CHAPTER 190
HB 533 - FINAL VERSION

7Apr2021... 0906h
05/06/2021 1200s
24Jun2021... 1978CofC

2021 SESSION

21-0531
08/10

HOUSE BILL ***533***

AN ACT establishing a division of investigation and compliance in the lottery commission.

SPONSORS: Rep. Abrami, Rock. 19; Rep. Abbas, Rock. 8; Rep. Doucette, Rock. 8

COMMITTEE: Ways and Means

ANALYSIS

This bill establishes a division of investigation and compliance within the lottery commission.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT establishing a division of investigation and compliance in the lottery commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

190:1 New Section; Lottery Commission; Investigation and Compliance Division. Amend RSA 284 by inserting after section 3 the following new section:

284:3-a Investigation and Compliance Division.

I. There shall be contained within the lottery commission an investigation and compliance division. The division shall perform such functions as the lottery commission may determine is necessary in relation to enforcement, including the investigation of all licensees, and proposed licensees, under this chapter and RSA 287-D.

II. The division shall have such civil and administrative powers as are necessary to effectuate the purposes of this chapter and RSA 287-D, including the power to receive intelligence on an applicant or licensee under this chapter and under RSA 287-D and to investigate any suspected violations of this chapter or RSA 287-D or any suspected violations of illegal gambling.

III. To further effectuate the purposes of this chapter and RSA 287-D with respect to the investigation and enforcement of gaming establishments and licensees, the division may obtain or provide pertinent information regarding applicants or licensees from or to law enforcement entities or gaming authorities and other domestic, federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically.

IV. In addition to fines and penalties as set forth in this chapter and RSA 287-D, the division may file a petition for equity relief with the superior court seeking to levy upon any person or entity who meets the requirements for enhanced penalties as defined in administrative rule, a civil penalty in an amount not to exceed $50,000 per violation, along with any other injunctive relief deemed necessary by the court. The proceeds of any civil penalty levied pursuant to this section shall be deposited in the special fund established in RSA 284:21-j.

190:2 Lottery Commission; Investigation of Applicants. Amend RSA 284:15-b, II to read as follows:

II. The attorney general shall have the authority to conduct an investigation on the attorney general's motion into the background of the license applicant or holder, of any person included in paragraph I or of any person or entity upon whom the license applicant or holder relies for financial support. In addition, whenever the lottery commission shall receive an application, it shall [~~refer the application to the attorney general who shall conduct such an investigation~~] ***notify the attorney***

general, and in concert and consultation with the attorney general, the lottery commission shall conduct an investigation of the applicant. The investigation may be conducted through any appropriate state or federal law enforcement system and may seek information as to the subject's financial, criminal or business background, or any other information which [~~the attorney general, in the attorney general's sole discretion,~~] may [~~find to~~] bear on the subject's [~~fitness~~] ***suitability*** to be associated with racing in New Hampshire, including, but not limited to, the subject's character, personal associations, and the extent to which the subject is properly doing business in the manner in which it purports to operate. When the lottery commission [~~requests~~] ***initiates*** such an investigation, the [~~attorney general~~] ***lottery commission*** shall report the results of such investigation to the [~~lottery commission~~] ***attorney general*** within [~~90~~] ***45*** days after the [~~receipt of the request~~] ***initiation of the investigation***. Notwithstanding any other law to the contrary, the results of any such investigation shall be confidential and shall not be subject to disclosure or to public inspection, except that the attorney general shall have sole discretion to determine the extent to which and the manner in which the results may be reported to [~~the lottery commission or~~] other state [~~agency~~] ***agencies*** or [~~official~~] ***officials*** and, if reported, whether such results are to retain their confidential character**.** [~~; provided, however, that whenever the attorney general conducts such an investigation,~~] The attorney general [~~shall notify the lottery commission whether or not in the attorney general's opinion~~] ***and the lottery commission shall confer and determine, if in their opinion,*** such person is [~~fit~~] ***suitable*** to be associated with racing in New Hampshire ***and upon a determination that the person is not suitable, the person shall not be issued or continue to hold a license***. [~~Notwithstanding any other provision of law, no person shall be issued or hold a license if in the opinion of the attorney general such person is not fit to be associated with racing in this state.~~]

190:3 Background Investigations. Amend RSA 287-D:11, III(a) to read as follows:

(a) The lottery commission shall [~~refer all applications to the attorney general who shall conduct a background~~] ***notify the attorney general of the receipt of an application under this chapter, and in concert and consultation with the attorney general, the lottery commission shall conduct an*** investigation of the license applicant or holder, any person included in paragraph I, or any person or entity upon whom the license applicant or holder relies for financial support. Any appropriate state or federal law enforcement system may investigate the subject's financial, criminal, or business background, or any other information which the ***lottery commission or*** attorney general[~~, in the attorney general's sole discretion,~~] may find to bear on the subject's [~~fitness~~] ***suitability*** to be associated with charitable gaming in New Hampshire, including, but not limited to, the subject's character, personal associations, and the extent to which the subject is properly doing business in the manner in which it purports to operate. [~~When the lottery commission requests such an investigation, the attorney general shall report the results of such investigation to the lottery commission within 90 days after the receipt of the request.~~] ***When the lottery commission***

initiates such an investigation, the lottery commission shall report the results of such investigation to the attorney general within 45 days after the initiation of the investigation. The attorney general and the lottery commission shall confer and determine, if in their opinion, such person is suitable to be associated with charitable gaming in New Hampshire and upon a determination that the person is not suitable, the person shall not be issued or continue to hold a license. Notwithstanding RSA 91-A, the results of any such investigation shall be confidential and shall not be subject to disclosure or to public inspection, except that the attorney general shall have sole discretion to determine the extent to which and the manner in which the results may be reported to [~~the lottery commission~~] ***other state agencies [***~~or other state agency~~] or officials and, if reported, whether such results are to retain their confidential character[~~; provided, however, that whenever the attorney general conducts such an investigation, the attorney general shall notify the lottery commission whether or not in the attorney general's opinion such person is fit to be associated with charitable gaming in New Hampshire. No person shall be issued or hold a license if in the opinion of the attorney general such person is not fit to be associated with charitable gaming in this state~~].

190:4 New Paragraph; Rulemaking; Investigation and Enforcement Division. Amend RSA 284:21-i by inserting after paragraph VI the following new paragraph:

VII. The lottery commission shall adopt rules under RSA 541-A relative to the administration of the investigation and enforcement division, including processes for investigation, and qualifications for enhanced penalties.

190:5 Lottery Commission; Condition of Licensee. Amend RSA 284:16-b, II to read as follows:

II. The lottery commission, after conducting a hearing, may require a licensee to divest itself of any partner, person, sub-corporation, shareholder, or any other entity of the licensee if the lottery commission determines that any partner, person, sub-corporation, shareholder, or any other entity of the licensee is not [~~fit~~] ***suitable*** to be associated with racing in this state.

190:6 Background Investigations; Expenses. Amend RSA 287-D:11, IV-V to read as follows:

IV. The expenses of the office of attorney general ***or the lottery commission, if applicable,*** in conducting any investigation authorized in this section, including the services of consultants, experts, accountants, and other assistants, shall be a direct charge against the applicant or holder. Total expenses for each investigation under this paragraph shall not exceed $5,000, except with the approval of the fiscal committee of the general court.

V. In any investigation conducted pursuant to paragraph III, the attorney general ***or the lottery commission if applicable,*** may require, by subpoena or otherwise, the attendance of witnesses and the production of such correspondence, documents, books, and papers as the attorney general deems advisable, and for purposes of this section, may administer oaths and take the testimony of witnesses. No person shall be excused from testifying or from producing any book or paper in any investigation conducted pursuant to paragraph III upon the ground that such

testimony or documentary evidence might tend to incriminate such person; provided that if, after a claim of privilege, the attorney general, in writing, orders such person to testify or produce documentary evidence, that person shall not be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing which such person, under oath, disclosed or produced. No person so testifying shall be exempt from prosecution or punishment for any perjury committed by such person in such testimony.

190:7 Effective Date. This act shall take effect January 1, 2022.

Approved: August 10, 2021
Effective Date: January 01, 2022