ADA
Speaker

ATTESTED:



CONCEPCION CRUZ BARRETT
Legislative Secretary

This Act was received by the Governor this 9th day of January, 1976 at 4:15 o'clock P..M.



RUTH F. WON PAT
Assistant Staff Officer
Governor's Office

Public Law No. 13-123

THIRTEENTH GUAM LEGISLATURE
1975 (FIRST) Regular Session

Bill No. 427
Substituted by the Committee
on Finance and Taxation

Introduced by

J. F. Ada
T. V.C. Tanaka
F. F. Blas

AN ACT TO ADD CHAPTER IV TO TITLE LXVI
OF THE GOVERNMENT CODE TO ESTABLISH AND
OPERATE TERRITORIAL LOTTERY: TO PRESCRIBE
POWERS AND DUTIES: TO LICENSE AND REGULATE
SALES AGENTS: TO PROVIDE FOR AN APPROPRIA-
TION: AND TO PROVIDE PENALTIES.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Chapter IV is added to Title LXVI of
3 the Government Code of Guam to read:

4 "CHAPTER IV

5 Territorial Lottery Act

6 Section 62300. Title. This Act shall be known
7 and may be cited as the Territorial Lottery Act.

8 Section 62301. Definitions.

9 (a) 'Commission' means the Guam Gaming
10 Commission created by Section 59000(1) of the
11 Government Code.

12 (b) 'Executive Secretary' means the Director
13 of the Department of Revenue and Taxation who shall
14 serve as the executive secretary of the Commission
15 notwithstanding his duties as ex officio Treasurer
16 of the Guam Gaming Commission pursuant to Section
17 59000(1) of the Government Code.

18 (c) 'Lottery' or 'territorial lottery' means
19 the lottery created and operated pursuant to this
20 Act.

1 Section 62302. Guam Gaming Commission: governing
2 rules.

3 The Guam Gaming Commission is vested
4 with powers and duties prescribed in this Chapter
5 and all other powers necessary and proper to enable
6 it to execute fully and effectively all the purposes
7 of this Chapter. A majority of the Commission shall
8 constitute a quorum for all purposes. The Commission
9 shall keep all records, books, accounts, receipts,
10 special funds, and disbursements of each gaming or
11 gambling enterprise over which it exercises control
12 separate and distinct from each other.

13 Section 62302.1. Duties of the Executive Secretary.
14 The Executive Secretary shall, in addition to his duties
15 pursuant to Section 62306 of this Act shall keep records
16 of the total lottery revenues, prize disbursements and
17 other expenses of the Territorial Lottery as authorized by
18 this Act and provide logistical support to the Commission.

19 Section 62303. Lottery, establishment of. The
20 Commission shall initiate, establish and operate a
21 territorial lottery at the earliest feasible and prac-
22 ticable time. The lottery shall produce the maximum
23 amount of net revenues for the territory consonant with
24 the general welfare of the people.

25 Section 62304. Lottery rules. The Commission
26 shall promulgate rules in accordance with the Administra-
27 tive Adjudication Act. The rules may include:

28 (a) The type of lottery to be conducted.

29 (b) The price of tickets or shares in the
30 lottery.

1 (c) The number and size of the prizes on the
2 winning tickets or shares.

3 (d) The manner of selecting the winning
4 tickets or shares.

5 (e) The manner of payment of prizes to the
6 holders of winning tickets or shares.

7 (f) The frequency of the drawings or
8 selections of winning tickets or shares.

9 (g) Without limit as to number of types of
10 locations at which tickets or shares may be sold.

11 (h) The method to be used in selling tickets
12 or shares, except that no person's name shall be
13 printed on such tickets or shares.

14 (i) The licensing of agents to sell tickets
15 or shares, but a person under the age of 18 shall
16 not be licensed as an agent.

17 (j) The manner and amount of compensation to
18 be paid licensed sales agents necessary to provide
19 for the adequate availability of tickets or shares
20 to prospective buyers and for the convenience of
21 the public.

22 (k) The apportionment of the total annual
23 revenues accruing from the sale of lottery tickets
24 or shares and from all other sources for the pay-
25 ment of prizes to the holders of winning tickets
26 or shares, for the payment of costs incurred in
27 the operation and administration of the lottery,
28 including the expenses of the bureau and the costs
29 resulting from any contract or contracts entered
30 into for promotional, advertising, consulting or

1 operational services or for the purchase or lease
2 of lottery equipment and materials, for the repay-
3 ment of the moneys appropriated to the territorial
4 lottery fund and for transfer to the general fund.

5 Section 62305. Prize allotment. As nearly as is
6 practicable forty-five percent (45%) of the total annual
7 revenue accruing from the sale of lottery tickets or
8 shares shall be apportioned for payment of prizes to
9 the holders of winning tickets or shares. Such payments
10 shall not require appropriation by the Legislature.

11 Section 62306. Reports of the Executive Secretary.
12 The Executive Secretary shall make a monthly report to
13 the Governor, the Treasurer of Guam and the Legislature.
14 The monthly report shall include the total lottery
15 revenues, prize disbursements and other expenses for
16 the preceding month. The Executive Secretary shall
17 make an annual report to the Governor, the treasurer of
18 Guam and to the Legislature. The annual report shall
19 include full and complete recommendations for changes
20 in this Act as the Executive Secretary and the Commission
21 deem necessary or desirable.

22 Section 62307. Abuse of lottery laws, rules,
23 corrections.

24 (a) The Commission shall report immediately
25 to the Governor, the treasurer of Guam and the
26 Legislature any matter that requires immediate
27 change in the laws of this territory in order to
28 prevent abuses or evasions of this Act or rules
29 promulgated hereunder or to rectify undesirable
30 conditions in connection with the administration

1 or operation of the lottery.

2 (b) The Commission shall make a continuous
3 study and investigation of the lottery:

4 (1) To ascertain any defects in this
5 Act or in the rules by reason whereof any
6 abuses in the administration and operation
7 of the lottery or any evasion of this Act or
8 the rules may arise or be practiced.

9 (2) To formulate recommendations for
10 changes in this Act and the rules.

11 (3) To guard against the use of this
12 Act and the rules as a cloak for the carrying
13 on of organized gambling and crime.

14 (4) To insure that this Act and the
15 rules are in a form and are administered as
16 to serve the true purposes of this Act.

17 (c) The Commission shall make a continuous
18 study and investigation of the operation and
19 the administration of similar laws which may be
20 in effect in other states, territories, or
21 countries, and literature on the subject which
22 may be published or available, any federal law
23 which may affect the operation of the lottery,
24 and the reaction of citizens to existing and
25 potential features of the lottery with a view
26 to recommending or effecting changes that will
27 tend to serve the purposes of this Act.

28 Section 62308. Lottery, supervision of, licensing
29 of agents. The Commission shall:

30 (a) Supervise and administer the operation

1 of the lottery in accordance with this Act and
2 the rules.

3 (b) License as agents to sell lottery tickets
4 such persons whom he deems will best serve the
5 public convenience and promote the sale of tickets
6 or shares.

7 Section 62309. The Commission may, subject to the
8 applicable laws relating to public contracts, enter
9 into contracts for the operation of the lottery, or
10 any part thereof, and into contracts for the promotion
11 of the lottery. A contract awarded or entered into
12 by the Commission shall not be assigned by the holder
13 thereof except by specific approval of the Commission.
14 Contracts executed pursuant to this Act shall be exempt
15 from the provisions of Section 6107 of the Government Code.

16 Section 62310. Commission personnel. The executive
17 secretary shall use such personnel as necessary from
18 the Department of Revenue and Taxation to implement
19 this Act. The departments, boards, commissions
20 or other governmental subdivisions of this territory
21 shall provide assistance to the Commission upon the
22 Commission's request.

23 Section 62311. Compelling of testimony and
24 records. The superior court upon petition of the
25 Commission after a hearing may issue subpoenas to
26 compel the attendance of witnesses and the production
27 of documents, papers, books, records and other evidence
28 before it in any matter over which it has jurisdiction,
29 control or supervision. If a person subpoenaed to
30 attend in any such proceeding or hearing fails to obey

1 the command of the subpoena without reasonable cause,
2 or if a person in attendance in any such proceeding or
3 hearing refuses, without lawful cause, to be examined
4 or to answer a legal or pertinent question or to exhibit
5 any book, account, record or other document when ordered
6 to do so by the court may be punished as a contempt of
7 court.

8 Section 62312. Licenses. (a) A license as an
9 agent to sell lottery tickets or shares shall not be
10 issued to any person to engage in business exclusively
11 as a lottery sales agent. Before issuing a license
12 the Commission shall consider factors such as the financial
13 responsibility and security of the person and his business
14 or activity, the accessibility of his place of business
15 or activity to the public, the sufficiency of existing
16 licenses to serve the public convenience and the volume
17 of expected sales.

18 (b) As used in this section "person" means
19 as individual, association, corporation, club,
20 trust, estate, society, company, joint stock
21 company, receiver, trustee, referee, any other
22 person acting in a judiciary or representative
23 capacity who is appointed by a court, or any
24 combination or individuals. Persons includes
25 any department, commission, agency or instru-
26 mentality of the territory, including any
27 municipality or political subdivision and any
28 agency or instrumentality thereof.

29 (c) Notwithstanding any other provision of
30 law, a person licensed pursuant to this Act may

1 act as a lottery sales agent. A person lawfully
2 engaged in nongovernmental business on territory
3 or federal property may be licenses as a lottery
4 sales agent.

5 (d) A license is not assignable or
6 transferable.

7 (e) A licensed agent or his employee may sell
8 lottery tickets or shares only on the premises
9 stated in the license of the agent.

10 (f) The Commission may issue temporary license
11 upon conditions as it deems necessary for a term
12 which shall not extend sixty (60) days.

13 (g) The Commission may require a bond from
14 any licensed agent in an amount as provided in the
15 rules.

16 (h) A licensed agent shall display his license
17 or a copy thereof conspicuously in accordance with
18 the rules.

19 (i) The Commission may suspend or revoke
20 without hearing the license of any agent who violates
21 this Act or a rule promulgated pursuant to this Act.

22 Section 62313. Payment of prizes. The right of
23 any person to a prize drawn is not assignable, except
24 that payment of any prize drawn may be paid to the estate
25 of a deceased prize winner or to a person pursuant to
26 an appropriate judicial order. The Commission shall be
27 discharged of all further liability upon payment of a
28 prize pursuant to this section.

29 Section 62314. Sale of tickets. (a) A person
30 shall not sell a ticket or share at a price greater

1 than that fixed by rules of the Commission. A person
2 other than a licensed lottery sales agent shall not
3 sell lottery tickets or shares. This section shall
4 not be construed to prevent a person from giving
5 lottery tickets or shares to another as a gift.

6 (b) A person violating this section is guilty
7 of a misdemeanor.

8 Section 62315. Sale to minors prohibited. A
9 ticket or share shall not be sold to any person under
10 the age of eighteen (18). This does not prohibit the
11 purchase of a ticket or share for the purpose of making
12 a gift by a person eighteen (18) years of age or older
13 to a person less than age eighteen (18). A licensee
14 who knowingly sells or offers to sell a lottery ticket
15 or share to a person under the age of eighteen (18) is
16 guilty of a misdemeanor.

17 Section 62316. Forgery of tickets. Any person
18 who, with intent to defraud, shall falsely make, alter,
19 forge, utter, pass or counterfeit a territorial lottery
20 ticket or share is guilty of a felony punishable by
21 imprisonment for not more than five (5) years or by a
22 fine of not more than One Thousand Dollars (\$1,000) or both.

23 Section 62317. Prizes for employees. A ticket
24 or share shall not be purchased by and a prize shall
25 not be paid to an officer or employee of the Commission
26 or to any spouse, child, brother, sister or parent
27 residing as a member of the same household in the
28 principal place of abode of an officer or employee.

29 Section 62318. Unclaimed prizes. Unclaimed
30 prizes money for the prize on a winning ticket or share

1 shall be retained by the Commission for the person
2 entitled thereto for one (1) year after the drawing
3 in which was won. If a claim is not made for the
4 money within one year, the prize money shall be
5 deposited in the territorial lottery fund.

6 Section 62319. Deposit of funds. The Commission
7 shall require that all moneys collected from the sale
8 of lottery tickets be deposited within Guam banks,
9 savings and loan associations and credit unions to
10 the credit of the territory. Each deposit shall be
11 accompanied by a report of the agent's receipts and
12 transactions in the sale of lottery tickets and con-
13 taining such information as the Commission may require.
14 The Commission may make such arrangements for banks,
15 savings and loan associations and credit unions to
16 perform such functions, activities or services in
17 connection with the operation of the lottery as it
18 deems advisable pursuant to this Act and the rules,
19 and the functions, activities or services shall cons-
20 titute lawful functions, activities and services of
21 banks, savings and loan associations and credit unions.

22 Section 62320. Sale of territorial lottery
23 tickets not illegal. Any other law providing any penalty
24 or disability for the sale of lottery tickets or any
25 acts done in connection with a lottery shall not apply
26 to the sale of tickets or shares performed pursuant to
27 this Act.

28 Section 62321. Prizes for minors. If the person
29 entitled to a prize or any winning ticket is under the
30 age of eighteen (18) years, and the prize is more than

1 One Thousand Dollars (\$1,000), the Commission shall
2 direct payment of the prize by transfer to the guardian
3 of the minor of a check or draft payable to the order
4 of the guardian. If less than One Thousand Dollars
5 (\$1,000), the Commission may direct payment of the
6 prize to the adult member of the minor's family who is
7 legally responsible for the care and custody of the
8 minor. The Commission shall be discharged of all
9 further liability upon payment of a prize to a minor
10 pursuant to this section.

11 Section 62322. Territorial lottery fund. A
12 special fund to be known as the "territorial lottery
13 fund" is created. The fund consists of all revenues
14 received from the sale of lottery tickets or shares
15 and all other moneys credited or transferred thereto
16 from any other fund or source pursuant to law. Interest
17 earnings of the territorial lottery fund shall be
18 credited to the lottery fund.

19 Section 62323. Use of territorial lottery fund.
20 The Commission is authorized to draw from the territorial
21 lottery fund money to pay prizes won in the territorial
22 lottery. The operations of the Commission shall be
23 funded by appropriations of the Legislature from the
24 territorial lottery fund. All other moneys in the
25 territorial lottery fund shall be reserved exclusively
26 for appropriation for (a) development of recreational
27 and multi-purpose community facilities and (b) creation
28 and administration of special education facilities and
29 (c) for agricultural development. The term 'special
30 education' as used in this section shall mean any

1 project or program designed to assist the educational
2 process of the mentally or physically handicapped.

3 Section 62324. Compensation of Commission members.
4 Each member of the Commission shall receive the sum
5 of Fifty Dollars (\$50) for his attendance at any
6 meeting of the Commission in addition to other
7 compensation pursuant to Section 59002(3) of the
8 Government Code and shall be reimbursed for actual
9 travel, subsistence and out-of-pocket expenses incurred
10 in the discharge of his responsibilities, including
11 authorized attendance at meetings held away from Guam.

12 Section 62325. Audit of Commission. A certified
13 public accountant firm appointed by the Legislature
14 shall conduct quarterly post audits as the Legislature
15 deems necessary. A certified public accountant firm
16 conducting an audit under this Act shall have access and
17 authority to examine any and all records of the
18 Commission, its distributing agents and its licensees.

19 Section 62326. Severability. If any provision of
20 this Act, or the application thereof to any person or
21 circumstance is held invalid, the invalidity does
22 not affect other provisions or applications of the
23 Act which can be given effect without the invalid
24 provision or application, and to this end the provisions
25 of this Act are severable."

26 Section 2. All references in Chapter 1, Title LXIV
27 of the Government Code of Guam to Guam Greyhound Racing
28 Commission are amended to read "Guam Gaming Commission".

29 Section 3. There is hereby authorized to be appropriated
30 such sums as are necessary from the General Fund to implement

1 the purposes of this Act. The Commission is authorized to submit
2 requests for annual and supplemental appropriations as necessary
3 pursuant to the provisions of the Executive Budget Act,
4 Chapter III, Title VI of the Government Code of Guam.

5 Section 4. Notwithstanding the provisions of Chapter I,
6 Title LXIV or any other law, rule or regulation to the
7 contrary, an affirmative vote of 3 members of the Greyhound
8 Racing Commission (renamed Guam Gaming Commission in Section
9 2 of this Act) shall be necessary to the validity of any acts of
10 the Commission.

11 Section 5. This Act shall take effect thirty (30) days
12 after the enactment of this Act.